

INDEPENDENCE CITY COMMISSION

REGULAR SESSION AGENDA

September 28, 2023

5:30 PM

Veterans Room Memorial Hall

To participate by conference call:
1 785-289-4727 Conference ID: 592 706 042#

The Agenda shall be as follows:

I. REGULAR SESSION

- A. Call to Order
- B. Pledge of Allegiance to the United States of America
- C. Adoption of Agenda

II. CONSENT AGENDA

(*Consent* is that class of Commission action that requires no further discussion or which is routine in nature. All items on the Consent Agenda are adopted by a single motion unless removed from the Consent Agenda.)

- A. Consider approving City Commission minutes from August 1st, 10th, 16th, 24th and 28th, 2023.
- B. Consider rescheduling the November 30, 2023 Regular Commission Meeting to November 28, 2023.
- C. Consider waiving the City curfew the evening of Tuesday, October 24, 2023 for the Neewollah Queens Ball.
- D. Request for street closures in the downtown and Riverside Park areas for October 20th through October 28th for the 2023 Neewollah festival, which includes the carnival, food vendors, parades and other associated activities.
- E. Consider approving Change Order 2 and Change Order 7 for the Maple Street Improvements Project to Bettis Asphalt and Construction, Inc.
- F. Consider approving Amendment 3 to the engineering contract with EBH for the Bartlett Pipeline Project.
- G. Consider authorizing bidding for the new beacon at the airport.
- H. Consider authorizing bidding for construction of the new pipeline to Bartlett.
- I. Consider approval of Ordinance No. 4435 formally adopting a Water Conservation Plan and repealing Ordinance No. 3979.

III. PUBLIC HEARING

- A. Public hearing for public comment on the close out of the CDBG-21-PF-023 Grant.

IV. ITEMS FOR COMMISSION ACTION

- A. Consider proclaiming October 2023 as the 100th Anniversary Month of Memorial Hall Live Performances.
- B. Consider approval of a digital sign for the Independence Historical Museum

- C. Consider a request from SEK-Veterans Provider Coalition to waive the fees for Memorial Hall for the Eyes of Freedom Exhibit on November 8 - 11, 2023, and allow a banner to be hung on Memorial Hall.
- D. Consider adopting an ordinance for a text amendment to the zoning code regarding accessory uses, such as storage sheds.
- E. Consider adopting an ordinance for a text amendment to the zoning code relating to Conex Containers.
- F. Consider adopting an ordinance for a text amendment to the zoning code relating to off-street parking.
- G. Consider approval of a Rural Housing Incentive District agreement between the City of Independence and Trident Partnerships LLC.
- H. Authorize going out for bid for the construction of the infrastructure for the Jefferson Subdivision
- I. Consider setting the date of December 14, 2023 for a Public Hearing to consider the condemnation of 427 S. 15th Street as dangerous and unsafe.
- J. Consider setting the date of December 14, 2023 for a Public Hearing to consider the condemnation of 501 S. 15th Street as dangerous and unsafe.
- K. Consider setting the date of December 14, 2023 for a Public Hearing to consider the condemnation of 600 S. 15th Street as dangerous and unsafe.
- L. Consider setting the date of December 14, 2023 for a Public Hearing to consider the condemnation of 601 S. 15th Street as dangerous and unsafe.
- M. Consider setting the date of December 14, 2023 for a Public Hearing to consider the condemnation of 1010 N. 9th Street as dangerous and unsafe.
- N. Consider adopting a resolution rescinding condemnation action for 712 N. 12th Street.
- O. Consider authorizing acceptance of KDOT City Connecting Link Improvement Program (CCLIP) bid and for Restoration – Penn Avenue (US 75) from Morningside Drive to North City Limits.
- P. Consider adopting a resolution implementing Stage 2 (Water Warning) of the City's Water Conservation Plan.

V. REPORTS

- A. Monthly Project Report
- B. City Board Minutes

VI. CITY MANAGER'S COMMENTS

VII. COMMISSIONERS' COMMENTS

VIII. PUBLIC CONCERNS

IX. EXECUTIVE SESSION

- A. Data relating to financial affairs or trade secrets of second parties.

X. ADJOURNMENT



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
September 28, 2023

Department City Clerk

Director Approval David Schwenker

AGENDA ITEM Consider approving City Commission minutes from August 1st, 10th, 16th, 24th and 28th, 2023.

SUMMARY RECOMMENDATION Approve the minutes

BACKGROUND

FINANCIAL INFORMATION

SUGGESTED MOTION I move to approve the minutes from August 1st, 10th, 16th, 24th and 28th, 2023

SUPPORTING DOCUMENTS

1. August 1 2023 Special Meeting Minutes
2. August 10 2023 Minutes
3. August 16 2023 Special Meeting Minutes
4. August 24 2023 Minutes
5. August 28 2023 Special Meeting Minutes

Minutes of the City Commission's August 1, 2023 Meeting

I. SPECIAL SESSION

Commissioners Present: Mayor Louis Ysusi, Vice-Mayor Dean Hayse, Commissioner Tim Emert

City Staff Present: Kelly Passauer, City Manager; David Cowan, Assistant City Manager; David Schwenker, City Clerk/City Treasurer; John Garriss, City Engineer/Director of Public Works and Utilities and Jerry Harrison, Chief of Police

Visitors Present: Larry McHugh

A. Call to Order

Mayor Ysusi called the meeting to order.

II. ITEMS FOR COMMISSION ACTION

A. Consider adopting a resolution implementing Stage 1 (Water Watch) of the City's Water Conservation Plan.

City staff visited with the State, which implemented a Water Watch yesterday. Due to the current drought conditions as per our Water Conservation Plan, the City needs to implement Stage 1 (Water Watch). The goals of this stage are to heighten awareness of the public on water conditions and to maintain the integrity of the water supply system. This stage will initiate regulatory actions that ask the public to curtail some outdoor water use and efficiently use indoor water, i.e., wash full loads, take short showers, don't let faucets run, etc.

The City will implement the following management actions:

- 1. Leaks will be repaired within 48 hours of detection.**
- 2. System pressure will be maintained below 80 pounds per square inch.**
- 3. The City will monitor its use of water and will curtail activities such as hydrant flushing and street cleaning.**
- 4. Leaking valves and hydrants will be repaired immediately.**

The City will also take the following educational actions:

- 1. The City will make occasional news releases to the local media describing present conditions and indicating the water supply outlook for the upcoming season.**

Minutes of the City Commission's August 1, 2023 Meeting

- 2. Previous month summaries of precipitation, temperature, water levels and storage will be made public at the beginning of each month.**

Motion:

On the motion of Dean Hayse, seconded by Tim Emert, the Commission adopted a resolution implementing Stage 1 (Water Watch) of the City's Water Conservation Plan.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

III. EXECUTIVE SESSION

- A. Personnel matters of non-elected personnel.**

Motion:

On the motion of Louis Ysusi, seconded by Tim Emert, the Commission recessed for an executive session for discussion of an employee's performance pursuant to the non-elected personnel exception, KSA 75-4319(b)(1). The open meeting will resume at 1:55 p.m.. In the Executive Session will be the Commissioners, City Manager, Assistant City Manager and Police Chief.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

The open meeting resumed at 1:55 p.m. with no action taken.

IV. ADJOURNMENT

Motion:

On the motion of Louis Ysusi, seconded by Dean Hayse the Commission adjourned the meeting.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

Minutes of the City Commission's August 1, 2023 Meeting

Louis Ysusi, Mayor

Dean A. Hayse, Commissioner

Tim Emert, Commissioner

Attest:

City Clerk/Treasurer

Minutes of the City Commission's August 10, 2023 Meeting

I. REGULAR SESSION

Commissioners Present: Mayor Louis Ysusi, Vice-Mayor Dean Hayse and Commissioner Tim Emert

City Staff Present: Kelly Passauer, City Manager; David Cowan, Assistant City Manager; Jeff Chubb, City Attorney; David Schwenker, City Clerk/City Treasurer; John Garris, City Engineer/Director of Public Works and Utilities; Shawn Wallis, Fire/EMS Chief; Dustin Stafford, Police Officer; April Nutt, Director of Housing Authority and Brian McHugh, Memorial Hall Supervisor

Visitors Present: Larry McHugh, Brea Sanford, Lori Kelly and Tabatha Snodgrass

A. Call to Order

Mayor Ysusi called the meeting to order.

B. Pledge of Allegiance to the United States of America

C. Adoption of Agenda

Motion:

On the motion of Tim Emert, seconded by Dean Hayse, the Commission adopted the agenda with the removal of Item B from the Consent Agenda and moved to Items for Commission Action.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

II. APPOINTMENTS

A. Park Board -- Two Terms Expired

The City received three applications for two expired positions on the Park Board:

Minutes of the City Commission's August 10, 2023 Meeting

PARK BOARD (3 year terms -- 9 members)			
Members	Term	Expires	Appointed/Reappointed
Anita Chappule	2nd term	July 1, 2024	7/26/2018 / 06/24/2021
Alex Moore (Outside City)	2nd term*	July 1, 2024	2/9/2017 / 06/24/2021
Mardie Long (Outside City)	2nd term*	July 1, 2024	2/22/2018 / 06/24/2021
Steve McBride	1st term*	July 1, 2025	12/9/2021
Edward Epp	1st term	July 1, 2025	6/23/2022
Jim Hogan (Outside City)	2nd term*	July 1, 2025	6/8/2017
Mark Coder	2nd term	July 1, 2023	7/13/2017
Todd Young	2nd term*	July 1, 2023	6/11/2015
Jill Warford	1st term*	July 1, 2026	8/25/2022
Cody Dixon	FORPAZ	Ex-officio	
	City Rec	Ex-officio	
* Previously served unexpired term			
Meeting Place: Garden Club House Meeting Date: First Monday Meeting Time: 5:30 p.m.			

Applicants must reside inside the City limits. To learn more about the Park Board, visit this link: [Park Board](#)

Motion:

On the motion of Louis Ysusi, seconded by Dean Hayse, the Commission appointed Breanne Sanford and Leslie Coder to a first term on the Park Board, expiring on July 1, 2026.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

B. Housing Authority -- One Expired Term -- One Resignation

One of the members has resigned from the Housing Authority. We also have one member who is eligible for reappointment. We received one application for one vacancy.

HOUSING AUTHORITY (4 year terms -- 5 members)			
Members	Term	Expires	Appointed/ Eligible to be Reappointed
Damell Lawrie	Unexpired	April 11, 2023	9/10/2020
Eddie Rodgers	2nd term	April 11, 2026	4/26/2018 Moved
Rita Ortolani	1st term*	April 11, 2026	4/25/2019
Charles Doerr	1st term	April 11, 2027	4/27/2023
Cindy White	1st term	April 11, 2027	4/27/2023
Meeting Place: Penn Terrace Meeting Date: Third Tuesday Meeting Time: 12 p.m.			

Applicants must reside within the City limits. For more information about this

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board, contact Housing Authority Director April Nutt at 620-332-2536.

Motion:

On the motion of Louis Ysusi, seconded by Tim Emert, the Commission reappointed Darnell Lawrie to a first term on the Housing Authority Board, expiring on April 11, 2027.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

Motion:

On the motion of Louis Ysusi, seconded by Dean Hayse, the Commission appointed Fred Meier to an unexpired term on the Housing Authority Board, expiring on April 11, 2026.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

III. CONSENT AGENDA

Motion:

On the motion of Tim Emert, seconded by Dean Hayse, the Commission adopted the consent agenda with the removal of Item B from the Consent Agenda to Items for Commission Action.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

- A. Consider approving City Commission minutes from June 8th, 15th, 22nd and 29th, 2023

Suggested Motion:

I move to approve the City Commission minutes from June 8th, 15th, 22nd, and 29th, 2023.

- B. Consider approving a contract with TranSystems, Inc. for the design and construction engineering for the renovation of the parking lot north of City Hall.

This item was removed from the Consent Agenda and moved to Items for Commission Action.

The City is in the process of renovating City Hall. As such, the parking

configuration has changed around the building. The lot due north of City Hall, which is part of the Consent Decree with the DOJ, does not have sufficient numbers of ADA spaces to support the new building.

The Commission selected a Large, Plain Footprint for replacement of the lot. TranSystems has provided the attached contract that includes a \$28,000 not-to-exceed design fee, and a \$68,000 not to exceed construction engineering and inspection fee.

It is anticipated that the design work will take place this fall, with a bid in early spring, and construction likely in the second or third quarter of 2024.

Motion:

On the motion of Tim Emert, seconded by Louis Ysusi, the Commission authorized a contract with TranSystems, Inc. in the amount of \$96,000 for the design, construction engineering, and inspection of the parking lot due north of the City Hall and the execution of any necessary documents, pending approval of the City Attorney .

Aye: Louis Ysusi, Tim Emert

Nay: Dean Hayse

- C. Consider requesting proposals for the engineering services required to add a VFD and expand the capacity of the Low Service Pumps at the Water Treatment Plant.

There are three Low Service Pumps at the Water Treatment Plant. These pumps are used to pull water from the Verdigris and into the plant for treatment. The nominal capacity of these three pumps are 4 million gallons per day (MGD), 3 MGD, and 2MGD.

The largest volume pump (4MGD) is controlled using a variable frequency drive (VFD). This allows the rotation of the pump to vary so that the pump can match the rate of water production. Only one pump has this ability, and it is the most used pump.

The other pumps do not have VFDs and are either on at full capacity or off. This leads to an inconsistent water flow which, though manageable since the plant has operated without VFDs for decades, is one additional variable in plant operations.

Addition of a VFD has been a priority of the Plant Management for some time, with the goal of eventually having all three pumps on VFDs.

Additionally, having each of the three pumps with a capacity sufficient to cover the flow range anticipated by the plant would provide greater redundancy, and the ability to upgrade the existing 2MGD pump to a higher capacity through upgrades (motor, impeller, etc.) or replacement will also be studied.

Suggested Motion:

I move to request proposals for the engineering services required to add a VFD and expand the capacity of the Low Service Pumps at the Water Treatment Plant.

- D. Consider allowing the bidding of pipe for the pipeline to Rural Water District #6 to serve Bartlett.

As the water pipeline to Bartlett has been developed through the preliminary stages, the project has been sufficiently defined to issue a request for bids on piping and major materials. By directly purchasing the materials, the City will lower costs on the project as well as speed the project by at least six weeks.

Attached are the draft technical specifications and only minor modifications are anticipated. The documents will be released for bid (if approved) after the City Attorney has added and approved appropriate commercial terms and conditions.

Suggested Motion:

I move to allow the request for bids for piping and major materials for the water pipeline to RWD #6 to serve the Bartlett project, pending the City Attorney's approval of the bid documents.

- E. Consider bidding the installation of a pipe stopple at the Water Treatment Plant.

The Water Treatment Plant produces finished water which is then sent to the clearwells for storage immediately prior to entering the main distribution or "high service" pumps. These high service pumps require periodic maintenance. In preparation of doing service on one of the pumps, it was determined that the valve used to isolate the pump was non-functional. After investigation, it was determined that there was no valve capable of isolating the north clearwell from the system, so the pumps cannot be maintained without draining the clearwell and taking the high service pumps offline, causing a major disruption to the City's water supply.

An alternative would be to add in the necessary valve while the system was in-service. A special kind of valve known as a "stopple" is available that

allows the valve to be installed during operation. This is a fairly expensive solution, but it will also provide an operable valve where one is needed.

Suggested Motion:

I move to allow bidding for the installation of a pipe stopple at the Water Treatment Plant.

IV. ITEMS FOR COMMISSION ACTION

A. Consider a change order for City Hall Phase II project.

The following change orders are part of the Phase II renovation of City Hall and issues they have encountered while doing the renovation and relocation of the 911 center.

- **\$300.00 - Gateway: Add two additional Cat 6 cables for the 911 center and clerk office analog backup service.**
- **\$4,200.00 - Gateway: To install delayed egress door hardware in the police department that meets the fire code.**
- **\$2,369.17 - CTI: Travel and work time on June 26, 2023, for courtroom electronics. The work had to be stopped due to construction delays caused by the wood and trim vendor going out of business and McCown Gordon having to find a new vendor.**
- **\$2,075.00 - CO 70: Koehn: To repair the west steps.**
- **\$2,492.19 - CO 71: Kelley Electric**
- **\$1,612.20 - CO 72: New locking mechanism**
- **\$5,658.49 - CO 73: McCown Gordon finish work on the existing trim and wall.**

The total of these change orders is \$18,707.05.

Motion:

On the motion of Dean Hayse, seconded by Tim Emert, the Commission approved change orders for City Hall Phase II project in the amount of \$18,707.05.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

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- B. Consider requesting proposals for the installation of two electric vehicle (EV) charging stations at the City parking lot at the north east corner of 6th and Laurel St. and application for grants associated with these stations.

The only publicly available EV charging stations are located at the far east of Independence near the Evergy offices near the intersection of Cement and Main. It is thought that having a charging station may increase business for the downtown area as vehicles are charging.

With the planned refurbishment of the parking lot, this would be an opportune time to install these charging stations in an area that's close to the business district. A brochure with additional information is attached.

The primary hurdle to the installation of the EV charging stations is economic – most locations charge in the range of \$4 to \$5 an hour for charging, which would (given sufficient use) cover annual maintenance and subscription charges (\$2,854) plus costs of electricity. It would not cover the capital charges associated with installation.

It is thought that getting proposals for the furnishing and installation would provide cost certainty for the Commission to make a decision on the practicality of using City funds to assist in the installation. It is also likely that a clearer picture of available grant funding would be available at that time to better understand the full financial commitment that would be required for the EV charging stations.

Motion:

On the motion of Tim Emert, seconded by Dean Hayse, the Commission requested proposals for the furnishing and installation of two electric vehicle charging stations at the City parking lot on the northeast corner of 6th and Laurel and to apply for grants associated with this installation.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

- C. Consider awarding a change order on the 2023 Mill and Overlay of Myrtle St. to Heckert Construction.

On June 13, 2023, bids were opened for the Mill and Overlay of Myrtle St. There were two bidders. The low bidder, Heckert Construction was low by \$32,248 with a bid of \$217,765. The bid is unit price, so additional areas were reviewed, and the cost estimates below are based on the unit prices in the Heckert bid. Heckert has reviewed the areas in question and validated

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that their unit prices would cover the work. The following areas, in order, are recommended. Note: There is no milling at the VFW lot.

Attached is a document that shows the location of three of the four areas. The fourth area, Wells Drive, is an approximate area approximately 200' south of the new culvert.

	Total Cost
Parking Lot	\$ 8,610
E. Cedar	\$ 9,780
Spruce	\$ 15,984
Wells	\$ 6,573
	\$ 40,947

Motion:

On the motion of Dean Hayse, seconded by Tim Emert, the Commission awarded a change order for the streets as listed in this motion (E Cedar, Spruce, Wells Drive and the Parking Lot adjacent to the VFW) in the amount of \$40,947 and the execution of any necessary documents.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

V. REPORTS

A. Budget Session - August 16th

City Manager Passauer informed the Commission that there would be a special meeting on August 16, 2023 at 9:00 am.

B. July 2023 Sales Tax Report

C. 2023 Q3 Treasurers Report

VI. CITY MANAGER'S COMMENTS

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City Manager Passauer noted that City staff will be moving into the original City Hall on September 7 & 8, 2023 and City Hall will be closed on those days as well as September 14 & 15 for installation of new finance software.

It was also noted that Watco intends to repair the railroad crossing on 13th Street in a month and the crossings at 10th and 21st Streets have been repaired.

The County informed the City that paving on Peter Pan Road is complete and striping will begin tomorrow.

VII. COMMISSIONERS' COMMENTS

Commissioner Emert suggested that City staff consider removing the traffic lights at Penn & Laurel and Penn & Mrytle and replacing them with 4-way stop signs.

Commissioner Hayes would like progress updates on the disposal of Building D

Commissioner Ysusi noted that on Thursday and Friday from 8 am to 12 pm the tree dump is open to the public.

VIII. PUBLIC CONCERNS

None.

IX. ADJOURNMENT

Motion:

On the motion of Louis Ysusi, seconded by Tim Emert, the Commission adjourned the meeting.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

Minutes of the City Commission's August 10, 2023 Meeting

Louis Ysusi, Mayor

Dean A. Hayse, Commissioner

Tim Emert, Commissioner

Attest:

City Clerk/Treasurer

Minutes of the City Commission's August 16, 2023 Meeting

I. SPECIAL SESSION

Commissioners Present: Mayor Louis Ysusi, Vice-Mayor Dean Hayse and Commissioner Tim Emert

City Staff Present: Kelly Passauer, City Manager; David Cowan, Assistant City Manager; David Schwenker, City Clerk/City Treasurer; Jerry Harrison, Chief of Police; Lacey Lise, Director of Finance; Mike Devore, Memorial Hall Maintenance; April Nutt, Director of Housing Authority and Brian McHugh, Memorial Hall Supervisor

Visitors Present: Larry McHugh and Brea Sanford

A. Call to Order

Mayor Ysusi called the meeting to order.

II. ITEMS FOR COMMISSION ACTION

A. Consider waiving fees and allowance of temporary sale signs for Kan-Okla 100-mile highway sale.

Lisa Wilson, Chamber President, has presented a request for the City to Co-Sponsor with the Independence Chamber of Commerce Convention and Visitors Bureau of the 16th Annual KAN-OKLA 100-Mile Highway Sale and Independence City-Wide Rummage Sale, the waiving of sale permit fees, the allowance of temporary sale signs in the rights-of-way on Friday, September 8th and Saturday, September 9th ONLY and permission to use the parking lot of 8th & Chestnut behind Ane Mae's Coffee and Sandwich House for a group site.

Motion:

On the motion of Dean Hayse, seconded by Tim Emert, the Commission waived rummage sale permit fees, allowed temporary sale signs in the rights-of-way, and allowed the use of the municipal parking lot at 8th and Chestnut on Friday, September 8th and Saturday, September 9th ONLY for the 16th Annual KAN-OKLA 100-mile Highway Sale and City-Wide Rummage Sale.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

B. Consider approving the removal of a trailer house, located at 1630 North 10th Street.

Kalpana Patel, the owner of 1630 North 10th Street, has submitted a "donation application" to the Independence Land Bank. The Independence Land Bank would consider accepting the donation if the City of Independence would partner in the cost to remove the structure(s) on the lot. This property does not have running water and has received numerous environmental violations. In addition, the trailer house is a non-conforming use. The estimated cost to remove the structure(s) is \$3500. The Independence Land Bank Board of Directors has approved a 50/50 match up to \$1750 for removal.

Motion:

On the motion of Tim Emert, seconded by Dean Hayse, the Commission authorized staff to receive proposals to remove the structures at 1630 North 10th Street, pending acceptance of the property into the Independence Land Bank and available funding.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

- C. Consider approval of an addendum to the Kelly Aerospace Thermal Systems lease.

VSE Aviation, Inc. contacted the City of Independence regarding additional space needed for expansion while their building addition is occurring. VSE visited Kelly Aerospace regarding space in the Roundtop building, and the current lease prohibits them from subleasing to VSE. The City Attorney has prepared an addendum to the Kelly Aerospace lease that provides the City's consent to Kelly Aerospace to sublease to VSE, and VSE has language binding VSE to all terms and conditions of the city's original lease with Aerospace.

Motion:

On the motion of Dean Hayse, seconded by Tim Emert, the Commission approved the addendum to the Kelly Aerospace lease agreement allowing a sublease with VSE Aviation, Inc.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

- D. Consider approval of a Moderate-Income Housing Grant Agreement between the Kansas Housing Resources Corporation and the City of Independence for Trident Properties LLC.

The City of Independence submitted a Moderate-Income Housing Grant (MIH)

Minutes of the City Commission's August 16, 2023 Meeting

application on February 17, 2023 to Kansas Housing Resources Corporation (KHRC) on behalf of Trident Partnership LLC for the rehabilitation of 5 downtown buildings developing 19 apartments. Upon KHRC awarding the City of Independence a \$650,000 MIH grant, KHRC requests the Moderate Income Housing Grant Agreement City of Independence-2023 Round 1 No. 23-0111-SGF for approval.

Motion:

On the motion of Tim Emert, seconded by Dean Hayse, the Commission authorized the Mayor to sign the Moderate Income Housing Grant Agreement City of Independence-2023 Round 1 No. 23-0111-SGF for approval upon review from the City Attorney.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

III. ITEMS FOR DISCUSSION

A. 2024 Budget

Director Lies presented the budget.

IV. ADJOURNMENT

Motion:

On the motion of Louis Ysusi, seconded by Dean Hayse the Commission adjourned the meeting.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

Minutes of the City Commission's August 16, 2023 Meeting

Louis Ysusi, Mayor

Dean A. Hayse, Commissioner

Tim Emert, Commissioner

Attest:

City Clerk/Treasurer

Minutes of the City Commission's August 24, 2023 Meeting

I. REGULAR SESSION

Commissioners Present: Mayor Louis Ysusi, Vice-Mayor Dean Hayse and Commissioner Tim Emert

City Staff Present: Kelly Passauer, City Manager; David Cowan, Assistant City Manager; Jeff Chubb, City Attorney; David Schwenker, City Clerk/City Treasurer; John Garris, City Engineer/Director of Public Works and Utilities; Jerry Harrison, Chief of Police and Brian McHugh, Memorial Hall Supervisor

Visitors Present: Larry McHugh, Brea Sanford, Machele Korhn, Robert Pumphrey, Lisa Wilson, Jon Elmore, Paul Gordon, Elizabeth Kippenberger, Ayushree Patel, Bobby Hise, Charlet Pemberton, and Jackson Pemberton

A. Call to Order

Mayor Ysusi called the meeting to order.

B. Pledge of Allegiance to the United States of America

C. Adoption of Agenda

Motion:

On the motion of Dean Hayse, seconded by Tim Emert, the Commission adopted the agenda.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

II. CONSENT AGENDA

Motion:

On the motion of Tim Emert, seconded by Dean Hayse, the Commission adopted the consent agenda.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

A. Consider a request to block traffic to the Park Oval for a drive-thru flu shot event on October 7, 2023.

On Saturday, October 7, 2023, the First Presbyterian church would like to

sponsor free flu shots for drivers and passengers at the Park Oval. Participants can receive their flu shot without leaving their car. They usually have 300 doses to administer. In years past, this event has been well attended. This is an excellent community service to Independence residents and allows a convenient option for elderly and disabled citizens. The event requires that traffic be restricted to the Park Oval from 7:00 AM to 12:00 PM.

Suggested Motion:

I move to approve the request for the First Presbyterian Church to block traffic to the Park Oval on Saturday, October 7, 2023 from 7:00 AM to 12:00 PM for the free drive-thru flu shot event.

B. Renewal of the Independence Tennis Association Lease.

The City of Independence's 10-year lease with the Independence Tennis Association (ITA) expires in September 2023, and the City Attorney has prepared a new lease agreement for Commission approval. The lease will renew for one year and then automatically for 10 years and expire on July 26, 2034. The lease allows the Tennis Association possession and use of the building as an office, meeting area, and clubhouse for ITA activities. ITA shall cooperate with USD 446, ICC, and the Independence Recreation Commission to use the building and schedule their events. The City shall be permitted to schedule the use of the building for other public uses and coordinate with ITA based on the availability of the space. ITA cannot sublease the building for compensation without obtaining City consent. ITA must not discriminate in determining who can and cannot use the building.

Suggested Motion:

I move to approve the lease with ITA.

C. Consider purchase of a replacement leafer.

The Street department uses a large vacuum device to pick up leaves in autumn and early winter, known as a leafer. The existing leafer was initially built in the early 1990s, and is experiencing mechanical difficulties at an increasing rate, sometimes being out of service for weeks at a time. A new leafer was budgeted for 2023. An advertisement for bids was issued, and a single bid was received from Key Equipment & Supply Co. for \$125,000. While this is more than the budgeted amount, a review of market alternatives shows this to be within 10% of comparable prices.

Suggested Motion:

I move to purchase a replacement leafer from Key Equipment & Supply Co.

Minutes of the City Commission's August 24, 2023 Meeting

for the amount of \$125,000 and for the execution of any necessary documents.

- D. Consider waiving the city curfew the evening of Friday, October 20, 2023 for the Neewollah Barbecue Competition.

This year, the Neewollah committee has decided to hold a barbecue competition in place of the annual Neewollah Chili Cookoff. The event will be held at the Oval in Riverside Park. Because the contestants will need to smoke the meat overnight, it will require that they be onsite overnight the evening of Friday, October 20, 2023.

Suggested Motion:

I move to waive the curfew for the evening of Friday, October 20, 2023 to allow contestants to participate in the Neewollah Barbecue Competition.

- E. The Independence Housing Authority requests authorization to submit the annual Tenant Based Rental Assistance (TBRA) Grant application to Kansas Housing Resources Corporation.

The Independence Housing Authority (IHA) has administered a Tenant Based Rental Assistance Grant since 1998. Since that time, almost \$2.9 million has been received to assist some of our most vulnerable community members. IHA is currently assisting 27 families, and with this grant, if fully funded, IHA should be able to assist 42 families over a 12-month period.

Suggested Motion:

I move to authorize the Independence Housing Authority to submit the 2023 Tenant Based Rental Assistance Grant application to Kansas Housing Resources Corporation.

- F. Consider selecting H.W. Lochner, Inc. as engineering consultant for Independence Municipal Airport.

Periodically the FAA requires FAA funded organizations like Independence Municipal Airport to review consultants and make a consultant selection. On 7/7/23 the City sent out a Notice to Airport Consultants requesting qualification statements to be returned to the City by 8/3/23. One consultant, H.W. Lochner, Inc. (Lochner) returned a set of qualifications.

The qualification statement was reviewed and Lochner was found to be acceptable based on past performance, familiarity with FAA and KDOT

regulations procedures and programs, recent experience at Independence and elsewhere, and understanding of the current business climate in Independence. H.W. Lochner, Inc., has been the engineering consultant for the City in relation to airport matters for a significant time, dating at least back to the 1980s.

Suggested Motion:

I move to approve the selection of H.W. Lochner, Inc. as consultant and the execution of any necessary documents.

- G. Consider leasing property at the Independence Municipal Airport to Thorenson Enterprises, LLC.

We are working with a company to develop a new business that is conducive to the industrial zone. The company wishes to lease five acres to construct a new structure for this purpose.

Suggested Motion:

I move to authorize a lease with Thorenson Enterprises, LLC for five acres at the Independence Municipal Airport subject to the City Attorney and FAA's approval.

- H. Consider a request from Four County to waive the fees for the Health On Purpose Health Fair on September 29, 2023 at the Independence Memorial Hall Civic Center.

Four County Mental Health is sponsoring the Health On Purpose Health Fair on September 29, 2023 at the Independence Memorial Hall. The Health on Purpose initiative moves around yearly in the three county areas and provides access to health fair screening at discounted rates. The fair is supported by multiple agencies and services that provide their services at discounted or no fee to the participants. They've requested the City to waive the fees, and the City has waived these fees for past events at Memorial Hall. They will be setting up on September 28, 2023 and also ask that the Commission meeting that evening be moved to the Veterans Room.

Suggested Motion:

I move to waive the rental fees at Memorial Hall for the HOP Health Fair on September 28 and 29, 2023, and move the Commission meeting on September 28, 2023 to the Veterans Room, Memorial Hall.

III. ITEMS FOR COMMISSION ACTION

Minutes of the City Commission's August 24, 2023 Meeting

- A. Consider proclaiming the week of September 17, 2023 through September 23, 2023 as Constitution Week.

The City received a request from the Esther Lowrey Chapter of the National Society Daughters of the American Revolution to proclaim September 17 - 23, 2023 as Constitution Week.

Motion:

On the motion of Dean Hayse, seconded by Tim Emert, the Commission proclaimed the week of September 17 - 23, 2023 as Constitution Week.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

- B. Consider awarding a Downtown Independence Building Grant for improvements to 107 E. Main Street.

Jason Elmore, owner of the property at 107 E. Main, has made an application for a Downtown Building Grant. Jason is renovating 107 E. Main and installing the High Roads Coffee shop. Jason requests a grant to assist with the new plumbing, electrical, windows, doors, and front facade. The estimated cost of the improvements is \$89,608.00 and the grant fund request is \$22,402.00. The Downtown Grant Committee met on August 15, 2023, and voted to approve the application. Jason Elmore will be present to answer any questions the Commission may have regarding this grant request. The committee would also request that if additional materials are needed while doing this work, the City has permission to authorize the additional grant funding up to the \$25,000 maximum, if funds are available.

Motion:

On the motion of Tim Emert, seconded by Dean Hayse, the Commission approved the Downtown Building Grant application for 107 E. Main, not to exceed \$25,000.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

- C. Consider authorizing TranSystems to prepare and submit a KDOT Cost Share Program grant application for: Sycamore, 10th to 21st.

Kansas Department of Transportation (KDOT) Cost Share applications for fall

Minutes of the City Commission's August 24, 2023 Meeting

2023 round are due on September 2023.

The suggested project is the same one we have submitted in the last three rounds; a 4" mill, 2" overlay, new sidewalk ramps, addition of a 10'x5' box culvert on Sycamore.

**Total Estimated Cost: \$1,101,000
City Match and Non-Participating: \$ 300,000**

Total City Cost: \$ 300,000

Motion:

On the motion of Dean Hayse, seconded by Tim Emert, the Commission authorized TranSystems to prepare an application for KDOT's Cost Share Program for Sycamore Street from 10th Street to 21st Street and to submit the application to KDOT.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

- D. Consider awarding a contract for a Community Development/Comprehensive Plan.**

The City received proposals to update the 1982 Comprehensive Plan and prepare a new Community Development Plan. Three proposals were received. Two firms were selected for interviews, which occurred on August 17, 2023 by representatives of City staff, the Planning Commission, the Housing Authority Director, and the Chair of the Economic Development Advisory Board. City staff will review the committee's recommendation at the Commission meeting.

Motion:

On the motion of Tim Emert, seconded by Dean Hayse, the Commission awarded a contract to Confluence, Inc. for a Community Development/Comprehensive Plan pending approval of the contract by the City Attorney and any required grant approvals.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

- E. Consider approving the Notice of Hearing to Exceed the Revenue Neutral Rate and Budget Hearing Notice publication**

Minutes of the City Commission's August 24, 2023 Meeting

The City notified taxpayers of the intent to exceed the Revenue Neutral Rate and established a maximum rate of 56.515 mills. The City must publish a notice of the Revenue Neutral Rate Hearing and Budget Hearing, which is scheduled for September 14, 2023 at 5:30 pm at the Memorial Hall Civic Center.

The City's final proposed rate is 54.515 mills, or no increase to the mill rate.

Motion:

On the motion of Dean Hayse, seconded by Tim Emert, the Commission approved publication of the Notice of Hearing to Exceed Revenue Neutral Rate and Budget Hearing at 54.515 Mills.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

- F. Consider scheduling a Special Commission meeting to review the 2023 Citizen Satisfaction Survey.

In speaking with our consultant, it is estimated the review of the survey could take 60 to 90 minutes. In order not to rush the review of the survey results and to allow time for Commission questions, it is recommended the Commission schedule a Special Commission meeting for this purpose.

Motion:

On the motion of Tim Emert, seconded by Dean Hayse, the Commission scheduled a Special Commission meeting on August 28, 2023 at 9 AM to review the 2023 Citizen Satisfaction Survey.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

IV. REPORTS

- A. City Board Minutes

1. July 19, 2023 Library Board of Trustees

- B. August Project and Public Works Report

Engineer Garris presented the report.

Minutes of the City Commission's August 24, 2023 Meeting

V. CITY MANAGER'S COMMENTS

City Manager Passauer reported that City Hall will be closed on September 4th for Labor Day and sanitation services will be shifted back a day. City Hall will also be closed on September 6th and 7th to allow time for staff to move back to the old building and reopen on September 11. The Finance Department will be closed September 14 & 15 for an upgrade to the financial software. There will be a housewarming tentatively scheduled for October 20 with tours beginning at 1:00 pm and a ribboncutting ceremony at 5:30 pm.

VI. COMMISSIONERS' COMMENTS

Mayor Ysusi noted that the tree dump is open on Thursdays and Fridays from 8 am to noon and the high school will be conducting a football scrimmage on Friday and a food drive.

VII. PUBLIC CONCERNS

Robert Pumphrey spoke on his KORA request.

VIII. EXECUTIVE SESSION

A. Data relating to financial affairs or trade secrets of second parties.

Motion:

On the motion of Louis Ysusi, seconded by Tim Emert, the Commission recessed for an executive session concerning confidential data relating to financial affairs and/or trade secrets of a company pursuant to the exception found at KSA 75-4319(b)(4). The open meeting will resume at 6:22 p.m. in the Civic Center of Memorial Hall. In the executive session will be the Commission, City Manager, City Attorney, and Assistant City Manager.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Nay: None

IX. ADJOURNMENT

Motion:

On the motion of Louis Ysusi, seconded by Dean Hayse, the Commission adjourned the meeting.

Aye: Dean Hayse, Tim Emert, Louis Ysusi

Minutes of the City Commission's August 24, 2023 Meeting

Nay: None

Louis Ysusi, Mayor

Dean A. Hayse, Commissioner

Tim Emert, Commissioner

Attest:

City Clerk/Treasurer

Minutes of the City Commission's August 28, 2023 Meeting

I. SPECIAL SESSION

Commissioners Present: Mayor Louis Ysusi and Vice-Mayor Dean Hayse

City Staff Present: Kelly Passauer, City Manager; David Cowan, Assistant City Manager; David Schwenker, City Clerk/City Treasurer; John Garris, City Engineer/Director of Public Works and Utilities; Lacey Lies, Director of Finance and Brian McHugh, Memorial Hall Supervisor

Visitors Present: Larry McHugh, Jason Kavel via phone and Mackey Smith via phone

A. Call to Order

Mayor Ysusi called the meeting to order.

II. ITEMS FOR DISCUSSION

A. Review the 2023 Citizen Satisfaction Survey.

Mackey Smith and Jason Kavel reviewed the results of the 2023 Citizen Satisfaction Survey.

III. ADJOURNMENT

Motion:

On the motion of Louis Ysusi, seconded by Dean Hayse the Commission adjourned the meeting.

Aye: Dean Hayse, Louis Ysusi

Nay: None

Minutes of the City Commission's August 28, 2023 Meeting

Louis Ysusi, Mayor

Dean A. Hayse, Commissioner

Tim Emert, Commissioner

Attest:

City Clerk/Treasurer



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
September 28, 2023

Department Admin

Director Approval Kelly Passauer

AGENDA ITEM Consider rescheduling the November 30, 2023 Regular Commission Meeting to November 28, 2023.

SUMMARY RECOMMENDATION Reschedule the November 30, 2023 meeting to November 28, 2023.

BACKGROUND On December 22, 2022 the City Commission adopted the 2023 City Commission schedule. Due to Thanksgiving falling on November 23, 2023, a regular Commission meeting date (4th Thursday), that meeting was rescheduled to Thursday, November 30, 2023. Since that occurred, we have become aware of some scheduling conflicts and recommend rescheduling the Thursday, November 30, 2023 meeting to Tuesday, November 28, 2023.

FINANCIAL INFORMATION N/A

SUGGESTED MOTION I move to reschedule the November 30, 2023 City Commission meeting to November 28, 2023 at 5:30 PM.

SUPPORTING DOCUMENTS

1. 2023 Commission Meeting Schedule adopted December 22, 2022

2023 City Commission Meeting Schedule	
Thursday, January 12, 2023	2nd Thursday (Oath of Office/Reorganization)
Wednesday, January 18, 2023	3rd Wednesday (Planning Retreat)
Thursday, January 26, 2023	4th Thursday
Thursday, February 09, 2023	2nd Thursday
Wednesday, February 15, 2023	3rd Wednesday
Thursday, February 23, 2023	4th Thursday
Thursday, March 09, 2023	2nd Thursday
Wednesday, March 15, 2023	3rd Wednesday
Thursday, March 23, 2023	4th Thursday
Thursday, April 13, 2023	2nd Thursday
Wednesday, April 19, 2023	3rd Wednesday
Thursday, April 27, 2023	4th Thursday
Thursday, May 11, 2023	2nd Thursday
Wednesday, May 17, 2023	3rd Wednesday
Thursday, May 25, 2023	4th Thursday
Thursday, June 08, 2023	2nd Thursday
Wednesday, June 21, 2023	3rd Wednesday
Thursday, June 22, 2023	4th Thursday
Thursday, July 13, 2023	2nd Thursday
Wednesday, July 19, 2023	3rd Wednesday
Thursday, July 27, 2023	4th Thursday
Thursday, August 10, 2023	2nd Thursday
Wednesday, August 16, 2023	3rd Wednesday
Thursday, August 24, 2023	4th Thursday
Thursday, September 14, 2023	2nd Thursday
Wednesday, September 20, 2023	3rd Wednesday
Thursday, September 28, 2023	4th Thursday
Thursday, October 12, 2023	2nd Thursday
Wednesday, October 18, 2023	3rd Wednesday
Wednesday, October 25, 2023	Doo Dah Parade (10/26/2023)
Thursday, November 09, 2023	2nd Thursday
Wednesday, November 15, 2023	3rd Wednesday
Thursday, November 30, 2023	Thanksgiving (11/23/2023)
Thursday, December 14, 2023	2nd Thursday
Wednesday, December 20, 2023	3rd Wednesday
Thursday, December 28, 2023	4th Thursday
Meeting dates highlighted in green are regular meetings rescheduled due to conflicts with other events or holidays.	



**REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
September 28, 2023**

Department Police

Director Approval Jerry Harrison

AGENDA ITEM Consider waiving the City curfew the evening of Tuesday, October 24, 2023 for the Neewollah Queens Ball.

SUMMARY RECOMMENDATION Waive the City curfew on the evening of October 24, 2023.

BACKGROUND Each year the City Commission waives the curfew on the night of the Neewollah Queens ball so that students can participate.

FINANCIAL INFORMATION There is no anticipated budget impact.

SUGGESTED MOTION I move to waive the curfew on the night of October 24, 2023 so students can participate in the Neewollah Queens Ball.

SUPPORTING DOCUMENTS

1. Queen's Curfew

To: Jerry Harrison

Independence Kansas Police Dept.

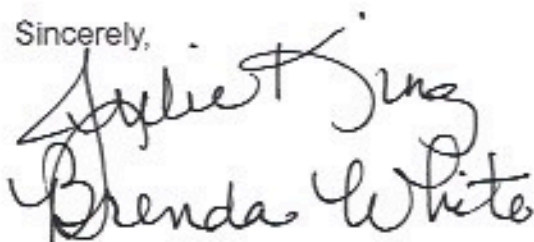
From: Julie King & Brenda White

Re: Extension of Curfew/Neewollah

Dear Chief Harrison,

We are writing to request an extension of the Independence city curfew for our Neewollah pageant participants and their dates who are attending the Queen's Ball at The Booth Hotel after the pageant. In order to give participants time to get home, we would like to request that the curfew time be extended until 1:30 a.m. for this group on Wednesday, October 25, 2023. Our event ends at 1:00 a.m. Please contact us if you have any questions or concerns regarding this request. We appreciate your support of our pageant participants.

Sincerely,

Handwritten signatures of Julie King and Brenda White. The signature for Julie King is written above the signature for Brenda White.

Julie King 620.330.7743

Brenda White 620.770.2596

Queen Neelah Pageant Co-Directors



**REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
September 28, 2023**

Department Police

Director Approval Jerry Harrison

AGENDA ITEM Request for street closures in the downtown and Riverside Park areas for October 20th through October 28th for the 2023 Neewollah festival, which includes the carnival, food vendors, parades and other associated activities.

SUMMARY RECOMMENDATION Staff recommends closing the streets in the requested areas.

BACKGROUND The Neewollah Festival has been a great source of pride for the City of Independence since 1919. The festival includes numerous activities for families, entertainment for the citizens of Independence, and for the neighboring communities to enjoy.

FINANCIAL INFORMATION Estimated \$17,000 for Police Department employee straight and overtime and estimated \$1,500 for supplies.

SUGGESTED MOTION I move to authorize the Resolution and Proclamation for the Neewollah Celebration.

SUPPORTING DOCUMENTS

1. 2023 Neewollah Resolution
2. 2023 Neewollah Proclamation

RESOLUTION NO. 2023-048

BE IT RESOLVED BY THE Governing Body of the City of Independence, Kansas;

- I. That the following will be designated parade route and staging area for Neewollah festivities on Saturday, October 28th, 2023, beginning at 6:00 a.m.:
 - A. Parade route -- Beginning at Penn Avenue and Sycamore Street, then South on Penn Avenue to Main Street, East on Main Street to 6th Street, South on 6th Street to Maple Street, West on Maple Street to 9th Street, North on 9th Street to Sycamore Street, which is the end of the parade route.
 - B. Staging area -- 100 blocks of East and West Chestnut Street, 100 block of East Locust Street, 100 through 300 blocks of West Locust Street, 100 through 200 blocks of West Pine Street, 100 block of Ash Street and Washington Street from Pine Street to Sycamore Street.
- II. The following will be the location of the carnival, setup beginning after 5p.m. on October 23rd, 2023, through October 28th, 2023:
 - A. Carnival -- Laurel Street, from Penn Avenue, West to 9th and Laurel, North 8th Street from the North side of the intersection of 8th Street and Main Street North to the South side of 8th and Chestnut Street, the municipal parking lot between 8th Street and 9th Street on the south side of Laurel Street, Myrtle Street from Penn Ave to 9th Street.
- III. The following will be the location of concession stands and other activities during NEEWOLLAH festivities:
 - A. Concession stands and other activities – 100 through 700 blocks of North Penn Avenue, 100 block of South Penn Avenue, 100 block of East Laurel Street, 100 block of West Myrtle Street, 100 block of East Myrtle Street and the Municipal Parking Lots: southwest corner of 6th and Myrtle and the northeast corner of 6th and Myrtle, and portions of southeast corner of 8th and Chestnut. 5th street west of the stadium and the roadway between the stadium and the 4-H buildings. Band shell, Oval & area around the Oval in Riverside Park.
- IV. The following will be designated parade route for the Kiddy Parade on Friday, October 27th, 2023, beginning at 4:00 p.m. and Doo-Dah Parade on Thursday, October 26th, 2023, beginning at 5:00 p.m.
 - A. Parade route -- Penn Avenue from Locust Street to Magnolia Street and the 100 block on East and West Chestnut Street.

PASSED AND APPROVED This 28th day of September, 2023.

Louis Ysusi, Mayor

David Schwenker, City Clerk

PROCLAMATION 2023

- WHEREAS:** The Governing Body of the City of Independence, Montgomery County, Kansas, does recognize with pride the 2023 NEEWOLLAH Celebration; and
- WHEREAS:** The Governing Body wishes to express, on behalf of the citizens of Independence, our appreciation and gratitude to those many persons who have planned and will carry out this annual event; and
- WHEREAS:** The Governing Body does acknowledge that NEEWOLLAH serves as a gesture of good will toward our neighboring citizens and communities; and
- WHEREAS:** The Governing Body wishes to invite all neighbors and friends from surrounding areas to join in the activities of the celebration; and
- WHEREAS:** The Governing Body recognizes the vital importance of family events and family entertainment,

NOW, THEREFORE, BE IT PROCLAIMED By the Board of City Commissioners of the City of Independence, Montgomery County, Kansas that October 20, 2023, through October 28, 2023, be known as:

NEEWOLLAH

in this City and that the NEEWOLLAH celebration, be permitted to use certain streets and public rights-of-way for the celebration, and to urge all persons to join in the fun and activities of this annual event.

PASSED AND APPROVED THIS 28th day of September, 2023

THE CITY OF INDEPENDENCE, KS

Louis Ysusi, Mayor

ATTEST:

David Schwenker, City Clerk



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
September 28, 2023

Department Street

Director Approval John Garris

AGENDA ITEM Consider approving Change Order 2 and Change Order 7 for the Maple Street Improvements Project to Bettis Asphalt and Construction, Inc.

SUMMARY RECOMMENDATION Approve change orders.

BACKGROUND Change Order 2 had not been sent to the City until this month despite the work being executed in 2022 due to a clerical error. It adds in rip rap necessary for erosion protection at the location of the drainage pipe. It is in the amount of \$6,394.50.

Change Order 7 corrects the final quantity of water used on the project during earthwork operations (dust control, proper moisture levels for compaction) and is in the amount of \$1,140.00 and had been inadvertently omitted from the quantity reconciliation change order from December, 2022.

FINANCIAL INFORMATION Funds to be paid out of the Street Capital Fund.

SUGGESTED MOTION I move to approve Change Order number 2 in the amount of \$6,394.50 and Change Order number 7 in the amount of \$1,140.00 for the Maple Street Improvements Project Bettis Asphalt and Construction, Inc. and to allow the execution of any necessary documents.

SUPPORTING DOCUMENTS

1. CO #2 for Maple
2. Change Order 007- correction for CO4



Change Order

PROJECT:	CHANGE ORDER NO.: 002	Owner	X
Maple Street Improvements	DATE: 5/6/2022	Engineer	X
17th to Peter Pan		Contractor	X
	PROJECT NUMBER P112200040	Field	X
TO CONTRACTOR	CONTRACT DATE: 10/7/2021	Other	
Bettis Asphalt & Construction, INC.	CONTRACT FOR: General Construcion		
PO BOX 1694			
Topeka, KS 66601			

THE CONTRACT IS CHANGED AS FOLLOWS:

Request to place 18" Rip-Rap at the 60" cross-road pipe location that was omitted from the original contract.

Line	Description	Unit	Unit Price	Plan Qty.	Act. Qty.	Diff.	Cost Diff.
69	Rip Rap 18"	SY	\$ 60.90	0.0	105.0	105.0	\$ 6,394.50
	Total of this Change Order						\$ 6,394.50

Original Contract Sum	\$ 2,757,829.37
Net Change by Previously authorized Change Orders	\$ 28,591.50
Contract Sum Prior to this Change Order	\$ 2,786,420.87
Contract Sum will be Increased by this Change Order by	\$ 6,394.50
New Contract Sum Including this Change Order	\$ 2,792,815.37

Contract Time will be Increased by Zero (0) Days

Substantial Completion as of the Date of this Change Order Therefore is

NOT VALID UNTIL SIGNED BY THE ENGINEER, CONTRACTOR AND OWNER

TranSystems
ENGINEER (Firm Name)

115 S. 6th, Independence, KS
ADDRESS


BY (Signature)

Trista Bynum
(Typed Name)

DATE

Bettis Asphalt & Construction
CONTRACTOR (Firm Name)

PO BOX 1694, Topeka, KS
ADDRESS

BY (Signature)

(Typed Name)

DATE

City of Independence
OWNER (Firm Name)

811 W. Laurel St., Independence
ADDRESS

BY (Signature)

(Typed Name)

DATE



Change Order

PROJECT:	CHANGE ORDER NO.: 007	Owner	X
Maple Street Improvements	DATE: 12/19/2022	Engineer	X
17th to Peter Pan		Contractor	X
	PROJECT NUMBER P112200040	Field	X
TO CONTRACTOR	CONTRACT DATE: 10/7/2021	Other	
Bettis Asphalt & Construction, INC.	CONTRACT FOR: General Construcion		
PO BOX 1694			
Topeka, KS 66601			

THE CONTRACT IS CHANGED AS FOLLOWS:

Reconciliation of Quantities:
Correction from Change order 4

Line	Description	Unit	Unit Price	Plan Qty.	Act. Qty.	Diff.	Cost Diff.
11	Water Grading (Set Price)	MGAL	\$ 50.00	82.9	105.7	22.8	\$ 1,140.00
						0.0	\$ -
						0.0	\$ -
						0.0	\$ -
						0.0	\$ -
						0.0	\$ -
						0.0	\$ -
						0.0	\$ -
						0.0	\$ -
						0.0	\$ -
						0.0	\$ -
						0.0	\$ -
						0.0	\$ -
						0.0	\$ -
						0.0	\$ -
	Total of this Change Order						\$ 1,140.00

Original Contract Sum	\$ 2,757,829.37
Net Change by Previously authorized Change Orders	\$ 512,444.56
Contract Sum Prior to this Change Order	\$ 3,270,273.93
Contract Sum will be Increased by this Change Order by	\$ 1,140.00
New Contract Sum Including this Change Order	\$ 3,271,413.93

NOT VALID UNTIL SIGNED BY THE ENGINEER, CONTRACTOR AND OWNER

TranSystems
ENGINEER (Firm Name)

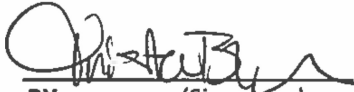
115 S. 6th, Independence, KS
ADDRESS

Bettis Asphalt & Construction
CONTRACTOR (Firm Name)

PO BOX 1694, Topeka, KS
ADDRESS

City of Independence
OWNER (Firm Name)

811 W. Laurel St., Independence
ADDRESS


BY *(Signature)*

BY *(Signature)*

BY *(Signature)*

Trista Bynum
(Typed Name)

(Typed Name)

(Typed Name)

DATE

DATE

DATE



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
September 28, 2023

Department Water Sewer

Director Approval John Garris

AGENDA ITEM Consider approving Amendment 3 to the engineering contract with EBH for the Bartlett Pipeline Project.

SUMMARY RECOMMENDATION Approve Amendment.

BACKGROUND Amendment 3 is \$9,000 for additional survey work for a route change as requested by Bartlett. This work is completed.

FINANCIAL INFORMATION Project will be paid for by Bartlett's repayment of bonds.

SUGGESTED MOTION I move to approve Amendment 3 with EBH in the amount of \$9,000 for additional survey work and to allow the execution of any necessary documents.

SUPPORTING DOCUMENTS

1. Amendment 3

This is **EXHIBIT K**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated May 15, 2023.

AMENDMENT TO OWNER-ENGINEER AGREEMENT
Amendment No. 3

The Effective Date of this Amendment is: September 11, 2023.

Background Data

Effective Date of Owner-Engineer Agreement: May 15, 2023

Owner: City of Independence, Kansas

Engineer: Evans, Bierly, Hutchison & Associates, P.A. (EBH)

Project: Independence Water Line Improvements

Nature of Amendment:

- ☒ Additional Services to be performed by Engineer
- ☐ Modifications to services of Engineer
- ☐ Modifications to responsibilities of Owner
- ☒ Modifications of payment to Engineer
- ☐ Modifications to time(s) for rendering services
- ☐ Modifications to other terms and conditions of the Agreement

Description of Modifications:

Part 1 – Basic Services; Insert A1.02.A.9.c as follows:

A1.02.A.9.c Complete additional topographic survey of county road right-of-way for revised route. Additional survey begins at intersection of CR 4500 and CR 4600, extending two miles east, then ½ mile south.

Agreement Summary:

Original agreement amount:	\$ 79,500.00
Net change for prior amendments:	\$ 1,074,550.00
This amendment amount:	\$ 9,000.00
Adjusted Agreement amount:	\$ 1,163,050.00

Change in time for services (days or date, as applicable): 0

The foregoing Agreement Summary is for reference only and does not alter the terms of the Agreement, including those set forth in Exhibit C.

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect.

OWNER:

ENGINEER:

By: _____
Print
name: _____

Title: _____

Date Signed: _____

By: Michael A Younger
Print
name: _____ Michael A. Younger, P.E.

Title: _____ Vice-President

Date Signed: 9/11/23



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
September 28, 2023

Department Airport

Director Approval John Garris

AGENDA ITEM Consider authorizing bidding for the new beacon at the airport.

SUMMARY RECOMMENDATION Authorize bidding.

BACKGROUND Our engineering firm, H. W. Lochner, has completed plans for the new airport beacon that was previously approved by the Commission and has produced a notice to bidders (attached). This bid would be due at their office at 3pm, Thursday, October 26th, 2023.

Results will be presented at a future Commission meeting.

FINANCIAL INFORMATION Construction costs will be covered under a 90 (KDOT):10 (City) split as previously approved by the Commission.

SUGGESTED MOTION I move to authorize bidding for the new airport beacon.

SUPPORTING DOCUMENTS

1. IDP - NTB Beacon and Tip-Down Pole

SECTION 1

NOTICE TO BIDDERS

CITY OF INDEPENDENCE, KANSAS

INDEPENDENCE MUNICIPAL AIRPORT

KDOT PROJECT NO.: AV-2024-07 (DESIGN)

KDOT PROJECT NO.: AV-2024-38 (CONSTRUCTION)

Sealed bids subject to the conditions and provisions presented herein will be received until **3:00 p.m. (CDT), Thursday, October 26th 2023**, and then publicly opened and read at **H. W. Lochner's Office, 16105 W. 113th Street, Suite 107, Lenexa, Kansas 66219**, for furnishing all labor, materials and equipment and performing all work necessary to:

Install New Airport Rotating Beacon and Tip-Down Pole

A **virtual** bid opening is available for all prospective bidders who do not wish to attend the bid opening in-person. The virtual bid opening will be held **via Microsoft Teams**. You are not required to have Microsoft Teams to attend the virtual bid opening as you are able to access the meeting via the online Microsoft Teams program. To receive an invitation to the virtual bid opening, contact Emily Rideout with Lochner at erideout@hwlochner.com.

Plans and Specifications are on file and may be examined at the office of the **City Engineer, 120 N. 6th Street, Independence, Kansas 67301**, and at the office of the Consulting Engineers, H.W. Lochner, Inc., 16105 W. 113th Street, Suite 107, Lenexa, Kansas 66219. Questions concerning the Plans and Specifications for this project should be directed to **Matt Jacobs, P.E.** at H.W. Lochner's Office in Lenexa, Kansas at (816) 945-5840.

Drawings, specifications, official bid form, and other related contract information may be ordered online at www.drexeltech.com or by contacting Drexel Technologies, Inc. at 10840 W. 86th Street, Lenexa, KS 66214, phone (913) 371-4430. Checks shall be made payable to (Drexel Technologies) and mailing costs are the responsibility of the purchaser. Drawings, specifications, official bid form, and addenda, and a plan holders list are available at www.drexeltech.com by clicking on "Enter Plan Room."

A prebid conference for this project will not be held.

Contract Work Items: This project will involve the following work items and estimated quantities. Prospective bidders are hereby advised that the quantities indicated herein are approximate and are subject to change.

ITEM NO.	SPEC.	ITEM DESCRIPTION	QTY.	UNIT
KDOT PROJECT NO. AV-2024-07 (DESIGN)				
KDOT PROJECT NO. AV-2024-38 (CONSTRUCTION)				
INSTALL NEW AIRPORT ROTATING BEACON AND TIP-DOWN POLE				
1	C-105	Mobilization (NTE 10% of Total Bid Amount)	1	L.S.
2	L-101	Furnish and Install L-802A(L), Class 1, Airport Rotating Beacon	1	Each
3	L-103	Furnish and Install 55 Foot Tip-Down Pole and Foundation	1	Each
4	L-108	Install Cable in Duct (1/c, #8 AWG, 600V, L-824C)	330	L.F.
5	L-108	Install Cable in Duct (1/c, #8 AWG, 600V, L-824C, Ground)	165	L.F.
6	L-110	1" Electrical Duct and Trench	90	L.F.
7	L-110	Furnish and Install L-867 Junction Box, Size B	2	Each

Contract Time

The owner has established a contract performance time of **forty (40) calendar days** from the date of the Notice-to-Proceed. All project work shall be substantially completed within the stated timeframe. This project is subject to liquidated damages as prescribed within the project manual in the Proposal Section.

Bid Security

Each proposal must be accompanied by a bid guaranty in the amount of five (5) percent of the total amount of the bid. The bid guaranty may be by certified check or bid bond made payable to the **City of Independence**.

Bonding Requirements

The successful bidder will be required to furnish separate performance and payment bonds each in the amount equal to 100% of the contract price at the time of contract execution.

Award of Contract

All proposals submitted in accordance with the instructions presented herein will be subject to evaluation. Bids may be held by the **City of Independence** for a period not to exceed **sixty (60) calendar days** from the date of the bid opening for the purpose of conducting the bid evaluation.

Award of contract will be based on the lowest aggregate sum proposal submitted from those bidders that are confirmed as being responsive and responsible. The right is reserved, as the **City of Independence, Kansas** may require, to reject any and all bids and to waive any informality in the bids received.

Award of contract is contingent upon the owner receiving Federal funding assistance under the Airport Improvement Program.

Notice-To-Proceed

It is the intent of the Owner to issue the Notice-To-Proceed (NTP) as soon as practical after the Award of Contract.

Federal Provisions

This project is subject, but not limited, to the following Federal provisions, statutes and regulations. Reference Section 4 Supplementary Provisions for a complete list of applicable provisions.

Equal Opportunity Clause and Specifications – Reference 41 CFR § 60-1.4, Executive Order 11246: The Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth within the supplementary provisions. The successful Bidder shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin.

Affirmative Action Requirement – Reference 41 CFR part 60-4, Executive Order 11246:

1. The Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth within the Supplementary Provisions.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Timetables:

Goals for minority participation for each trade: **2.3% (Montgomery County)**

Goals for female participation in each trade: **6.9%**

These goals are applicable to all of the contractor's construction work (whether or not it is Federal or federally-assisted) performed in the covered area. If the contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the contractor is also subject to the goals for both federally funded and non-federally funded construction regardless of the percentage of federal participation in funding.

The contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training shall be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from contractor to contractor or from project to project, for the sole purpose of meeting the contractor's goals, shall be a violation of the contract, the Executive Order, and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The contractor shall provide written notification to the Director, Office of Federal Contract Compliance Programs (OFCCP), within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of subcontract; and the geographical area in which the subcontract is to be performed.
4. As used in this notice and in the contract resulting from this solicitation, the "covered area" is **the Independence Municipal Airport located within Montgomery County, Kansas.**

Nonsegregated Facilities Requirement – Reference 41 CFR § 60-1.8:
Notice to Prospective Federally Assisted Construction Contractors

1. A Certification of Non-segregated Facilities shall be submitted prior to the award of a federally-assisted construction contract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity Clause.
2. Contractors receiving federally-assisted construction contract awards exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause will be required to provide for the forwarding of the following notice to prospective subcontractors for supplies and construction contracts where the subcontracts exceed \$10,000 and are not exempt from the provisions of the Equal Opportunity Clause.
3. The penalty for making false statements in offers is prescribed in 18 U.S.C. § 1001.

Notice to Prospective Subcontractors of Requirements for Certification of Non-Segregated Facilities

1. A Certification of Non-segregated Facilities shall be submitted prior to the award of a subcontract exceeding \$10,000, which is not exempt from the provisions of the Equal Opportunity Clause.
2. Contractors receiving subcontract awards exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause will be required to provide for the forwarding of this notice to prospective subcontractors for supplies and construction contracts where the subcontracts exceed \$10,000 and are not exempt from the provisions of the Equal Opportunity Clause.
3. The penalty for making false statements in offers is prescribed in 18 U.S.C. § 1001.

Disadvantaged Business Enterprise – Reference 49 CFR Part 26: The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contracts. In accordance with 49 CFR Part 26.45, the sponsor has established a contract goal of **0.0** percent participation for small business concerns owned and controlled by certified socially and economically disadvantaged enterprise (DBE). The bidder shall make and document good faith efforts, as defined in Appendix A of 49 CFR Part 26, to meet this established goal. **The bidder shall complete the Disadvantaged Business Enterprise forms (DBE-1 to DBE-4) regardless of the DBE goal if a DBE firm is to be utilized on the project.**

Davis-Bacon Requirements – Reference 2 CFR § 200 Appendix II(D): The Contractor is required to comply with wage and labor provisions and to pay minimum wages in accordance with the current schedule of wage rates established by the United States Department of Labor.

Debarment and Suspension (Non-Procurement) – Reference 2 CFR Part 180 (Subpart C), 2 CFR Part 1200, DOT Order 4200.5 DOT Suspension & Debarment Procedures & Ineligibility: By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that at the time the bidder or offeror submits its proposal that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

Trade Restriction – Reference 49 CFR Part 30: The contractor or subcontractor, by submission of an offer and/or execution of a contract, certifies that it:

- a. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR);
- b. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list;
- c. has not procured any product nor subcontracted for the supply of any product for use on the project that is produced in a foreign country on said list.

Buy American Preference – Reference 49 USC § 50101:

The contractor agrees to comply with 49 USC § 50101, which provides that Federal funds may not be obligated unless all steel and manufactured goods used in AIP-funded projects are produced in the United States, unless the FAA has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

A bidder or offeror must submit the appropriate Buy America certification with all bids or offers on AIP funded projects. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive.

Additional Provisions

Modification to the project documents may only be made by written addendum by the Owner or Owner's authorized Representative.

The Proposal must be made on the **Official Bid Form** provided separate from the bound project manual. Bidders must supply all required information prior to the time of the bid opening.

Submittal of Proposals

Additional information and instructions for submittal of a proposal are provided within the Instructions-to-Bidders.



**REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
September 28, 2023**

Department Water Sewer

Director Approval John Garris

AGENDA ITEM Consider authorizing bidding for construction of the new pipeline to Bartlett.

SUMMARY RECOMMENDATION Authorize bidding.

BACKGROUND Our engineering firm, EBH, is in the process of completing the plans and specifications for construction of the new pipeline, and has produced a notice to bidders (attached). This bid would be due at City Hall at 2pm, October 31, 2023.

Results would be presented at a future Commission meeting for approval.

FINANCIAL INFORMATION Project is being paid for by the City, with Bartlett to reimburse all costs over time.

SUGGESTED MOTION I move to authorize bidding for the new pipeline.

SUPPORTING DOCUMENTS

1. Ad for Bids

DOCUMENT 00 11 13

ADVERTISEMENT FOR BIDS**INDEPENDENCE, KANSAS
WATER TRANSMISSION LINE IMPROVEMENTS 2023
PART 1 – WATER LINE****General Notice**

The City of Independence, Kansas, (Owner) is requesting Bids for the construction of the following Project:

**Water Transmission Line Improvements 2023
Part 1 – Water Line**

Bids for the construction of the Project will be received at City Hall located at 120 N 6th Street, Independence, Kansas 67301, until **October 31, 2023, at 2:00 P.M.** local time. At that time the Bids received will be publicly opened and read. Bids received after this time will not be accepted. Bids will be received for a single prime contract. Bids shall be on a lump sum and unit price basis.

The Project includes the following Work: Installation of 47,100+/- L.F. of 12" & 14" fused HDPE (12" & 14" HDPE pipe furnished by Owner) consisting of open trenching, boring, encasing, and encased railroad jack and bore; 15 isolation valves (valves furnished by owner); pump station connection; metering vault; SCADA System Improvements (SCADA Integrator is R.E. Pedrotti, Mission, KS); electrical; seeding; fencing; traffic control; erosion control; and appurtenances. Mandatory initiation of operation: May 15, 2024.

Obtaining the Bidding Documents

Information and Bidding Documents for the Project can be found at the following designated website:

<https://EBHEngineering.com/Plan-Room/>

Bidding Documents may be downloaded from the designated website. Prospective Bidders are urged to register with the designated website as a plan holder, even if Bidding Documents are obtained from a plan room or source other than the designated website in either electronic or paper format. The designated website will be updated periodically with addenda, lists of registered plan holders, reports, and other information relevant to submitting a Bid for the Project. All official notifications, addenda, and other Bidding Documents will be offered only through the designated website. Neither Owner nor Engineer will be responsible for Bidding Documents, including addenda, if any, obtained from sources other than the designated website.

The Issuing Office for the Bidding Documents is:

EBH & Associates, P.A.
214 S 4th Street, Neodesha, Kansas 66757
Tel: (620) 672-1112
E-Mail: MikeY@EBHEngineering.com

Prospective Bidders may examine the Bidding Documents at City Hall or the Issuing Office.

Pre-Bid Conference: A Pre-Bid Conference is not scheduled at this time.

Instructions to Bidders.

For all further requirements regarding bid submittal, qualifications, procedures, and contract award, refer to the Instructions to Bidders that are included in the Bidding Documents.

Prevailing Wages: Not applicable to this project.

Domestic Preference (AIS and/or BABAA): Not applicable to this project.

This Advertisement is issued by:

Owner: **City of Independence, Kansas**

By: **Louis Ysusi**

Title: **Mayor**

Date: **October 2, 2023**

END OF DOCUMENT



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
September 28, 2023

Department Water Sewer

Director Approval John Garris

AGENDA ITEM Consider approval of Ordinance No. 4435 formally adopting a Water Conservation Plan and repealing Ordinance No. 3979.

SUMMARY RECOMMENDATION Approve Ordinance No. 4435 formally adopting a Water Conservation Plan and repealing Ordinance No. 3979.

BACKGROUND In March of 2009, the City submitted a revised version of our Municipal Water Conservation Plan. This was approved by the Kansas Department of Agriculture. This revised version was approved by the City Commission on March 13, 2009. However, no ordinance was enacted to match the plan.

An ordinance to match the plan as drafted by the City Attorney is attached. This ordinance formally enacts the provisions of the previously approved Municipal Water Conservation Plan.

FINANCIAL INFORMATION N/A

SUGGESTED MOTION I move to adopt the March, 2009 Water Conservation Plan and repeal Ordinance 3979 and approve Ordinance 4435.

SUPPORTING DOCUMENTS

1. 2023.9.21 City Ordinances - Water
2. 2009 WATER CONSERVATION PLAN
3. 3979, WATER DROUGHT_EMERGENCY ORDINANCE, 2007

ORDINANCE NO. 4435

AN ORDINANCE ADOPTING A DROUGHT RESPONSE CONSISTENT WITH THE MUNICIPAL WATER CONSERVATION PLAN FOR THE CITY OF INDEPENDENCE

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

SECTION 1. REPEAL: Ordinance No. 3979 is hereby repealed.

SECTION 2. *DROUGHT RESPONSE*

The following drought response is hereby adopted consistent with the water conservation plan for the City of Independence.

SECTION 3. *STAGE 1: WATER WATCH*

Goals: The goals of this stage are to reduce peak demands by 50% and to reduce overall weekly consumption by 25%.

A. Triggers

This stage is triggered by any one of the following conditions:

1. The city's storage has fallen below 85% capacity and will not recover; or
2. The Elk City Reservoir elevation is 3 feet below normal seasonal level; or
3. Water has stopped flowing over the City's dam on the Verdigris River; or
4. Demand for one day is in excess of 4.2 million gallons per day; or
5. The Kansas Water Office has issued a Stage 1 Water Watch based upon the remaining water marketing storage in Elk City Reservoir; or
6. The provider of purchased water has issued a Stage 1 Water Watch; or
7. The Kansas Water Office has issued a Stage 1 Water Watch based upon the remaining water assurance storage in the Water Assurance District lakes.

B. Education Actions

1. The City will make weekly news releases to local media describing the present conditions and indicating the water supply outlook for the upcoming week.

2. Previous months' summaries of precipitation, temperature, water levels in storage will be made public at the beginning of each month.
3. Water saving tips will be included in billing statements sent to water utility customers.

C. Management Actions

1. Leaks will be repaired within 48 hours of detection.
2. The city will monitor its use of water and will curtail activities such as hydrant flushing and street cleaning.
3. System pressure will be maintained below 80 PSI.
4. Leaky valves and hydrants will be replaced immediately.

D. Regulation Actions

1. The public will be asked to curtail some outdoor water use and to make efficient use of indoor water, i.e., wash full loads, take short showers, don't let faucets run, etc.

SECTION 4. *STAGE 2: WATER WARNING*

Goals: The goals of this stage are to reduce peak demands by 20% and to reduce overall weekly consumption by 10%.

A. Triggers

This stage is triggered by any one of the following conditions:

1. The City's storage has fallen below 70% capacity, and will not recover; or
2. Treatment plant operations are at 80% capacity or more for three (3) consecutive days; or
3. The Elk City Reservoir elevation is 5 feet below normal seasonal levels; or
4. Water is 1 foot below the City's dam on the Verdigris River; or
5. Demand for one day is in excess of 4.5 million gallons per day; or
6. The Kansas Water Office has issued a Stage 2 Water Warning based upon the remaining water marketing storage in a water marketing lake; or
7. The provider of purchased water has issued a Stage 2 Water Warning; or

8. The Kansas Water Office has issued a Stage 2 Water Warning based upon the remaining water assurance storage in the Water Assurance District lakes.

B. Education Actions

1. The City will make daily news releases to the local media describing present conditions and indicating the water supply outlook for the upcoming week.
2. Previous weeks' summaries of precipitation, temperature, water levels in storage will be made public each week.
3. Water conservation articles will be provided to the local newspaper.
4. The City will place inserts in customers' water bills outlining tips on conserving water indoors and outdoors.

C. Management Actions

1. Water supplies will be monitored daily.
2. Leaks will be repaired within 24 hours of detection.
3. The City will curtail its water usage, including operation of fountains, watering of city grounds, and washing of vehicles.
4. Reserve supplies will be prepared for use.
5. Intakes will be adapted to operate with low flows.

D. Regulation Actions

1. The City must initiate its drought warning portion of its drought contingency plans.
2. The City will implement the following actions:
 1. An odd/even lawn watering system will be imposed on City residents. Residents with odd-numbered addresses will water on odd days; even-numbered addresses will water on even days.
 2. Outdoor water use, including lawn watering, car washing will be restricted to before 10:00 am and after 9:00 pm.
 3. Golf courses will restrict water to tees and greens after sunset.

4. Refilling of swimming pools will be allowed one day per week after sunset.
5. Outdoor watering will be restricted to hand-held hose or bucket only.
6. Excess water use charges for usage of water over the amount used in the winter will be considered.
7. Waste of water will be prohibited.

SECTION 5. STAGE 3: *WATER EMERGENCY*

Goals: The goals of this stage are to reduce peak demands by 50% and to reduce overall weekly consumption by 25%.

A. Triggers

This stage is triggered by any one of the following conditions:

1. The city's storage has fallen below 50% capacity; or
2. Treatment plant operations are at 90% capacity or more for three (3) consecutive days; or
3. The Elk City Reservoir elevation is 7 feet below normal seasonal levels; or
4. Water is 2 to 3 feet below the City's dam on the Verdigris River; or
5. Demand for one day is in excess of 4.5 million gallons per day; or
6. The Kansas Water Office has issued a Stage 3 Water Emergency based upon the remaining water marketing storage in a water marketing lake; or
7. The provider of purchased water has issued a Stage 3 Water Emergency; or
8. Emergency conditions exist relating to repairs of water quality; or
9. The Kansas Water Office has issued a Stage 3 Water Emergency based upon the remaining water assurance in the Water Assurance District lakes.

A. Education Actions:

1. The City will make daily news releases to the local media describing present conditions and indicating the water supply outlook for the next day.
2. Previous days' summaries of precipitation, temperature, water levels in storage will be made public each day.
3. The City will hold public meeting to discuss the emergency, status of the water supply and further actions, which need to be taken.

B. Management Actions

1. Water supplies will be monitored daily.
2. Leaks will be repaired within 24 hours of detection.
3. The City will seek additional emergency supplies from other users, the state or the federal government.

C. Regulation Actions

1. Outdoor water use will be banned.
2. Waste of water will be prohibited.

SECTION 6: *DEFINITIONS*

As used in this ordinance, “waste of water” includes, but is not limited to, permitting water to escape down a gutter, ditch, or other surface drain; or the failure to repair a controllable leak of water due to defective plumbing.

SECTION 7: *DROUGHT RESPONSE DECLARATIONS*

Should a water supply emergency exist, the governing body shall have the power to declare the existence of, a water watch, water warning, or water emergency, as the case may be and authorize city staff to enforce the regulation actions set forth in this ordinance. The declaration of a water supply emergency shall be made by a resolution adopted by the governing body, and shall continue in effect until such time as the governing body adopts a resolution terminating the same. The resolution declaring the existence and end of a water supply emergency shall be effective upon the publication in the official City newspaper.

SECTION 8: *EMERGENCY WATER RATES*

Upon the declaration of a water supply emergency as set forth in this ordinance, the governing body shall have the power to adopt emergency water rates by ordinance designed to conserve water supply. The emergency rates may provide for, but are not limited to, the following:

- A. Higher charges for increasing usage per unit of use (increasing block rates); or
- B. Uniform charges for water usage per unit of use (uniform unit rate); or
- C. Extra charges in excess of a specified level of water use (excess demand surcharge).

SECTION 9: VIOLATIONS, ENFORCEMENTS AND PENALTIES

A. Violations:

Any person or entity committing any act which is in violation of this ordinance shall be guilty of an unclassified code violation.

B. Enforcement:

If any person or entity violates this ordinance, any law enforcement officer, code enforcement officer, or other person designated by the City Manager may take any one or more of the following actions:

1. A verbal or written warning may be issued advising the offending party to cease and desist the activity which is in violation of this ordinance. City staff shall maintain a register of the date and time of all such warnings issued.
2. A citation to the Municipal Court may be issued to the offending party for any violation of this ordinance.
3. In extreme cases involving waste of water or violations occurring during a Stage 3 Water Emergency, the water supply to the offending party may be shut off at the meter until compliance with this ordinance is assured.

C. Penalty:

Any person or entity found guilty in the Municipal Court of a violation of this ordinance may be fined up to \$500.00 for the first offense, or up to \$1,000 for the second or subsequent offense.

SECTION 10: EMERGENCY TERMINATION

Nothing in this Ordinance shall limit the ability of the City Manager, or his designee, from terminating the supply of water to any or to all customers upon the determination that an emergency termination of water services required to protect the health safety and welfare of the general public.

SECTION 11: SEVERABILITY

If any provision of this ordinance is declared unconstitutional, or the application thereof to any person or circumstance is held to be invalid, the constitutionality of the remainder of the ordinance and its applicability to other persons and circumstances shall not be affected thereby.

SECTION 12: 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 28th day of September, 2023.

CITY OF INDEPENDENCE

Louis Ysusi, Mayor

ATTEST:

David W. Schwenker

March 18, 2009

City of Independence
Attn: Paul Sasse, Manager
120 N. 6th, City Hall
Independence, KS 67301

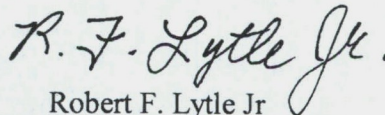
RE: Water Conservation Plan and
Emergency Contingency

Dear Mr. Sasse:

This correspondence will acknowledge receipt of the City's water conservation plan. The plan and Ordinance have been reviewed and have been found to meet the current guidelines for a municipality with a medium per capita consumption rate. The plan also includes management practices that are consistent with the new Verdigris River Basin Memorandum of Agreement. The plan is therefore approved.

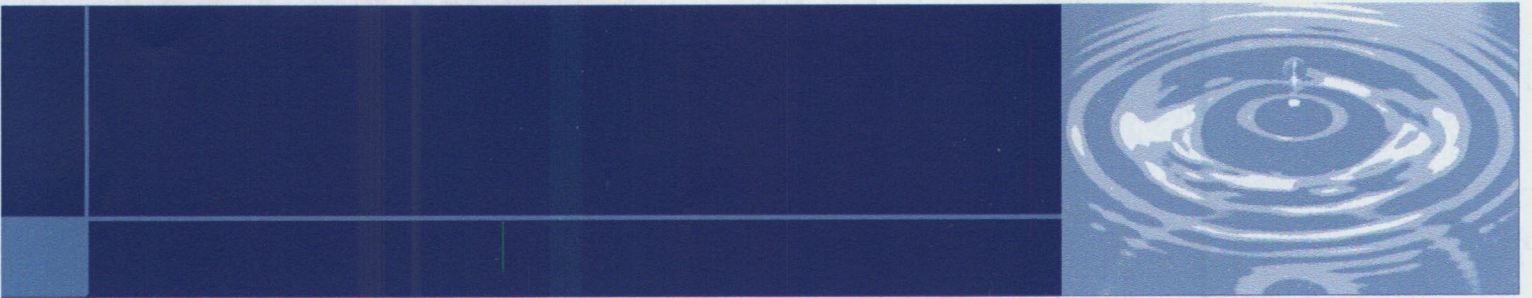
If you have any questions concerning water conservation issues or water right matters, please feel free to contact me.

Sincerely,



Robert F. Lytle Jr
Environmental Scientist

PC Dave Waldo
Elmer Ronnebaum
Tina Rajala
William Carr
Topeka Field Office



MUNICIPAL WATER CONSERVATION PLAN FOR THE CITY OF INDEPENDENCE

Municipal Water Conservation Plan For the City of Independence

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Stage 3: Water Emergency

PLAN REVISION, MONITORING AND EVALUATION

INTRODUCTION

The primary objectives of the Water Conservation Plan for the City of Independence are to develop long-term water conservation plans (Long-Term Water Use Efficiency Section) and short-term water emergency plans (Drought Response Section) to assure the City customers of an adequate water supply to meet their needs. The efficient use of water also has the beneficial effect of limiting or postponing water distribution system expansion and thus limiting or postponing the resultant increases in costs, in addition to conserving the limited water resources of the State of Kansas.

The City of Independence has undertaken a number of steps to ensure a dependable water supply for our customers during the past 25 years. The water supply for our City is obtained from the Verdigris River. Our City water supply and distribution system have ample capacity to meet current customer demands and future projected demands for several years, except during drought periods. The City of Independence believes that our Municipal Water Conservation Plan represents an additional major step in ensuring our customers of a dependable water supply in future years. The City of Independence acknowledges that any supplemental water from storage needed during low flow conditions (as defined in the Memorandum of Agreement between the Kansas Water Office and the Kansas Department of Agriculture, Division of Water Resources) may be provided through a water marketing contract with the Kansas Water Office.

LONG-TERM WATER USE EFFICIENCY

Water Use Conservation Goals

The City of Independence used 141 gallons per person per day (GPCD) in 2007. This GPCD figure included:

- Water sold to residential/commercial customers;
- Water distributed for free public services (parks, cemeteries, swimming pools etc.); and
- Water lost by leaks in the water distribution system.

However, the GPCD figure does not include municipally supplied water for industries that use over 200,000 gallons per year. According to Figure 1, shown in the 2007 Kansas Municipal Water Use Publication, our City is located in Region 7. From this publication it was determined that our City GPCD water use was 141, which was 4 percent above the regional average of 135 GPCD among cities in Region 7 during 2007. The City desires to set a water use conservation goal for usage not to exceed 142 GPCD based on the regional average of the last five years (2003 thru 2007). Our City anticipates not exceeding this goal by carrying out the specific actions that are outlined in our plan.

Water Conservation Practices

This subsection of the plan summarizes the current education, management and regulation efforts that relate to the long-term conservation of water in the City. Specific practices that will be undertaken to conserve water are listed and a target date to begin each practice is also shown.

Education

The City water bills show the total number of gallons of water used during the billing period and the amount of the bill. The City will periodically include water conservation tips on water bills as provided for, and has encouraged the Board of Education and teachers to become involved in water conservation presentations in schools.

The City has chosen the following conservation practices and target dates for the Education Component of the Long-Term Water Use Efficiency Section of our Water Conservation Plan.

Education Conservation Practices to be Taken	Target Date
1. Water bills will show the amount of water used in gallons and the cost of the water.	Implemented
2. Make available information on water conserving landscape practices through publications, local news media, seminars or other appropriate means.	October 1, 2009
3. Water conservation tips will be provided in the July water bill.	Implemented

Management

The City of Independence has water meters on all water supplies and water pumped to the distribution system. Any new supply will have an individual meter on each source of supply. These meters are read once each month.

Water meters have been installed for all residential/commercial customers. Customer meters are scheduled for an accuracy check and possible repair or replacement upon receiving a request to do so from the customer.

The City of Independence reads each customer's water meter and mails a monthly water bill to each customer every month.

Water leaks from the City public water distribution system are repaired when customers report significant leaks from the water mains or are located by City Personnel.

The water rate structure for the City was passed on May 29, 1997 and provides for the following:

1. Water rates for premises located within the City:
 - a. First 1,000 gallons or any part thereof -- \$5.37
 - b. Next 9,000 gallons or any part thereof, per 1,000 gallons -- \$2.50
 - c. Next 50,000 gallons or any part thereof, per 1,000 gallons -- \$2.08
 - d. Next 500,000 gallons or any part thereof, per 1,000 gallons -- \$1.94
 - e. Next 750,000 gallons or any part thereof, per 1,000 gallons -- \$1.51
 - f. All over 1,310,000, per 1,000 gallons -- \$1.37
2. Water rates for premises located outside the City:
 - a. First 1,000 gallons or any part thereof -- \$8.06
 - b. Next 9,000 gallons or any part thereof, per 1,000 gallons -- \$3.75
 - c. Next 50,000 gallons or any part thereof, per 1,000 gallons -- \$3.12
 - d. Next 500,000 gallons or any part thereof, per 1,000 gallons -- \$2.91

- e. Next 750,000 gallons or any part thereof, per 1,000 gallons -- \$2.27
- f. All over 1,310,000, per 1,000 gallons -- \$2.06

The sewer rate structure for the City was passed on May 21, 2002. The sewer rate for all premises located within the City is \$16.00 plus \$3.00 per 1,000 gallons. The sewer rate for premises located out the City is \$24.27 plus \$5.00 per 1,000 gallons.

The City of Independence realizes that much greater emphasis must be placed on obtaining accurate measurement of water use at our source and at customer meters and that a water use records system must be developed that can be used to more effectively and efficiently manage the City public water distribution system. For that reason, the City of Independence has chosen the following conservation practices and target dates for the Management component of the Long-Term Water Use Efficiency Section of our Water Conservation Plan.

Management Conservation Practices to be Taken	Target Date
1. All source water will have meters installed and the meters will be repaired or replaced within two weeks when malfunctions occur.	Implemented
2. Meters for source water will be tested for accuracy at least once every three years. Each meter will be repaired or replaced if its test measurements are not within industry standards (such as AWWA standards).	Implemented
3. Meters will be installed at all residential service connections and at all other service connections whose annual water use may exceed 300,000 gallons, including separate meters for municipally operated irrigation systems which irrigate more than one acre of turf.	Implemented
4. Meters at each individual service connection will be replaced or tested for accuracy on a regular basis, per industry standards (such as AWWA standards), if they are one inch or less. Meters between one inch and six inches will be tested for accuracy at least once every five years and meters six inches and above will be tested on at least an annual basis. Each meter will be repaired or replaced if its test measurements are not within industry standards (such as AWWA standards).	Implemented
5. All meters for source water will be read at least on a monthly basis and meters at individual service connections will be read at least once every two months.	Implemented
6. A reading will be taken at each source water meter at the same time that meters for individual service connections are read.	Implemented
7. A water utility will implement a water management review, which will result in a specified change in water management practices or implementation of a leak detection and repair program or plan, whenever the amount of unsold water (amount of water provided free for public service, used for treatment purposes, water loss, etc.) exceeds 20 percent of the total source water for a four month time period.	Implemented
8. Water sales will be based on the amount of water used.	Implemented
9. A water rate structure designed to curb excessive use of water will be evaluated.	October 1, 2009
10. Develop and implement a program to incorporate water conserving landscape principles into future landscape	October 1, 2009

development projects, including renovation of existing landscapes.	
11. Develop and implement an irrigation management program for irrigated grounds.	October 1, 2009
12. Encourage the recycling of wastewater for selected industrial or irrigation purposes.	January 1, 2010

Regulation

Because of our ability to supply water during normal periods, regulatory controls on water use are included only in the Drought Response section of this plan and water drought/emergency ordinance where they constitute the primary means for conserving water during a supply shortage.

Independence has adopted the Uniform Plumbing Code 97 which has provisions for water conserving fixtures and fittings. All new construction or remodeling must comply with this Code.

Regulation Actions to be Taken	Target Date
1. All new or renovated construction will install toilets that use 1.6 gallons per flush or less and low flow showerheads that use 2.5 gallons per minute or less.	Implemented
2. Adopt a landscape water conservation ordinance.	January 1, 2010

DROUGHT RESPONSE

The City of Independence addresses its short-term water shortage problems through a series of stages based on conditions of supply and demand with accompanying triggers, goals and actions. Each stage is more stringent in water use than the previous stage since water supply conditions are more deteriorated. The City Manager is authorized by ordinance to implement the appropriate conservation measures.

Stage 1: Water Watch

Goals

The goals of this stage are to heighten awareness of the public on water conditions and to maintain the integrity of the water supply system.

Triggers

This stage is triggered by any one of the following conditions:

1. The City's storage has fallen below 85 percent capacity, and will not recover ;
2. Lake or reservoir elevation is 3 feet below normal seasonal level ,
3. Water has stopped flowing over the dam;
4. Demand for one day is in excess of 4.2 million gallons per day ;
5. The Kansas Water Office has issued a Stage 1 Water Watch based on the remaining water marketing storage in a water marketing lake;
6. Provider of purchased water has issued a Stage 1 Water Watch.
7. The Kansas Water Office has issued a water watch based on the remaining water assurance storage in the Water Assurance District lakes.

Education Actions

1. The City will make occasional news releases to the local media describing present conditions and indicating the water supply outlook for the upcoming season.
2. Previous months summaries of precipitation, temperature, water levels and storage will be made public at the beginning of each month.
3. Water-saving tips will be included in billings to water utility customers.

Management Actions

1. Leaks will be repaired within 48 hours of detection.
2. The City will monitor its use of water and will curtail activities such as hydrant flushing and street cleaning.
3. System pressure will be maintained below 80 psi.
4. Leaky valves and hydrants will be repaired immediately.

Regulation Actions

The public will be asked to curtail some outdoor water use and to make efficient use of indoor water, i.e. wash full loads, take short showers, don't let faucets run, etc.

Stage 2: Water Warning

Goals

The goals of this stage are to reduce peak demands by 20 percent and to reduce overall weekly consumption by 10 percent.

Triggers

This stage is triggered by any one of the following conditions:

1. The City's storage has fallen below 70 percent capacity, and will not recover ;
2. Treatment plant operations are at 80 percent capacity or more for three consecutive days ;
3. Lake or reservoir elevation is 5 feet below normal seasonal level ;
4. Water is 1 feet below the dam ;
5. Demand for one day is in excess of 4.5 million gallons per day ;
6. The Kansas Water Office has issued a Stage 2 Water Warning based on the remaining water marketing storage in a water marketing lake;
7. Provider of purchased water has issued a Stage 2 Water Warning.
8. The Kansas Water Office has issued a water warning based on the remaining water assurance storage in the Water Assurance District lakes.

Education Actions

1. The City will make weekly news releases to the local media describing present conditions and indicating the water supply outlook for the upcoming week.
2. Previous week summaries of precipitation, temperature, water levels and storage will be made public each week.
3. Water conservation articles will be provided to the local newspaper.
4. Water-saving tips will be included in billings to water utility customers.

Management Actions

1. The City water supplies will be monitored daily.
2. Leaks will be repaired within 24 hours of detection.
3. The City will curtail its water usage, including operation of fountains, watering of City grounds and washing of vehicles.
4. Reserve supplies will be prepared for use.
5. Intakes will be adapted to operate with low flows.

Regulation Actions

1. An odd/even lawn watering system will be imposed on City residents. Residents with odd-numbered addresses will water on odd days; even addresses will water on even days.
2. Outdoor water use, including lawn watering and car washing will be restricted to before 10:00 am and after 9:00 pm.
3. Golf courses will restrict watering to tees and greens after sunset.
4. Refilling of swimming pools will be allowed one day a week after sunset.
5. Outdoor watering will be restricted to use of a hand-held hose or bucket only.
6. Excess water use charges for usage of water over the amount used in the winter will be considered.
7. Waste of water will be prohibited.

Stage 3: Water Emergency

Goals

The goals of this stage are to reduce peak demands by 50 percent and to reduce overall weekly consumption by 25 percent.

Triggers:

This stage is triggered by any one of the following conditions:

1. The City's storage has fallen below 50 percent capacity ;
2. Treatment plant operations are at 90 percent capacity or more for three consecutive days ;
3. Lake or reservoir elevation is 7 feet below normal seasonal level ;
4. Water is 2-3 feet below the dam ;
5. Demand for one day is in excess of 4.75 million gallons per day ;
6. The Kansas Water Office has issued a Stage 3 Water Emergency based on the remaining water marketing storage in a water marketing lake;
7. Provider of purchased water has issued a Stage 3 Water Emergency.
8. Emergency conditions related to repairs or water quality.
9. The Kansas Water Office has issued a water emergency based on the remaining water assurance storage in the Water Assurance District lakes.

Education Actions

1. The City will make daily news releases to the local media describing present conditions and indicating the water supply outlook for the next day.
2. Previous days summaries of precipitation, temperature, water levels and storage will be made public each day.

3. The City will hold public meetings to discuss the emergency, the status of the City water supply and further actions, which need to be taken.

Management Actions

1. The City water supplies will be monitored daily.
2. Leaks will be repaired within 24 hours of detection.
3. The City will seek additional emergency supplies from other users, the state or the federal government.

Regulation Actions

1. Outdoor water use will be banned.
2. Waste of water will be prohibited.

PLAN REVISION, MONITORING & EVALUATION

The City of Independence will establish a monthly management practice of reviewing monthly totals for water production, residential/commercial sales, water provided free-of-charge, and "unaccounted for water". Problems noted during the monthly review will be solved as soon as possible.

The City of Independence Municipal Water Conservation Plan will be reviewed during the month of April each year and on a more frequent basis during drought or other water shortage conditions. If the water conservation GPCD goals for the previous year are not met, then the City will review the data collected from the previous year in relationship to the status and effectiveness of the conservation practices that are outlined in our plan and will provide a status report to the DWR which will also include any additional water conservation practices that may need to be taken in order for the city to achieve and maintain its water use conservation GPCD goals.

MINUTES OF THE INDEPENDENCE CITY COMMISSION (SPECIAL MTG)
Friday, March 13 2009

The Independence City Commission met in special session, March 13, 2009, at 8:00 a.m. Mayor Derrill Unruh presided at this meeting which was held at City Hall, 120 North 6th Street. Commissioner Deborah Coy was present. Commissioner Rick Mott was present. Others present included:

CITY STAFF

Paul Sasse, City Manager

Anthony D. Royse, Director of Finance / City Clerk

Kelly Passauer, Assistant City Manager / Planning/Zoning Administrator

ITEMS REQUIRING COMMISSION ACTION

Consider application to KDOT for stimulus funds

On the motion of Commissioner Mott, seconded by Commissioner Coy, the Commission authorized submitting an application under the 2009 American Recovery and Reinvestment Act for reconstruction of a portion of US 75/160 (West Main Street from 10th to 18th Street).

Aye: Coy, Unruh, Mott

Nay: None

Consider approving update of water conservation plan

On the motion of Commissioner Mott, seconded by Commissioner Coy, the Commission approved updating the City's water conservation plan to include "The City of Independence acknowledges that any supplemental water from storage needed during low flow conditions may be provided through a water marketing contract with the Kansas Water Office".

Aye: Coy, Unruh, Mott

Nay: None

Consider authorizing website domain for the City website

On the motion of Commissioner Mott, seconded by Commissioner Coy, the Commission authorized City staff to register domain names for the City website.

Aye: Coy, Unruh, Mott

Nay: None

Consider rescheduling March 19, 2009 Commission meeting

On the motion of Mayor Unruh, seconded by Commissioner Coy, the Commission rescheduled their March 19, 2009 meeting to March 18, 2009 at 4:45 p.m.

Aye: Coy, Unruh, Mott

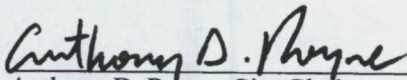
Nay: None

**NOTICE OF SPECIAL MEETING TO THE BOARD OF COMMISSIONERS OF THE
CITY OF INDEPENDENCE, KANSAS**

Notice is hereby given that a special meeting of the board of commissioners of the City of Independence will be held in the City Commission Room at City Hall at 8:00 a.m., on March 13, 2009, for the following purpose (s):

1. Consider application to KDOT for stimulus funds.
2. Consider approving update of water conservation plan.
3. Consider authorizing website domain for the City.
4. Consider setting date for next regular commission meeting.

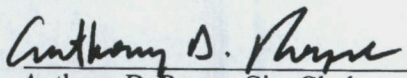
Dated this 13th day of March 2009.


Anthony D. Royse, City Clerk

CERTIFICATE OF SERVICE OF NOTICE

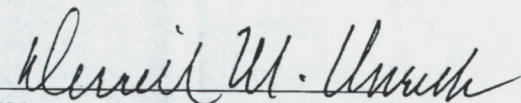
I, Anthony D. Royse, the duly appointed, qualified and acting City Clerk of the City of Independence, do hereby certify that on this 13th day of March 2009, I served a true copy of the Notice of Special Meeting on each and every member of the Board of Commissioners of the City of Independence in the manner provided by law.

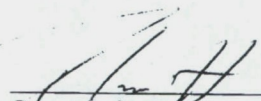
Dated this 13th day of March 2009.

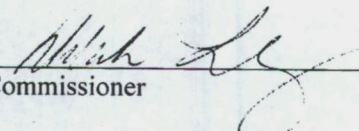

Anthony D. Royse, City Clerk

WAIVER OF REGULAR NOTICE OF AND CONSENT TO SPECIAL MEETING

We, the undersigned members of the Board of Commissioners of the City of Independence do hereby accept service of the notice of special meeting waiving any and all irregularities in such service and in such notice and consent and agree that the said member s of said Board of Commissioners shall meet at the time and place named in such notice and for the purpose stated therein.


Mayor


Commissioner

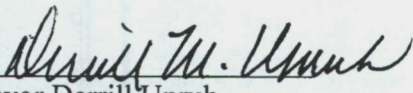

Commissioner

MINUTES OF THE INDEPENDENCE CITY COMMISSION (SPECIAL MTG)
Friday, March 13 2009

ADJOURNMENT

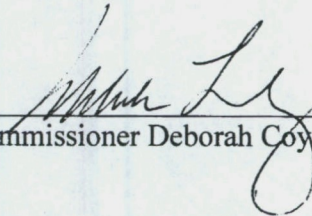
On the motion of Mayor Unruh, seconded by Commissioner Coy, the Commission adjourned the meeting.

Aye: Coy, Unruh, Mott
Nay: None

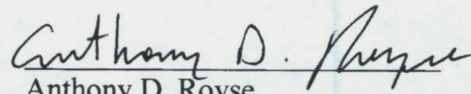


Mayor Derrick Unruh

Commissioner Rick Mott



Commissioner Deborah Coy



Anthony D. Royse
Director of Finance / City Clerk

WATER DROUGHT/EMERGENCY ORDINANCE

Ordinance No. 3979

An ordinance authorizing the declaration of a water watch, warning or emergency; establishing procedures and voluntary and mandatory conservation measures; authorizing the issuance of administrative regulations; and prescribing certain penalties.

Be it Ordained by the Governing Body of the City of Independence.

Section 1. Purpose. The purpose of this ordinance is to provide for the declaration of a water supply watch, warning or emergency and the implementation of voluntary and mandatory water conservation measures throughout the city in the event such a watch, warning or emergency is declared.

Section 2. Definitions.

- (a) "Water", as the term is used in this ordinance, shall mean any treated water introduced by the City into its water distribution system, including water offered for sale at any coin-operated site.
- (b) "Customer", as the term is used in this ordinance, shall mean the customer of record using water for any purpose from the City's water distribution system and for which either a regular charge is made or, in the case of coin sales, a cash charge is made at the site of delivery.
- (c) "Waste of water", as the term is used in this ordinance, includes, but is not limited to: (1) permitting water to escape down a gutter, ditch, or other surface drain; or (2) failure to repair a controllable leak of water due to defective plumbing.
- (d) The following classes of uses of water are established:

Class 1:

Water used for outdoor watering; either public or private, for gardens, lawns, trees, shrubs, plants, parks, golf courses, playing fields, swimming pools or other recreational areas; or the washing of motor vehicles, boats, trailers, or the exterior of any building or structure.

Class 2:

Water used for any commercial or industrial, including agricultural, purposes: except water actually necessary to maintain the health and personal hygiene of bona fide employees while such employees are engaged in the performance of their duties at their place of employment.

Class 3:

Domestic usage, other than that which would be included in either classes 1 or 2.

Class 4:

Water necessary only to sustain human life and the lives of domestic pets and maintain standards of hygiene and sanitation.

Section 3. Declaration of Water Watch. Whenever the governing body and/or City Manager finds that conditions indicate that the probability of a drought or some other condition causing a major water supply shortage is rising, it shall be empowered to declare that a water watch exists and that it shall take steps to inform the public and ask for voluntary reductions in water use. Such a watch shall be deemed to continue until it is declared by resolution of the governing body to have ended. The resolutions declaring the existence and end of a water watch shall be effective upon their publication in the official city newspaper.

Section 4. Declaration of Water Warning. Whenever the governing body and/or City Manager finds that drought conditions or some other condition causing a major water supply shortage are present and supplies are starting to decline, it shall be empowered to declare that a water warning exists and that it will recommend restrictions on nonessential uses during the period of warning. Such a warning shall be deemed to continue until it is declared by resolution of the governing body to have ended. The resolutions declaring the beginning and ending of the water warning shall be effective upon their publication in the official city newspaper.

Section 5. Declaration of Water Emergency. Whenever the governing body and/or City Manager finds that an emergency exists by reason of a shortage of water supply needed for essential uses, it shall be empowered to declare that a water supply emergency exists and that it will impose mandatory restrictions on water use during the period of the emergency. Such an emergency shall be deemed to continue until it is declared by resolution of the governing body to have ended. The resolutions declaring the existence and end of a water supply emergency shall be effective upon their publication in the official city newspaper.

Section 6. Voluntary Conservation Measures. Upon the declaration of a water watch or water warning as provided in Sections 3 and 4, the city manager is authorized to call on all water consumers to employ voluntary water conservation measures to limit or eliminate nonessential water uses including, but not limited to, limitations on the following uses:

- (a) Class 1 uses of water.
- (b) Waste of water.

Section 7. Mandatory Conservation Measures. Upon the declaration of a water supply emergency as provided in Section 5, the city manager is also authorized to implement certain mandatory water conservation measures, including, but not limited to, the following:

- (a) May suspend new connections to the City's water distribution system, except connections of fire hydrants and those made pursuant to agreements entered into by the City prior to the effective date of the declaration of the emergency;
- (b) Restrictions on the uses of water in one or more classes of water use, wholly or in part;
- (c) Restrictions on the sales of water at coin-operated facilities or sites;
- (d) The imposition of water rationing based on any reasonable formula including, but not limited to, the percentage of normal use and per capita or per consumer restrictions;
- (e) Complete or partial bans on the waste of water; and
- (f) Any combination of the foregoing measures.

Section 8. Emergency Water Rates. Upon the declaration of a water supply emergency as provided in Section 5, the governing body of the City shall have the power to adopt emergency water rates by ordinance designed to conserve water supplies. Such emergency rates may provide for, but are not limited to:

- (a) Higher charges for increasing usage per unit of use (increasing block rates);
- (b) Uniform charges for water usage per unit of use (uniform unit rate); or
- (c) Extra charges in excess of a specified level of water use (excess demand surcharge).

Section 9. Regulations. During the effective period of any water supply emergency as provided for in Section 5, the city manager, or his designee, is empowered to promulgate such regulations as may be necessary to carry out the provisions of this ordinance, any water supply emergency resolution, or emergency water rate ordinance. Such regulations shall be subject to the approval of the governing body at its next regular or special meeting.

Section 10. Violations, Disconnections and Penalties.

- (a) If the city manager, or his designee, or other city official or officials charged with implementation and enforcement of this ordinance or a water supply emergency resolution learn of any violation of any water use restrictions imposed pursuant to Sections 7 or 9 of this ordinance, a written notice of the violation shall be affixed to the property where the violation occurred and the customer of record or any other person known to the City who is responsible for the violation or its correction shall be provided with either actual or mailed notice. Said notice shall describe the violation and order that it be corrected, cured or abated immediately or within such specified time as the City determines is reasonable under the circumstances. If the order is not complied with, the City may terminate water service to the customer subject to the following procedures:
 - (1) The City shall give the customer notice by mail or actual notice that water service will be discontinued within a specified time due to the violation and that the customer will have the opportunity to appeal the termination by requesting a hearing scheduled before the City governing body or a city official designated as a hearing officer by the governing body;
 - (2) If such a hearing is requested by the customer charged with the violation, he or she shall be given a full opportunity to be heard before termination is ordered; and

- (3) The governing body or hearing officer shall make findings of fact and order whether service should continue or be terminated.
- (b) A fee of \$50 shall be paid for the reconnection of any water service terminated pursuant to subsection (a). In the event of subsequent violations, the reconnection fee shall be \$200 for the second reconnection and \$300 for any additional reconnections.
- (c) Violations of this ordinance shall be a municipal offense and may be prosecuted in Municipal Court. Any person so charged and found guilty in Municipal court of violating the provisions of this ordinance shall be guilty of a municipal offense. Each day of violation shall constitute a separate offense. The penalty for an initial violation shall be a mandatory fine of \$100. In addition, such customer may be required by the Court to serve a definite term of confinement in the city or county jail which shall be fixed by the Court and which shall not exceed 30 days. The penalty for a second or subsequent conviction shall be a mandatory fine of \$200. In addition, such customer shall serve a definite term of confinement in the city or county jail which shall be fixed by the Court and which shall not exceed 30 days.

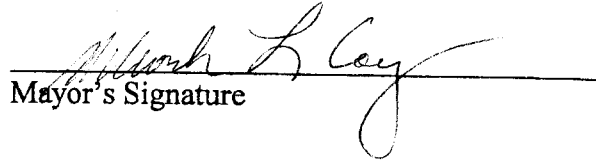
Section 11. Emergency Termination. Nothing in this ordinance shall limit the ability of the city manager, or his designee, from terminating the supply of water to any or all customers upon the determination of such city official that emergency termination of water service is required to protect the health and safety of the public.

Section 12. Severability. If any provision of this ordinance is declared unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and its applicability to other persons and circumstances shall not be affected thereby.

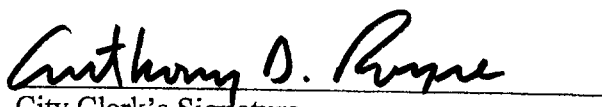
Section 13. This ordinance shall become effective upon its publication in the official city newspaper.

Passed by the governing body this 11 day of January, 2007.




Mayor's Signature

ATTEST:


City Clerk's Signature

MUNICIPAL WATER
CONSERVATION PLAN
FOR THE
CITY OF INDEPENDENCE

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MUNICIPAL WATER CONSERVATION PLAN

The primary objectives of the Water Conservation Plan for the City of Independence are to develop long-term water conservation plans (Long-Term Water Use Efficiency Section) and short-term water emergency plans (Drought/Emergency Contingency Section) to assure the City customers of an adequate water supply to meet their needs.

LONG-TERM WATER USE EFFICIENCY

WATER USE CONSERVATION GOALS

The City of Independence used 140 gallons per person per day (GPCD) in 2003. This GPCD figure included:

- a) water sold to residential/commercial customers;
- b) water distributed for free public services (parks, cemeteries, swimming pools, etc.); and
- c) water lost by leaks in the water distribution system.

However, the GPCD figure does not include municipally supplied water for industries that use over 200,000 gallons per year. According to Figure 1, shown in the 2003 Kansas Municipal Water Use Publication, our City is located in Region 7. From this publication it was determined that our City GPCD water use was 140, which was 7 percent below the regional average of 150 GPCD among cities in Region 7 during 2003. The City desires to encourage water use conservation based on regional comparisons, taking into consideration available water supply and specific growth and industrial development needs that may effect the City water needs.

WATER CONSERVATION PRACTICES

This subsection of the plan summarizes the current education, management and regulation efforts that relate to the long-term conservation of water in the City. Specific practices that will be undertaken to conserve water are listed and a target date to begin each practice is also shown.

Education

The City water bills show the total number of gallons of water used during the billing period and the amount of the bill. The City will periodically include water conservation tips on water bills as provided for in this plan and has encouraged the Board of Education and teachers to become involved in water conservation presentations in schools.

The City has chosen the following conservation practices and target dates for the Education Component of the Long-Term Water Use Efficiency Section of our Water Conservation Plan.

Education Conservation Practices to be Taken

Target Date

1. Water conservation tips will be provided in the month of July and during limited water supply

July 2007

Management

The City of Independence has water meters on all water supplies and water pumped to the distribution system. Any new supply will have an individual meter on each source of supply. These meters are read on a daily basis. The meters are checked for accuracy whenever the water superintendent believes the meters are not operating correctly. All residential/commercial customers have water meters installed. Customer meters are scheduled for an accuracy check and possible repair or replacement upon receiving a request to do so from the customer or as initiated by the City. The City of Independence reads each customer meter monthly and mails a monthly water bill to each customer.

Water leaks from the City public water distribution system are repaired when customers report leaks from the mains or when located by city personnel.

Management Conservation Practices to be Taken	Target Date
1. All raw water intakes will have meters installed and the meters will be repaired or replaced within two weeks when malfunctions occur	Implemented
2. Meters at raw water intakes will be tested for accuracy. Each meter will be repaired or replaced if its test measurements are not within AWWA standards.	Implemented
3. Meters will be installed at all residential service connections and at all other service connections whose annual water use may exceed 300,000 gallons, including separate meters for municipally operated irrigation systems which irrigate more than one acre of turf.	Implemented
4. Meters at each individual service connection will be replaced or tested for accuracy on a regular basis, at least once every 10 years, if they are one inch or less. Meters between one inch and six inches will be tested for accuracy at least once every five years and meters six inches and larger will be tested on at least an annual basis. Each meter will be repaired or replaced if its test measurements are not within AWWA standards.	Implemented

5. All meters at raw water intakes will be read at least on a monthly basis and meters at individual service connections will be read at least once every two months.	Implemented
6. A water utility will implement a water management review, which will result in a specified change in water management practices or implementation of a leak detection and repair program or plan, whenever the amount of unsold water (amount of water provided free for public service, used for treatment purposes, water loss, etc.) exceeds 20 percent of the amount thru the plants discharge meter	Implemented
7. Water sales will be based on the amount of water used.	Implemented

Regulation

The City of Independence has adopted the Uniform Plumbing Code 97 which has provisions for water conserving fixtures and fittings. All new construction or remodeling must comply with the use of water conservation toilets and faucets.

DROUGHT/EMERGENCY CONTINGENCY

The City of Independence addresses its short-term water shortage problems through a series of stages based on conditions of supply and demand with accompanying triggers, goals and actions. Each stage is more stringent in water use than the previous stage since water supply conditions are more deteriorated. The City Manager is authorized by ordinance to implement the appropriate conservation measures.

STAGE 1: WATER WATCH

Goals

The goals of this stage are to heighten awareness of the public on water conditions and to maintain the integrity of the water supply system.

Triggers

This stage is triggered by all of the following conditions:

1. The City's storage has fallen below 85 percent capacity, and will not recover and,
2. Demand for municipal and industrial use for one day is in excess of 4.2 million gallons per day.

Education Actions

1. The City will make occasional news releases to the local media describing present conditions and indicating the water supply outlook for the upcoming season.
2. Previous month summaries of precipitation, temperature, water levels and storage will be made public at the beginning of each month

Management Actions

1. Leaks will be repaired within 48 hours of detection.
2. System pressure will be maintained below 80 pounds per square inch.
3. The City will monitor its use of water and will curtail activities such as hydrant flushing and street cleaning.
4. Leaking valves and hydrants shall be repaired immediately.

Regulation Actions

1. The public will be asked to curtail some outdoor water use and to make efficient use of indoor water, i.e.; wash full loads, take short showers, don't let faucets run, etc.

STAGE 2: WATER WARNING

Goals

The goals of this stage are to reduce peak demands by 20 percent and to reduce overall weekly consumption by 10 percent.

Triggers

This stage is triggered by all of the following conditions:

1. The City's storage has fallen below 70 percent capacity and will not recover; and
2. Treatment plant operations are at 70 percent capacity or more for three consecutive days, and;
3. Demand for municipal and industrial use for one day is in excess of 4.5 million gallons per day.

Education Actions

1. The City will make weekly news releases to the local media describing present conditions and indicating the water supply outlook for the upcoming week.
2. Previous month summaries of precipitation, temperature, water levels and storage will be made public at the beginning of each month.

3. The City will place inserts in each customer's water bill outlining tips on conserving water indoors and outdoors.
4. Water conservation articles will be provided to the local newspaper.

Management Actions

1. The City water supplies will be monitored daily.
2. Leaks will be repaired within 24 hours of detection.
3. The City will curtail its water usage, including operation of fountains, watering of City grounds and washing of vehicles.

Regulation Actions

1. An odd/even lawn watering system will be imposed on City residents. Residents with odd-numbered addresses will water on odd days, even addresses will water on even days.
2. Outdoor water use, including lawn watering and car washing, will be restricted to before 10 a.m. and after 9 p.m.
3. Golf courses will restrict watering to tees and greens after sunset.
4. Refilling of swimming pools will be allowed one day a week after sunset.
5. Waste of water will be prohibited.

STAGE 3: WATER EMERGENCY

Goals

The goals of this stage are to reduce peak demands by 50 percent and to reduce overall weekly consumption by 25 percent.

Triggers

This state is triggered by all of the following conditions:

1. The City's storage has fallen below 50 percent capacity, and not recovering; and
2. Treatment plant operations are at 75 percent capacity or more for three consecutive days; and
3. Demand for one day is in excess of 4.75 million gallons per day; and
4. Emergency conditions related to repairs or water quality.

Education Actions

1. The City will make daily news releases to the local media describing present conditions and indicating the water supply outlook for the next day.
2. Previous day summaries of precipitation, temperature, water levels and storage will be

- made public each day.
3. The City will hold public meetings to discuss the emergency, the status of the City's supply and further action, which needs to be taken.

Management Actions

1. The City water supplies will be monitored daily.
2. Leaks will be repaired within 24 hours of detection.
3. The City may seek additional emergency supplies from other users, the state or the federal government.

Regulation Actions

1. Outdoor water use will be banned.
2. Waste of water will be prohibited.

The City of Independence will establish a monthly management practice of reviewing monthly totals for water production, residential/commercial sales, water provided free-of-charge and "unaccounted for water". Problems noted during the monthly review will be solved as soon as possible.

PLAN REVISION, MONITORING & EVALUATION

The City of Independence will review our Municipal Water Conservation Plan during the month of April each year and on a more frequent basis during drought or other water shortage conditions. If the water conservation goals for the previous year are not met, then the City will review the data collected from the previous year in relationship to the status and effectiveness of the conservation practices that are outlined in our plan and will provide a status report to the Kansas Department of Agriculture, Division of Water Resources which will also include any additional water conservation practices that may need to be taken in order for the city to achieve and maintain its water use conservation goals.

Affidavit of Publication

STATE OF KANSAS
Montgomery County, ss:

Herbert A. Meyer III, being first duly sworn, deposes and says: That he is the publisher of the

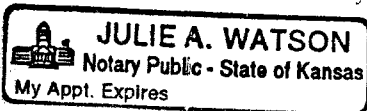
Independence Daily Reporter

a daily newspaper printed in the state of Kansas, and published in and of general circulation in Montgomery County, Kansas, with a general paid circulation on a daily basis in Montgomery County, Kansas, and that said newspaper is not a trade, religious or fraternal publication.

Said newspaper is a daily published at least weekly 50 times a year; has been so published continuously and uninterruptedly in said county and state for a period of more than five years prior to the first publication of said notice; and has been admitted at the post office of Independence in said County as second class matter.

That the attached notice is a true copy thereof and was published in the regular and entire issue of said newspaper 1 consecutive day, the first publication thereof being made as aforesaid on the 19th day of January 2007, with subsequent publications being made on the following dates:

Subscribed and sworn to before me 19th day of January, 2007



Notary Public
My commission expires: May 30, 2007

Printer's fee: \$113.98
Additional copies: \$

Page 1 of 3

(First published in the Independence
Daily Reporter January 19, 2007)
WATER DROUGHT/ EMERGENCY
ORDINANCE

Ordinance No. 3979

An ordinance authorizing the declaration of a water watch, warning or emergency; establishing procedures and voluntary and mandatory conservation measures; authorizing the issuance of administrative regulations; and prescribing certain penalties.

Be it Ordained by the Governing Body of the City of Independence.

Section 1. Purpose. The purpose of this ordinance is to provide for the declaration of a water supply watch, warning or emergency and the implementation of voluntary and mandatory water conservation measures throughout the city in the event such a watch, warning or emergency is declared.

Section 2. Definitions.

(a) "Water", as the term is used in this ordinance, shall mean any treated water introduced by the City into its water distribution system, including water offered for sale at any coin-operated site.

(b) "Customer", as the term is used in this ordinance, shall mean the customer of record using water for any purpose from the City's water distribution system and for which either a regular charge is made or, in the case of coin sales, a cash charge is made at the site of delivery.

(c) "Waste of water", as the term is used in this ordinance, includes, but is not limited to: (1) permitting water to escape down a gutter, ditch, or other surface drain; or (2) failure to repair a controllable leak of water due to defective plumbing.

(d) The following classes of uses of water are established.

Class 1:

Water used for outdoor watering; either public or private, for gardens, lawns, trees, shrubs, plants, parks, golf courses, playing fields, swimming pools or other recreational areas; or the washing of motor vehicles, boats, trailers, or the exterior of any building or structure.

Class 2:

Water used for any commercial or industrial, including agricultural, purposes: except water actually necessary to maintain the health and personal hygiene of bona fide employees while such employees are engaged in the performance of their duties at their place of employment.

Class 3:

Domestic usage, other than that which would be included in either classes 1 or 2.

Class 4:

Water necessary only to sustain human life and the lives of domestic pets and maintain standards of hygiene and sanitation.

Section 3. Declaration of Water Watch. Whenever the governing body and/or City Manager finds that conditions indicate that the probability of a drought or some other condition causing a major water supply shortage is rising it shall be empowered to declare that a water watch exists and that it shall take steps to inform the public and ask for voluntary reductions in water use. Such a watch shall be deemed to continue until it is declared by resolution of the governing body to have ended. The resolutions declaring the existence and end of a water watch shall be effective upon their publication in the official newspaper.

Section 4. Declaration of Water Warning. Whenever the governing body and/or City Manager finds that drought conditions or some other condition causing a major water supply shortage are present and supplies are starting to decline, it shall be empowered to declare that a water warning exists and that it will recommend restrictions on non essential uses during the period of warning. Such a warning shall be deemed to continue until it is declared by resolution of the governing body to have ended. The resolutions declaring the beginning and ending of the water warning shall be effective upon their publication of the official city newspaper.

Section 5. Declaration of Water Emergency. Whenever the governing body and/or City Manager finds that an emergency exists by reason of a shortage of water supply needed for essential uses, it shall be empowered to declare that a water supply emergency exists.

X Section 5. Declaration of Water Emergency. Whenever the governing body and/or City Manager finds that an emergency exists by reason of a shortage of water supply needed for essential uses, it shall be empowered to declare that a water supply emergency exists and that it will impose mandatory restrictions on water use during the period of the emergency. Such an emergency shall be deemed to continue until it is declared by resolution of the governing body to have ended. The resolutions declaring the existence and end of a water supply emergency shall be effective upon their publication in the official city newspaper.

Section 6. Voluntary Conservation Measures. Upon the declaration of a water watch or water warning as provided in Sections 3 and 4, the city manager is authorized to call on all water consumers to employ voluntary water conservation measures to limit or eliminate nonessential water uses including, but not limited to, limitations on the following uses:

- (a) Class 1 uses of water.
- (b) Waste of water.

Section 7. Mandatory Conservation Measures. Upon the declaration of a water supply emergency as provided in Section 5, the city manager is also authorized to implement certain mandatory water conservation measures, including, but not limited to, the following:

- (a) May suspend new connections to the City's water distribution system, except connections of fire hydrants and those made pursuant to agreements entered into by the City prior to the effective date of the declaration of the emergency;
- (b) Restrictions on the uses of water in one or more classes of water use, wholly or in part;
- (c) Restrictions on the sales of water at coin-operated facilities or sites;
- (d) The imposition of water rationing based on any reasonable formula including, but not limited to, the percentage of normal use and per capita or per consumer restrictions;
- (e) Complete or partial bans on the waste of water; and
- (f) Any combination of the foregoing measures.

Section 8. Emergency Water Rates. Upon the declaration of a water supply emergency as provided in Section 5, the governing body of the City shall have the power to adopt emergency water rates by ordinance designed to conserve water supplies. Such emergency rates may provide for, but are not limited to:

- (a) Higher charges for increasing usage per unit of use (increasing block rates);
- (b) Uniform charges for water usage per unit of use (uniform unit rate); or
- (c) Extra charges in excess of a specified level of water use (excess demand surcharge).

Section 9. Regulations. During the effective period of any water supply emergency as provided for in Section 5, the city manager, or his designee, is empowered to promulgate such regulations as may be necessary to carry out the provisions of this ordinance, any water supply emergency resolution, or emergency water rate ordinance. Such regulations shall be subject to the approval of the governing body at its next regular or special meeting.

Section 10. Violations, Disconnections and Penalties

- (a) If the city manager, or his designee, or other city official or officials charged with implementation and enforcement of this ordinance or a water supply emergency resolution learn of any violation of any water use restrictions imposed pursuant to Sections 7 or 9 of

this ordinance, a written notice of the violation shall be affixed to the property where the violation occurred and the customer of record or any other person known to the City who is responsible for the violation or its correction shall be provided with either actual or mailed notice. said notice shall describe the violation and order that it be corrected, cured or abated immediately or within such specified time as the City determines is reasonable under the circumstances. If the order is not complied with, the city may terminate water service to the customer subject to the following procedures:

- (1) The City shall give the customer notice by mail or actual notice that water service will be discontinued within a specified time due to the violation and that the customer will have the opportunity to appeal the termination by requesting a hearing scheduled before the City governing body or a city official designated by the

emergency resolution, or emergency water rate ordinance. Such regulations shall be subject to the approval of the governing body at its next regular or special meeting.

Section 10. Violations, Disconnections and Penalties

(a) If the city manager, or his designee, or other city official or officials charged with implementation and enforcement of this ordinance or a water supply emergency resolution learn of any violation of any water use restrictions imposed pursuant to Sections 7 or 9 of

this ordinance, a written notice of the violation shall be affixed to the property where the violation occurred and the customer of record or any other person known to the City who is responsible for the violation or its correction shall be provided with either actual or mailed notice. said notice shall describe the violation and order that it be corrected, cured or abated immediately or within such specified time as the City determines is reasonable under the circumstances. If the order is not complied with, the city may terminate water service to the customer subject to the following procedures:

X (1) The City shall give the customer notice by mail or actual notice that water service will be discontinued within a specified time due to the violation and that the customer will have the opportunity to appeal the termination by requesting a hearing scheduled before the City governing body or a city official designated as a hearing officer by the governing body;

(2) If such a hearing is requested by the customer charged with the violation, he or she shall be given a full opportunity to be heard before termination is ordered; and

(3) The governing body or hearing officer shall make findings of fact and order whether service should continue or be terminated.

(b) A fee of \$50 shall be paid for the reconnection of any water service terminated pursuant to subsection (a). In the event of subsequent violations, the reconnection fee shall be \$200 for the second reconnection and \$300 for any additional reconnections.

(c) Violations of this ordinance shall be a Municipal offense and maybe prosecuted in Municipal Court. Any person so charged and found guilty in Municipal court of violating the provisions of this ordinance shall be guilty of a municipal offense. Each day of violation shall constitute a separate offense. The penalty for an initial violation shall be a mandatory fine of \$100. In addition, such customer may be required by the Court to serve a definite term of confinement in the city or county jail which shall be fixed by the Court and which shall not exceed 30 days. The penalty for a second or subsequent conviction shall be a mandatory fine of \$200. in addition, such customer shall serve a definite term of confinement in the city or county jail which shall be fixed by the Court and which shall not exceed 30 days.

Section 11. Emergency Termination. Nothing in this ordinance shall limit the ability of the city manager, or his designee, from terminating the supply of water to any or all customers upon the determination of such city official that

emergency termination of water service is required to protect the health and safety of the public.

Section 12. Severability. If any provision of this ordinance is declared unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and its applicability to other persons and circumstances shall not be affected thereby.

Section 13. This ordinance shall become effective upon its publication in the official city newspaper.

Passed by the governing body this 11th day of January, 2007.

s. Deborah L. Coy
Mayor Signature

ATTEST:
s. Anthony D. Royse
City Clerk Signature

January 19, 2007

SEAL

Page 3 of 3



**REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
September 28, 2023**

Department Finance

Director Approval Lacey Lies

AGENDA ITEM Public hearing for public comment on the close out of the CDBG-21-PF-023 Grant.

SUMMARY RECOMMENDATION Approve the close out of the grant and for the Mayor to execute all final documents.

BACKGROUND The City of Independence will hold a public hearing on Thursday, September 28, 2023, at 5:30 p.m. in the Civic Center, Memorial Hall, 410 N. Penn Ave, Independence, Kansas, for the purpose of evaluating the performance of Grant no. 21-PF-028. The sewer system improvement project proposed improvements including approximately, 6600 LF of sanitary sewer pipe lining, 5600 LF of sanitary sewer pipe reaming, replacing 23 manholes, lining 29 manholes, improving 134 service connections, and replacement of Lakeview Lift Station.

The grant accomplished the following improvements: 5462 LF of sanitary sewer pipe lining, 4575 LF of sanitary sewer pipe reaming, replacement of 23 manholes, lining of 29 manholes, improvement of 104 Service connections, and replacement of the Lakeview Lift Station.

This grant was funded all or in part, from the Kansas Department of Commerce, Small Cities Community Development Block Grant (CDBG) funds. All aspects of the grant will be discussed and oral and written comments will be recorded and become part of the City of Independence CDBG Citizen Participation Plan.

FINANCIAL INFORMATION There is no financial impact.

SUGGESTED MOTION I move to authorize the Mayor to sign all final close out documents

SUPPORTING DOCUMENTS

1. Close Out-Independence Sewer
2. Monitoring Letter - Final

GRANT CLOSE-OUT TRANSMITTAL FORM

Grantee's Name and Address:

Grant Agreement No.: 21-PF-023

City of Independence

Commencement Date: March 1, 2021

120 N 6th

Completion Date: June 30, 2023

Independence, KS

Please complete this form and items 1 through 6 for all grant types (7 is for applicable grants containing construction), including the Performance Hearing Affidavit to conclude this grant project. If this is a business finance or infrastructure grant, complete 9 through 11 in addition. If this is a housing grant, complete Form 12.

1. Grantee's Release Form *
2. Final Independent Auditor's Report
3. Final Quarterly Progress Report (Section 2)
4. Certificate of Completion (2 originals) *
5. Property Management Report
6. Explanation of Refund Check (if applicable)
7. Notice of Completion/Final Inspection – Final Wage Compliance Report *
8. Performance Hearing Affidavit
9. Economic Development Report, and
Copy of Final Payroll and Employee Certification Report (from final monitoring)
10. Legal Review and Closeout Report (Economic Development)
11. Program Income Assignment Agreement (Economic Development)
12. Housing Rehabilitation and demo data
13. Section 3 Tables A - D

No costs have been incurred after the Completion Date of the above contract. All necessary documents and procedures have been followed, thereby finalizing the above referenced contract.

Taylor Hogue

Preparer's Name

Grant Administrator

620-431-0080

Title

Telephone Number

09/28/2023

Date

Rev. 2/2018

GRANTEE'S RELEASE FORM

1 Pursuant to the terms on Grant Agreement Number 21-PF-023 and in consideration of
2 the sum of Seven Hundred Thousand Dollars and No Cents (\$700,000.00) which has been
3 or is to be paid under the said contract to City of Independence,
4 grantee upon payment of the said sum by the State of Kansas, Department of Commerce, hereinafter
5 called the grantor, does remise, release, and discharge the grantor, its officers, agents and employees
6 of and from all liabilities, obligations, claims, and demands whatsoever under or arising from the
7 said contract.

8 IN WITNESS WHEREOF, this release has been executed this 28 day of
9 September, 2023.

10 Signature of Authorized Elected Official: _____

11 Typed Name and Title: Louis Ysusi, Mayor

ATTEST AND SEAL

12 _____

13 _____

(Rev. 2-2018)

FINAL INDEPENDENT AUDITOR'S REPORT

If the grantee expends **\$750,000** or more from all Federal sources in any fiscal year in which the grant is open, a 2 CFR Part 200 audit is required from the grantee. If you expend or expect to expend this amount in the current fiscal year, please indicate below. If required, a copy of the entire audit report must be submitted to Commerce in the required time period.

- ☐ A. 2 CFR Part 200 audit is not required.
- ☒ B. Audit is complete and one copy is enclosed.
- ☐ C. Audit is in progress or not yet begun.

Auditor's Name: _____

Address: _____

Telephone: _____

Contact person with firm: _____

Date audit to begin: _____

How the audit will be paid for: _____

Date audit to be completed: _____

CERTIFICATE OF COMPLETION**A. Name of Grant Recipient**

City of Independence

B. Grant Agreement Number

21-PF-023

C. Final Statement of Cost

Program Activity Categories	To Be Completed By The Recipient			To Be Completed By CDBG
	Paid Costs (a)	Local Unpaid Costs (b)	Total Costs (c)	Approved Total Costs
1. Sewer/Lines/Treatment	1,731,130.02	.000	1,731,130.02	
2. Engineering Design	7,189.00	0.00	7,189.00	
3. Construction Inspection	111,968.13	0.00	111,968.13	
4. Administration	20,000	0.00	20,000	
5.				
6.				
7.				
8.				
9. Total Program Costs	1,870,287.15		1,870,287.15	
10. Less Other Funds Applied	1,170,287.15		1,170,287.15	
11. CDBG Grant Amount Applied	700,000	0.00	700,000	

D. Computation of Grant Balance

	To Be Completed By The Recipient	To Be Completed By CDBG
12. Total Amount Applied (Line 11a)	700,000	
13. Estimated for Unsettled Third-Party Claims	0.00	
14. Subtotal (Line 11c)	700,000.00	
15. Grant Amount Per Agreement (from contract)	700,000	
16. Unutilized Grant to be Canceled (Line 15 less Line 14)	0	
17. Grant Funds Received	700,000	
18. Balance of Grant Payable (Refundable) (Line 14 less Line 17)*	0.00	

* If Line 17 exceeds Line 14, enter excess as a negative amount. This amount shall be repaid to the Department by check.

CERTIFICATE OF COMPLETION - PAGE 2

E. Unpaid Costs and Unsettled Third-Party Claims (Local Only)

List amounts and describe circumstances

☐ Check if continued on additional sheet and attach

F. Remarks

Note: final administrative activities invoice included in final draw and submitted with this close-out packet.

☐ Check if continued on additional sheet and attach

G. Certification of Recipient

It is hereby certified that all activities undertaken by the recipient with funds provided under the Grant Agreement identified as Item B above have, to the best of my knowledge, been carried out in accordance with the Grant Agreement; that proper provision had been made by the recipient for payment of all unpaid costs and unsettled third-party claims identified in Item E above; that the Department, the State of Kansas, and the United States of America are under no obligation to make any further payment to the recipient under the Grant Agreement in excess of the amount identified on Line 18 above; and that every statement and amount set forth in this instrument is, to the best of my knowledge, true and correct as of this date.

		Louis Ysusi, Mayor
_____	_____	_____
Date	Signature of Chief Elected Official	Typed Name and Title

H. Department Approval

This Certificate of Completion is hereby approved. Therefore, I authorize cancellation of the unutilized contract agreement and related funds reservation and obligations _____ (line 16 above).

_____	_____	_____
Date	Signature for CDBG Program	Typed Name

Grant Number: 21-PF-023

1. Date of Construction Completion: 06/12/2023
2. Date of Final Inspection: 06/12/2023

☒ NO ☐ YES

Name of Contractor or Subcontractor	Name of Affected Employees	Amount of Restitution Paid to Employee	Nature of Violation Leading to Restitution
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Date	Signature of Chief Elected Official	Louis Ysusi, Mayor Typed Name and Title
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David C. Toland, Secretary

Laura Kelly, Governor

September 21, 2023

The Honorable, Louis Ysusi
Mayor, City of Independence
811 West Laurel
Independence, KS 67301

Re: City of Independence,
Project No. 21-PF-023

Dear Mayor Ysusi,

On September 13, 2023, I met with Taylor Hogue, SEKRPC, and David Schwenker, City Clerk, to monitor the above-referenced CDBG Project. This monitoring should be viewed as a cooperative effort between the Community Development Block Grant (CDBG) staff and the City to identify potential obstructions to successful program implementation. The field staff makes observations by reviewing project files and performing site visits.

This monitoring covered the following areas: Program Progress, National Objective, Financial Management, Environmental Review, Procurement, Labor Standards, Equal Opportunity, Citizen Participation, and Quarterly Status Reports.

The following observations have been made:

Program Progress: The project has completed 100% construction.

National Objective: The project meets the national objective of Benefitting 52.12 % LMI Persons identified in 2015 HUD Census Data.

Financial Management: As of the monitoring, the City had requested and expended \$698,000 of the total \$700,000 in CDBG funds. The local side has expended \$1,170,287.15 of the originally budgeted match of \$700,000. The project is \$470,287.15 over budget on the local side. The City ledger was maintained at the city hall and accurate.

Environmental Review: For this project, the city correctly determined and completed an Environmental Determination of CEST that converted to exempt. The environmental review was cleared on 03/28/2021.

Procurement: The City contracted with SEKRPC for the administration, which is exempt from procurement. Transystems for Engineering. Local Procurement was followed for Engineering. Construction was procured correctly following CDBG processes for the General Contractor Tri-Star

Utilities Inc. The Subrecipient vs Contractor Classification Checklists were on file for the construction contract.

Labor Standards: This project utilized Davis-Bacon General Wage Decision #KS20210019 for Heavy, dated 02/25/2022. Payrolls were reviewed for the General Contractor, Tri-Star Utilities. No subs on the project. Four employee interviews were conducted with no concerns.

Equal Opportunity:

Fair Housing: The 2022 activity included Fair Housing Hotline Bookmarks. For the 2023 activity a Housing Discrimination Flyer was placed at the City Hall.

Beneficiaries: The project beneficiary demographic data, as it appeared on the City's CDBG application, has been verified and approved. The total number of beneficiaries are 8950 with 4665 being LMI persons.

Certifications: The administration, engineering and construction contracts complied with appropriate civil rights certifications and requirements.

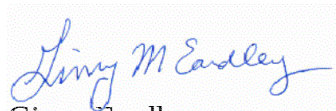
Quarterly Status Reports: All Quarterly Status Reports were accurate and submitted on time.

Citizen Participation: The required pre-application public hearing was held before grant submittal. A second public hearing that provides the detailed proposed activity and detailed actual activity to review grant performance must be held before closeout.

Conclusion: The City will be in good standing with the state and federal program requirements. The cooperation of the City and administrator during this monitoring is greatly appreciated.

If you have any questions or concerns, please feel free to contact me at Ginny.M.Eardley@ks.gov or by phone at 785-230-6319

Sincerely,



Ginny Eardley
CDBG Project Manager

GE:GE

cc: David Schwenker, City Clerk
Taylor Hogue, SEKRPC



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
September 28, 2023

Department Admin

Director Approval Kelly Passauer

AGENDA ITEM Consider proclaiming October 2023 as the 100th Anniversary Month of Memorial Hall Live Performances.

SUMMARY RECOMMENDATION Authorize the proclamation.

BACKGROUND It has been brought to our attention that the first live performance at Memorial Hall was held on October 8, 1923. In order to celebrate this milestone anniversary month as it coincides with Neewollah live performances, we recommend proclaiming October 2023 as the 100th Anniversary Month of Memorial Hall Live Performances.

FINANCIAL INFORMATION N/A

SUGGESTED MOTION Consider proclaiming October 2023 as the 100th Anniversary Month of Memorial Hall Live Performances.

SUPPORTING DOCUMENTS

1. Memorial Hall Proclamation

PROCLAMATION 2023
100TH ANNIVERSARY MONTH
OF MEMORIAL HALL LIVE PERFORMANCES

WHEREAS: The Governing Body wishes to acknowledge, on behalf of the citizens of Independence, that Memorial Hall, originally erected in appreciation of the sacrifices and service of Independence and Montgomery County veterans of World War I, has been delighting generations of area residents as a live performance venue for the past 100 years; and

WHEREAS: The Governing Body wishes to acknowledge the historical significance of the facility, which holds the distinction of being listed on both the Kansas and National Registers of Historic Places; and

WHEREAS: The Governing Body wishes to observe the 100th anniversary of the Memorial Hall auditorium and stage, which has hosted artists and performances of all genres and disciplines since the debut event, a community theater production of “The Pirates of Penzance,” on October 8, 1923; and

WHEREAS: The Governing Body of the City of Independence recognizes the immeasurable value of Memorial Hall to the community,

NOW, THEREFORE, I, Louis Ysusi, Mayor of the City of Independence, do hereby proclaim the month of October 2023 the 100th Anniversary Month of Memorial Hall Live Performances and invites guests to consider and appreciate the facility’s significance as they visit the venue for the various events scheduled during the upcoming Neewollah festival October 20-28, 2023.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Independence, Kansas, to be affixed this day, September 28, 2023.

Louis Ysusi,
Mayor, City of Independence Kansas



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
September 28, 2023

Department Admin

Director Approval David Cowan

AGENDA ITEM Consider approval of a digital sign for the Independence Historical Museum

SUMMARY RECOMMENDATION City Staff recommends approval of the sign request.

BACKGROUND The Independence Historical Museum has requested to replace the museum sign with an electronic sign. The museum staff will attend the meeting to review the sign and request with the City Commission. Signs that are located in the downtown historic district require IHPRC approval. The recommendation of the IHPRC was to approve the sign within the downtown historic district. The City Commission can override this decision if they do not wish to authorize the sign.

In addition, per section 803.6.b. of the City sign regulations, electronic signs for noncommercial purposes that would ordinarily not be allowed in certain zones, such as the C-3 district, require City Commission approval. A variance was also required from the Board of Zoning Appeals as the electronic portion proposed exceeds more than 20% of the allowable square footage per face of said detached sign. The variance has been approved.

FINANCIAL INFORMATION N/A

SUGGESTED MOTION I move to approve a digital sign for the Independence Historical Museum, Inc.

SUPPORTING DOCUMENTS

1. SignPermit_201603251248379765
2. 230488-2 Historic Museum and Arts Center - Independence, KS - Monuement Sign - 4.17.23
3. Museum Sign Applicable Codes

**APPLICATION FOR SIGN PERMIT
CITY OF INDEPENDENCE, KS
620-332-2504**

BUSINESS Independence Historical Museum Inc (IHMAC)

ADDRESS 123 N. 8th St.

CONTACT NAME [Business Owner] Independence Historical Museum Inc.

PHONE 620-331-0108 City License # _____

SIGN COMPANY Signlink, Springfield, MO

CONTACT NAME Ray Rothgeb

Location of sign or advertising structure, be specific in detail: _____

NE Corner of W. Myrtle and N. 8th within existing marquee standards

Color Dk Bronze Dimensions 23.15 _____ sq ft per face

Construction Material ALUMINUM BASE CLADDING Lit Internally? Y/N Y

ELECTRICIAN Danny Johnston

COMPANY NAME D&A Electrical System, Independence, KS

PHONE 620-331-0044 City License # 6702

ADDITIONAL INFORMATION & REQUIREMENTS

Does this design fit the guidelines of the historical district?

One set of detailed scale drawings and specifications [dimensions] showing proposed structure, method of construction and attachment to building or ground must accompany this application.

Stress and design calculation [if applicable] showing dead load and wind design must accompany this application.

Evidence that sign will comply with National Electric Code must accompany this application [if applicable].

Application submitted by Ray Rothgeb

PERMIT APPROVAL

A \$25.00 fee must be paid and permit must be signed before work is started on installation of sign.

Zoning Administration Date _____ Permit Number _____

INDEPENDENCE HISTORICAL MUSEUM & ARTS CEN

123 NORTH 8TH STREET, INDEPENDENCE KANSAS

OPTION -A



A 1 MONUMENT SIGN - ELEVATION VIEW
SCALE:1/2"=1'

SPECIFICATIONS:
ILLUMINATED MONUMENT SIGN, DARK BRONZE ID CABINET, ROUTED FACE W/ WHITE ACRYLIC BACKER, WHITE LED ILLUMINATION
S/F FULL COLOR DIGITAL DISPLAY
37.8"x88.2" DISPLAY
6.7MM 144 X 336 MATRIX
ALUMINUM BASE CLADDING PAINTED DARK BRONZE

CONFIRM HEIGHT TO WIDTH MEASUREMENT OF PROPOSED SIGN
TO ENSURE SIGN(S) WILL FIT AREA AS SHOWN



A 2 MONUMENT SIGN - CONCEPTUAL VIEW
SCALE:NTS



A 3 MONUMENT SIGN - NIGHT VIEW VIEW
SCALE:NTS

EXISTING SIGN



3160 W. KEARNEY
SPRINGFIELD, MO 65803
(417)862.1778
1.800.788.1778
FAX (417) 865-9237

All artwork created by Missouri Neon/Signlink/Visiontech, including logo design, sign design, both creative and mechanical are property of Missouri Neon/Signlink/Visiontech and will be treated as such and may not be reproduced, copied or used for the purpose of competitive bidding. A \$1000-\$1,500 fee will be assessed for this design if used in any manner without written consent of authorized representative of Missouri Neon/Signlink/Visiontech.

Customer Approved :

Client signature insures that spelling, colors & specifications meets the clients satisfaction and approval per artwork.

Salesperson: VERNON BOYCE

ORIG. DATE:4-03-23
SCALE: NOTED

Revision - A

DATE: 5-17-23
NOTES: CORRECTIONS
TO ADDR. & ARTS
COPY

SIGNLINK PROUDLY APPLIES



Approved Manufacturer



*ALL VISIONTECH DISPLAYS REQUIRE PROPER VENTILATION. IN APPLICATIONS WHERE THE DISPLAY REQUIRES END FILLER OR IS IN METRIC CABINETS AND IS AND BELOW REQUIRE VENTING IN REVEALS AND OR END CAPS IS REQUIRED FOR COOL AND PROTECTS.

803.6. Attention-Attracting Devices and Electronic Signs:

- a. Any attention-attracting device, as defined in Section 403.0, is hereby prohibited from use except as hereinafter provided.
- b. Attention-attracting devices and **electronic signs**, as defined in Section 403.0, shall be permitted in any zoning district for noncommercial purposes if:
 1. Such devices or signs designate time, date, temperature, community service and/or other similar information regarding a non-profit or charitable organization; and
 2. **Receive approval of the City Commission**; and
 3. Comply with and follow all requirements and standards designated for their use as set forth in Section 802.5.c.

Section 403.0 Definitions.

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.

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.

802.5. District C-2, general business district and District C-4, highway commercial district:

c. Electronic sign: Electronic signs consisting of LED/Reader board electronic changeable copy) or electronic display center (video display sign) as defined in this ordinance are permitted and must meet the following requirements:

1. Detached sign: The sign must be a detached sign and the electronic portion may not exceed more than 20 percent of the allowable square footage per face of said detached sign.

2. Duration: Any portion of the message or image must have a minimum duration of eight seconds.

3. Off-premises advertising: All messages displayed shall be directly related to the business for which the sign was constructed.

4. Setback: The leading edge of the sign must be a minimum of 100 feet from an abutting residential district boundary.

5. LED/Reader board (electronic changeable copy) signs shall have the following additional restrictions:

i. Limited text: The text of the sign must be limited to ten words to allow passing motorists to read the entire copy with minimal distraction.

6. Electronic display center (video display) signs shall have the following additional restrictions:

i. Brightness: The sign must not exceed a maximum illumination of 5,000 nits (candelas per square meter) during daylight hours and a maximum of 500 nits (candelas per square meter) between dusk and dawn.

ii. Dimmer control: The sign must have an automatic dimmer control to produce a distinct illumination change as required.

iii. Audio or pyrotechnics: Audio speakers or any form of pyrotechnics are prohibited.



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
September 28, 2023

Department Admin

Director Approval Kelly Passauer

AGENDA ITEM Consider a request from SEK-Veterans Provider Coalition to waive the fees for Memorial Hall for the Eyes of Freedom Exhibit on November 8 - 11, 2023, and allow a banner to be hung on Memorial Hall.

SUMMARY RECOMMENDATION Approve the request.

BACKGROUND Chris Mitchell and Kathy Shepard are working with the SEK-Veterans Provider Coalition to bring the "Eyes of Freedom" Exhibit to Independence on November 8 - 11, 2023. This event is being held at Memorial Hall. The City generally waives fees for Veterans' events open to the public that are held at Memorial Hall. In addition, they are requesting to hang a 3' high and 10' wide banner over the north double glass doors, which will feature the SEK-Veterans Provider Coalition logo. Weather-resistant posters will also be hung on either side of the glass doors to welcome the "The Eyes of Freedom" exhibit.



FINANCIAL INFORMATION N/A

SUGGESTED MOTION I move to authorize waiving the fees for "The Eyes of Freedom" exhibit on November 8 - 11, 2023, and authorize hanging a banner and posters on Memorial Hall.

SUPPORTING DOCUMENTS

1. ChrisMitchellEmail_Redacted
2. SEKVetCoalition_LogoArt2

From: [chris mitchell](#)
To: [Kelly Passauer](#)
Subject: Fwd: Logo
Date: Tuesday, September 12, 2023 10:38:21 AM
Attachments: [SEKVetCoalition_LogoArt2.pdf](#)

Hi Kelly,

My apologies for this information being a bit tardy! I was on vacation [REDACTED] but, I believe this email will cover all the requested information you needed to proceed.

- 1) Banner size, The banner will be 3 foot high ×10foot wide
- 2) Location of banner, the banner will hang over the North double glass doors.
- 3) Wording on banner. SEK Veterans Provider Coalition with the coalition's logo as pictured below in attached file.

Also at North doors will be weather resistant posters on either sides of the glass doors featuring welcome to The Eyes of Freedom.

Please let me know if you are needing any further information.

Thank you,

Chris





**REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
September 28, 2023**

Department Admin

Director Approval Kelly Passauer

AGENDA ITEM Consider adopting an ordinance for a text amendment to the zoning code regarding accessory uses, such as storage sheds.

SUMMARY RECOMMENDATION Adopt the ordinance.

BACKGROUND On September 5, 2023 the Planning Commission recommended adopting an ordinance regarding accessory uses, such as storage sheds. The text amendment resulted from a citizen's request for a shed that they had placed on a lot across from their property that was noncontiguous, violating the zoning code. The changes prepared by staff allow a storage shed on an adjacent lot that serves a principal building or use with a conditional use permit. A definition was added at the request of the Planning Commission for an "adjacent" lot. One Planning Commissioner voted against the modification as they believe everything should be left on one contiguous lot, and accessory units should not be allowed on an adjacent lot that is not contiguous. The text amendment passed on a 6 to 1 vote.

FINANCIAL INFORMATION N/A

SUGGESTED MOTION I move to adopt an ordinance for a text amendment to the zoning code regarding accessory uses, such as storage sheds.

SUPPORTING DOCUMENTS

1. Ordinance 4438 - Text Amendments Relatig to Accessory Uses - Storage Sheds
2. TextAmendment-StorageSheds
3. Unapproved September 5, 2023 Planning Commission Board of Zoning Minutes - Draft

ORDINANCE NO. 4438

An Ordinance Implementing Text Amendments to the Zoning Code Relating to Accessory Uses

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

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

ARTICLE IV. - RULES AND DEFINITIONS

403.0. - Definitions.

Adjacent lot: The land, lot, or property adjoining the property in question along a lot line or separated only by an alley, easement, or street.

ARTICLE VI. – SUPPLEMENTARY DISTRICT REGULATIONS

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, unless a special conditional use permit is granted in compliance with section 1015.

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 300 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.

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. Accessory use that is not on the same lot or contiguous lot as the principal building or principal use served.

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

(Ord. No. 4383 , § 3, 3-24-22)

ARTICLE X. SPECIAL PROVISIONS APPLYING TO MISCELLANEOUS CONDITIONAL USES

1015.0. Accessory uses not located on the same lot or contiguous lot as the principal building or principal use served per 607.1.d.

1015.1. Special conditions: Accessory uses not located on the same lot or contiguous lot as the principal building or principal use served per 607.1.d shall meet the following provisions when authorized as a conditional use in any district:

- a. Must be located on an adjacent lot to the principal building or principal use served, excluding public rights-of-way.
- b. Must be located in the same zone as required for the principal building or principal use it serves.
- c. Must be under the same ownership as the principal building or principal use served.
- d. Must be located at the rear of the adjacent lot if there is access thereto.

1015.2. Revocation: Accessory uses granted by conditional use permit per Section 1015 will be required to continue to meet all special conditions per 1015.1. If the accessory uses no longer comply with one or more of the special conditions contained in 1015.1, then the conditional use permit will be revoked, and the accessory uses previously allowed will be required to either be removed or otherwise come into compliance with City code.

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 28th day of September 2023.

LOUIS YSUSI, Mayor

ATTEST:

DAVID W. SCHWENKER, City Clerk



**REQUEST FOR PLANNING COMMISSION ACTION
CONSIDER A TEXT AMENDMENT.
CITY OF INDEPENDENCE
SEPTEMBER 5, 2023**

Department Admin

Prepared By Kelly Passauer

AGENDA ITEM Public hearing to consider a text amendment to the zoning code regarding storage sheds.

SUMMARY RECOMMENDATION Consider approving a text amendment to the zoning code regarding accessory uses, including storage sheds.

BACKGROUND At your August 8, 2023 meeting the Planning Commission initiated a public hearing to consider a text amendment to the zoning code regarding storage sheds. This action was due to 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.

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 If the Planning Commission wishes to modify the zoning code to accommodate this request, then the attachments show the recommended modifications or additions highlighted in Sections 607 and a new section 1015. The questions above in Section 1604 must be reviewed by the Planning Commission as part of your deliberations, with a statement as to the nature and effect of such proposed amendment.

SUGGESTED MOTIONS (Select One)

1. I move to recommend the City Commission adopt an ordinance for a text amendment to the zoning code related to accessory uses as prepared by City staff. Such change is consistent with the intent and purpose of these regulations; the areas which are most likely to be directly affected by such change include all zoning districts as it would allow accessory uses to be on a noncontiguous lot as the principal building or principal use served with special conditions; and the proposed amendment is made necessary because of a new planning concept.
2. I move to recommend the City Commission adopt an ordinance for a text amendment to the zoning code related to accessory uses as prepared by City staff, but with the following additional modifications
_____. Such change is consistent with the intent and purpose of these regulations; the areas which are most likely to be directly affected by such change include all zoning districts as it would allow accessory uses to be on a noncontiguous lot as the principal building or principal use served with special conditions; and the proposed amendment is made necessary because of a new planning concept.
3. I move to recommend not making a text amendment to the zoning code regarding storage sheds.

SUPPORTING DOCUMENTS

1. Public Hearing Notice Text Amendment 06 Storage Sheds
2. Proposed modified Section 607.0. Accessory uses
3. ARTICLE X. SPECIAL PROVISIONS APPLYING TO MISCELLANEOUS
CONDITIONAL USES - New Proposed Section1015

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

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, **unless a special conditional use permit is granted in compliance with section 1015.**

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 **300** 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.

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. Accessory use that is not on the same lot or contiguous lot as the principal building or principal use served.

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

(Ord. No. 4383 , § 3, 3-24-22)

ARTICLE X. SPECIAL PROVISIONS APPLYING TO MISCELLANEOUS CONDITIONAL USES

1001.0. Purpose.

1001.1. Purpose: In granting a conditional use, the city may impose such conditions, safeguards and restrictions upon the premises benefited by the conditional use as may be necessary to reduce or minimize any potentially injurious effect of such conditional uses upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations. Any lessening or subverting of those limitations and requirements constitutes a variance and must be treated accordingly. The following additional conditions shall be a requirement for the approval of the following conditional uses.

1002.0. Churches.

1002.1. Special conditions:

- a. *Entrances:* Churches designed to accommodate a total seating of 150 persons or more in the main assembly room (including auxiliary rooms which adjoin and open into the main assembly room and would increase to [the] total seating capacity thereof) shall provide main entrances on thoroughfares or collector streets only with ingress and egress so designed as to minimize traffic congestion.
- b. *Bus parking:* Any parking area used for the overnight parking of buses and vehicles used for the transportation of church members shall not be less than 100 feet from a residential building.

1003.0. Day care facilities for more than four children.

1003.1. Special conditions: Day care facilities for more than four children shall meet the following provisions when authorized as a conditional use in any residential district:

- a. *City, county and state standards:* All day care facilities shall be licensed by the state and shall meet all city, county and state health department requirements pertaining to facilities, equipment and other features.
- b. *Loading zone:* A loading zone capable of accommodating one car for every ten children shall be provided in addition to the required parking area in order to provide for easy pickup and discharge of passengers.
- c. *Operation:* Any day care facility shall be operated in a manner that will not adversely affect other properties and uses in the area.
- d. *Screening required:* Any day care facility located in a building other than a residential dwelling or any residential dwelling used for a day care facility for seven or more children shall provide a visual screen along all property lines abutting any residential use.

1004.0. Drugs, retail and pharmacies.

1004.1. Special conditions: A pharmacy wherein retail sale only of prescription medicines, drugs, pharmaceuticals or orthopedic devices, customarily incident to the practice of medicine, shall be allowed as an accessory use in an office building located within an O&P district provided not less than five physicians occupy

offices within the building. No direct exterior entrance to the pharmacy and no exterior sign or advertising relative to the pharmacy shall be permitted.

1005.0. Farm animals.

1005.1 Special conditions: The raising of farm animals and livestock may be permitted as a conditional use, subject to the following requirements:

- a. The residential lot or tract shall contain a minimum of three acres. However, said minimum lot size may be reduced by the governing body if it can be shown that the use shall not constitute a nuisance or a hazard to adjoining property or uses.
- b. Any building or structure for the raising, feeding or housing of livestock or any enclosure or yard used to confine or feed poultry shall be located at least 100 feet from any property line abutting a residential zone.
- c. County and state health code standards shall be complied with.

Cross reference(s)—Restrictions on keeping livestock in the city, § 10-102.

1006.0. Golf driving ranges.

1006.1 Special conditions:

- a. *Location:* All golf driving ranges shall be located on major thoroughfares or nonresidential streets. The golf driving platform shall be not less than 200 feet from any adjacent "R" district or existing dwelling.
- b. *Lighting:* Floodlights used to illuminate the premises shall be so directed and shielded to minimize glare to motorists on public streets and residents of residential property.
- c. *Screening required:* Along all property lines abutting any "R" district there shall be provided a visual screen.

1007.0. Hospitals.

1007.1. Special conditions:

- a. *Entrances:* Hospitals and charitable institutions shall provide main entrances on arterial or collector streets only with ingress and egress so designed as to minimize traffic congestion.
- b. *Screening required:* A visual screen shall be provided along all property lines abutting any residential district. Loading facilities shall be screened from adjoining properties, and insofar as practical, from the view of patients from their rooms.

1008.0. Kennels—breeding and boarding.

1008.1. Special conditions:

- a. *Minimum lot size:* Two acres.
- b. *Setback:* No kennel buildings or runs shall be located nearer than 75 feet to any property line.
- c. *Screening required:* All kennel runs or open areas shall be screened around such areas or at the property lines to prevent the distraction or excitement of the dogs.
- d. *[County and state health code standards:]* County and state health code standards shall be complied with.

1009.0. Mobile homes and mobile home parks.

1009.1. Where permitted: Except as provided in the city Code as a "temporary use," a mobile home may be permitted in the jurisdictional area of these regulations only in an approved mobile home park as defined in section 403.0.

1009.2. Minimum standards relating to mobile home parks design: Mobile home parks shall comply with the below minimum standards:

- a. *Intensity of use regulations:*
 1. *Minimum lot area:* Four acres.
 2. *Maximum mobile home park average density:* Eight mobile homes per gross acre (including roads and parking areas).
- b. *Perimeter setback requirements:*
 1. All mobile homes, parking and building structures shall be set back at least 20 feet from the perimeter property line.
Exception: When abutting a residential district, the minimum property line setback shall be increased to 30 feet.
 2. Minimum setback from any public street right-of-way shall be the same as that required in the district [in which] the mobile home park is located.
- c. *Street and parking requirements:*
 1. *Private streets:* On-site driveways or undedicated streets may be developed when approved by the governing body [and] shall meet the below requirements:
 - (a) *Design standards:* Undedicated streets shall meet the design standards for pavement width, design and construction contained in the subdivision ordinance of Independence.
 - (b) *Street signs:* Street signs shall be provided on all undedicated streets and shall include street name and traffic signs. Such street signs shall meet city standards and shall be approved by the city engineer prior to installation.
 2. *Parking:* Two parking spaces shall be provided for each mobile home dwelling unit. At least one of the two required parking spaces shall be located on or adjacent to each mobile home space.

Head-in parking bays may be permitted on private streets but shall be limited to cul-de-sac bays or other minor streets where fast moving traffic will not be a hazard.

All common parking areas shall be paved in accordance with city standards, including parking spaces located on individual mobile home spaces.
- d. *Recreation space required:* A recreation space of at least 300 square feet per mobile home site in the park shall be developed and maintained by the management. This area shall not be less than 100 feet in its smallest dimension and its boundary no further than 500 feet from any mobile home site served. Streets, sidewalks, parking areas and accessory buildings are not to be included as recreation space in computing the necessary area.

A minimum of 50 percent of the recreational facilities shall be constructed prior to the development of one-half of the project, and all recreational facilities shall be constructed by the time the project is 75 percent developed.

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- e. *Storage facilities:* Each mobile home park shall include similarly designed enclosed storage structure or structures suitable for storage of goods and the usual effects of the inhabitants of such park; such storage space should not be less than 150 cubic feet for each mobile home site or in common structure with individual lockers.
 - f. *Walkways:* Walkways shall be required on one side of all interior streets and shall provide connections between mobile home units and common areas such as recreational areas and laundry facilities. Walkways shall meet the design and construction requirements of the subdivision regulations of Independence.
 - g. *Water supply:*
 - 1. All mobile home parks shall be connected to a public water supply.
 - 2. The individual water service connections shall be provided at each mobile home space and the size, location and installation of water lines shall be in accordance with the requirements of the city plumbing code.
 - h. *Sewage disposal:* Individual sewer connections shall be provided for each mobile home space and shall be installed in accordance with the city plumbing code. All mobile home parks shall be connected to a public sewer system.
 - i. *Storm drainage facilities:* Shall be so constructed as to protect those that will reside in the mobile home park, as well as the property owners adjacent to the park. Such facilities shall be of such capacity to ensure rapid drainage and prevent the accumulation of stagnant pools of water in or adjacent to the park and shall meet the requirements of the subdivision ordinance and other pertinent ordinances.
 - j. *Fire extinguishing equipment:* Every mobile home park shall be equipped at all times with fire extinguishing equipment in good working order of such type, size, and number and so located within the park to satisfy regulations of the state fire marshall and the city fire chief.
 - k. *Flammable liquid storage:* The use of individual fuel oil or propane gas storage tanks to supply each mobile home separately is prohibited. Any fuel oil and/or gas storage shall be centrally located in underground tanks, at a safe distance from any mobile home site. All fuel lines leading to [the] park and to mobile home sites shall be underground and so designed as to conform to the city building code and any state code that is applicable. When separate meters are installed, each shall be located in a uniform manner.
 - l. *Disposal of garbage and trash:* All garbage and trash containers should be placed in a conveniently located, similarly designed, enclosed structure(s). The removal of trash shall take place not less than once a week. Individual incinerators shall be prohibited.
 - m. *Perimeter screening and landscaping requirements:* A buffer of trees and shrubs shall be provided and maintained along all boundaries of each park except at established entrances and exits serving such park. When deemed necessary by the planning commission and governing body a fence may also be required to separate the park from adjacent property.

1009.3. Minimum standards for mobile homes and mobile home spaces: Mobile homes and spaces, when located within a mobile home park shall comply with the below standards.

- a. *Intensity of use regulations:*
 - 1. *Minimum mobile home space area:* 3,000 square feet per unit.
 - 2. *Minimum mobile home space width:* 40 feet.
- b. *Access:* Each space shall have access to a paved interior roadway. In no case shall access to mobile home spaces be provided from abutting property.

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- c. *Clearance:* Each space shall be designed so that at least ten feet of clearance will be maintained between mobile home units and other structures located in the park.
 - d. *Street setbacks:* Mobile home units shall be located so that a 50-foot setback is maintained from the centerline of any private interior roadway. Zoning district setback requirements shall be maintained on all public street frontages for mobile homes as well as buildings.
 - e. *Skirting:* Uniform skirting of each mobile home base shall be required, within 30 days after initial placement, such skirting shall be of 26-gauge solid sheetmetal, aluminum or other noncorrosive metal or material of equal strength and so constructed and attached to this mobile home so as to deter and prevent entry of rodents and insects. Storage of goods and articles underneath any mobile home or out-of-doors at any mobile home site shall be prohibited.
 - f. *Stands:* Each mobile home site shall be provided with a stand consisting of a solid concrete pad not less than four inches thick, and not more or less than the length and width of the mobile home that will use this site. This pad shall be so constructed, graded, and placed to be durable and adequate for the support of the maximum anticipated load during all seasons.
 - g. *Outdoor patio:* An all-weather, hard-surfaced outdoor patio area of not less than 180 square feet shall be provided at each mobile home site, conveniently located to the entrance of the mobile home and appropriately related to open areas of the lot and other facilities, for the purpose of providing suitable outdoor living space to supplement the limited interior spaces of a mobile home.
 - h. *Canopies and awnings:* Canopies and awnings may be attached to any mobile home and may be enclosed and used for recreation or sunroom purposes. When enclosed for living purposes, such shall be considered as part of the mobile home and a permit required, issued by the chief building official, before such enclosure can be used for living purposes.
 - i. *Utility hookup:* Each space shall have hookup facilities for water, sewer, electricity. All occupied mobile homes shall have and use sanitary facilities contained wholly within the mobile home.
 - j. *FEMA Requirements.* Each space located within a flood zone must meet FEMA requirements.

1009.4. Minimum standards for recreational vehicles located within a mobile home park. Recreational vehicles located within a mobile home park shall comply with the following standards:

- a. *Recreational Vehicles Allowed:* Any owner occupied vehicular-type unit built on, or for use on, a chassis and designed as living quarters, both permanent and temporary, for recreational, camping or travel use, and which has its own motive power, or is mounted on, or which can be drawn by, another vehicle such as motor homes, travel trailers, camper trailers, house trailers, pickup truck campers, hauling trailers and camper buses which shall have and use sanitary facilities contained wholly within the recreational vehicle.
- b. *Location:* Must be located on a space meeting the space requirements for mobile homes set forth in Section 1009.3.
- c. *Utility Hookups:* Each space shall have hookup facilities for water, sewer and electricity and each recreational vehicle shall be hooked up to all such utilities. All recreational vehicles shall have and use sanitary facilities contained wholly within the recreational vehicle. All spaces located within a flood zone shall have hookups that comply with FEMA requirements.
- d. *Prohibited Uses:* Nothing contained herein shall be construed to permit the owner or operator of a mobile home park to use or place recreational vehicles as rental units in a mobile home park. The provisions of the zoning code allowing recreational vehicles to be used, placed or located within a mobile home park shall apply only to owner occupied recreational vehicles.

(Ord. No. 3682, § 5, 4-6-95; Ord. No. 4410 , §§ 2, 3, 8-25-22)

Cross reference(s)—Mobile homes and mobile home parks, ch. 66.

1010.0. Salvage yards, scrap and waste material yards, auto wrecking and junkyards.

1010.1. Special conditions:

- a. *Setback:* All such uses shall be located on a tract of land at least 300 feet from a residential district zone.
- b. *Screening required:* The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded on all sides by a fence or wall at least eight feet high. The fence or wall shall be of uniform height, uniform texture and color, and shall be so maintained by the proprietor as to ensure maximum safety to the public, obscure the junk from normal view of the public, and preserve the general welfare of the neighborhood. The fence or wall shall be installed in such a manner as to retain all scrap, junk, or other materials within the yard. No scrap, junk or other salvaged materials may be piled so to exceed the height of this enclosing fence or wall.
- c. *Loading/unloading:* No junk shall be loaded, unloaded, or otherwise placed either temporarily or permanently outside the enclosed building, fence, or wall, or within the public right-of-way.

Cross reference(s)—Screening of junked, wrecked and abandoned vehicles, § 42-131; junk and secondhand dealers, § 62-141 et seq.

1011.0. Theaters, outdoor motion picture.

1011.1. Special conditions:

- a. *Location:* All drive-in theaters shall be located on major thoroughfares with ingress and egress so designed to minimize traffic congestion. Drive-in theaters shall be located not less than 300 feet from any "R" district or existing dwelling.
- b. *Picture screen orientation:* Outdoor motion picture theater screens shall be so located or screened that the view of projected images is not visible from the road.
- c. *Screening required:* A visual screen shall be provided along all property lines abutting any "R" district.
- d. *Lighting:* Lighted signs and floodlights used to illuminate the premises shall be so directed and shielded to minimize glare to motorists or public streets and residents or residential property.

1012.0. Quarries and sand and gravel pits.

1012.1. Special conditions: The removal of soil, including topsoil, sand, gravel, stone and other earth materials shall be subject to the following conditions:

- a. *Entrances:* There shall be not more than one entranceway from a public road to said lot for each 660 feet of front lot line.
- b. *Time of operation:* Such removal shall not take place before sunrise or after sunset.
- c. *Setback:* No digging or excavating on said lot shall take place closer than 100 feet to any lot line.
- d. *Paved surfaces required:* On said lot all roads, driveways, parking lots and loading and unloading areas within 100 feet of any lot line shall be paved, oiled, watered or chemically treated so as to limit on adjoining lots and public roads the nuisance caused by wind-borne dust.
- e. *Air pollution:* Any odors, smoke, fumes, or dust generated on said lot by any digging, excavating or processing operation and borne or able to be borne by the wind shall be confined within the lines of

said lot as much as is possible so as not to cause a nuisance or hazard on any adjoining lot or public road.

- f. *Water pollution:* Such removal shall not be conducted as to cause the pollution by any material of any surface or subsurface watercourse or body outside of the lines of the lot on which such use shall be located.
- g. *Soil erosion:* Such removal shall not cause the erosion by water of any land outside of said lot or of any land on said lot so that earth materials are carried outside of the lines, and that such removal shall not be conducted as to alter the drainage pattern of surface or subsurface waters on adjacent property, and that in the event that such removal shall cease to be conducted it shall be the continuing responsibility of the owner or operator thereof to assure that no erosion or alteration of drainage patterns, as specified in this paragraph, shall take place after the date of the cessation of operation.
- h. *Vibration:* No vibration shall be permitted which is discernible without instruments on any adjoining lots or property.
- i. *Equipment location:* All fixed equipment and machinery shall be located at least 100 feet from any lot line and 500 feet from any residential zoning district, but that in the event the zoning classification of any land within 500 feet of such equipment or machinery shall be changed to residential use subsequent to the operation of such equipment or machinery [it] may continue henceforth but in no case less than 100 feet from any lot line.
- j. *Fences:* There shall be erected a fence of not less than six feet in height around the periphery of the area being excavated. Fences shall be adequate to prevent trespass and shall contain warning signs adequately spaced to be visible along the entire length of said fence.

[1013.0. Supplementary parking.]

[1013.1. Conditional use of off-street parking:] Off-street parking for buildings and facilities used for public assembly, commercial, industrial or institutional purposes may be permitted in any zone as a conditional use. The purpose of providing such off-street parking may be to comply with Ordinance No. 3525 [this appendix], article VII, or to meet supplemental off-street parking needs.

[1013.2. Minimum standards:] All off-street parking lots permitted under the provisions of this ordinance must meet the following minimum standards, unless the city commission deems it in the public good to waive such requirements:

- A. All requests for off-street parking to comply with the provisions of article VII of the zoning ordinance shall meet all provisions of article VII.
- B. All requests for supplemental off-street parking not required by article VII of the city zoning ordinance shall comply with the following minimum design criteria:
 - 1. *Surface material:* Areas used for standing and maneuvering of vehicles 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.
 - 2. *Screening and buffer setback required:*
 - a. 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, in lieu of such sight-obscuring fence, shrubs, trees or hedges may be substituted as approved by the conditional use

permit.

- b. No off-street parking will be permitted within less than four feet of the property line under separate ownership.
- 3. *Lighting:* Artificial lighting which may be provided shall be so deflected as not to shine or create glare in any residential district, on any adjacent dwelling, or create glare for oncoming traffic on city streets.
- 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.
 - 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.
- 5. *[Facilities overlapping zones:]* All off-street parking facilities permitted to be located in a zone other than the zone required for the building or facility it serves shall be immediately adjacent or touching such lots on which such building or facility is located, excluding public rights-of-way.

[1013.3. Approval process for conditional use permit; application:] The approval process for a conditional use permit allowed for under this section will be processed following the procedures enumerated in article II [IX], sections 901.0—901.2, 902.2—902.7. The application for a conditional use permit shall be filed with the zoning administrator at least 20 days prior to the regular city planning and zoning commission meeting. The application shall include but not be limited to the below information:

- a. A diagram of surrounding land uses, including location of buildings or structures.
- b. A plan drawn to scale showing the following:
 - 1. Delineation of individual parking and loading spaces by adequate striping.
 - 2. Circulation area necessary to serve spaces.
 - 3. Access to streets and property to be served.
 - 4. Curb cuts.
 - 5. Dimensions, continuity, and substance of required screening.
 - 6. Grading, drainage, surfacing and subgrading details.
 - 7. Delineation of obstacles to parking and circulation in finished parking area.

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8. Specification as to signs and bumper guards.
 9. The nature and extent of landscaping and screening on the site.
 - c. Name of the landowner, and firm preparing the plan.
 - d. Legal description of the tract.
 - e. Zone in which the parking will be located.

(Ord. No. 3546, §§ 1—3, 6-8-88)

1014.0. Communication antenna or communication towers.

(a) Conditional use application-submission requirements.

1. The following items shall be submitted in support of an application for a conditional use permit request pursuant to article IX of appendix B of the Code of the City of Independence.
 - a. Legal description of the property that is covered by the application for a conditional use permit.
 - b. Written authorization from the property owner of the host tower site unless the site is owned by the applicant.
 - c. A statement of the reasons why the conditional use permit is being requested.
 - d. A site plan or preliminary development plan, whichever is in the opinion of the zoning administrator necessary in order for the city staff, planning commission and governing body to properly evaluate the application. If a preliminary development plan is not required the zoning administrator shall specify in writing the information to be included in the required site plan. notwithstanding a determination by the zoning administrator that only a site plan is required, the planning commission or governing body may require the submission of a preliminary development plan prior to taking action on the application. If required the development plan shall include, but not limited to, the following:
 - i. A site plan drawn to a scale of one inch equals 30' or larger and identifying the site boundary, tower location, guide wire anchors, existing and proposed structures, existing vegetation and proposed landscaping and use, structures and land use designations on the site and the abutting parcels.
 - ii. Location of access roads, fencing and type, parking area.
 - iii. Proposed lighting and exterior lighting specifications.
 - iv. Land elevation contours.
 - v. Details of any proposed building, its elevations and proposed use of the building.
 - e. A statement that alternate sites or communication towers within ½ mile radius of the subject site are not available for one or more of the following reasons when such reasons are applicable.
 - i. Unwillingness of the owners of the alternate sites or owners of existing or approved communication towers or structures capable of accommodating applicant's planned equipment to entertain applicant's communication facility proposal.
 - ii. Topographic limitation of alternate sites.
 - iii. Impediments adjacent to existing or approved communication towers that would obstruct adequate communication tower transmission.

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- iv. Physical site constraints that would preclude the construction of a communication tower.
 - v. Technical limitation of the communication transmission system.
 - vi. The applicant's planned equipment would exceed the structural capacity of existing and approved towers, facilities and structures, generally capable of accommodating a communication transmission system, considering existing and planned use of such communication towers and facilities and structures.
 - vii. The applicant's planned equipment would cause radio or frequency interference with other existing or planned communication towers or facilities, which cannot be reasonably prevented.
 - viii. Existing or approved communication towers or facilities do not have space on which applicant's planned equipment can be placed so it can function effectively and reasonably.
 - ix. That the applicant demonstrates that there are other limiting factors that render existing communication towers, facilities and structures unsuitable.
 - x. The owner's facilities and transmission demands on structures.
- f. Assurance of adequate public facilities.
2. Each application for a conditional use permit for a communication tower shall be accompanied by the following information:
- a. A preliminary development plan as required above in section 1.d.i.
 - b. A report from a licensed professional engineer that describes the communication tower's proposed capacity, including the number and type of communication antennas it can accommodate.
 - c. A study comparing all potential host sites within an approximate ½ mile radius of the subject site. Potential sites shall include existing structures and communication towers in excess of 100' and properties on which communication towers are permitted by right or by conditional use permit. The zoning administrator, the planning commission or the governing body may require the review of additional sites pending review of the initial study. The study shall include a description of the surrounding sites, a discussion of the ability or inability of the site to host a communication facility and the reason why the site was excluded from consideration.
 - d. A photo simulation of the proposed facility of a type and quality as determined by the city to be appropriate.
 - e. A map identifying the service area of the proposed tower and an explanation of the need for the tower to maintain the integrity of the system.
 - f. A signed statement from the applicant indicating its intention to share space on the communication tower with other providers at reasonable cost and its acknowledgment that the conditional use permit shall be issued subject to the condition that the applicant make good faith efforts to offer space on the communication tower at reasonable cost and that the governing body shall have the right to revoke the conditional use permit if it determines at a public hearing that offers to share space at a reasonable cost are not made.
 - g. An engineer certification that anticipated levels of electromagnetic radiation to be generated by the communication facilities on the site including the effective radiated power (ERP) or the communication's antenna shall be within the guidelines established by the Federal Communications Commission.

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3. The following performance standards shall apply to all communication towers allowed by a conditional use permit:
- a. The maximum communication tower height that may be approved is 175'. A lightening rod, not to exceed ten feet shall not be included within the height limitations. All new communication towers in excess of 100' shall be designed to accommodate at least two additional providers. The location of additional communication antennas on a legally existing communication tower shall not require additional approval from the planning commission or governing body.
 - b. All communication towers shall maintain a galvanized finish to be painted gray or light blue unless otherwise required by the governing body or if other standards are required by the Federal Aviation Administration. All communication towers and facilities shall be sited to have the least practical adverse affect on the surrounding environment. In addition, communication towers should be designed to avoid whenever possible, the application of the Federal Aviation Administration lighting and painting requirements.
 - c. Site location development should preserve the preexisting character of the site as much as possible. Existing vegetation should be preserved or improved and disturbance of the existing topography of the site should be minimized unless such disturbance would result in less visual impact on the site on the surrounding area.
 - d. The area covered by the application for a communication tower special use permit shall be sufficient to accommodate all communication facilities that can be accommodated on the proposed communication tower.
 - e. Communication towers and accessory buildings shall meet the setback requirements of the zoning district in which they are located, unless greater setbacks are required by the governing body. The setback requirements for communication towers locating on or adjoining residentially zoned property shall be determined at the time at the consideration of the conditional use permit. All communication towers, except those designed as an architecturally compatible elements in terms of material design and height of the existing or proposed use of the property shall be set back a minimum of 200' from any surrounding property that is zoned for single family residences, duplex residences or multifamily residences. Provided however that the distance may be reduced or waived by the governing body.
 - f. All communication towers except those designed as an architecturally compatible element in terms of material, design and height of the existing or proposed use of the property shall comply with the following separation requirements:

Towers in Excess of 100'	1,500'
Towers 100' or Less	750'

- g. The governing body may grant a deviation from the height, setback and/or separation requirements. In support of a request for a deviation from the separation requirements the applicant shall submit a technical study acceptable to the city which confirms that there are no other suitable sites available within the separation requirements. A deviation shall only be granted if the governing body determines that the deviation will not undermine the spirit and intent of this ordinance.
- h. All parking areas and drives associated with the communication facility shall comply with article VII of the zoning ordinance and shall meet all provisions of article VII of the zoning ordinance.

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- i. Mobile or immobile equipment not used in direct support of a communication facility shall not be stored or parked on the site unless repairs to the communication facility are being made.
 - j. Accessory uses shall include only such buildings and facilities necessary for transmission functions and satellite ground stations associated with them, but shall not include broadcast studios, offices, vehicle storage areas or other similar uses not necessary for the transmission function. All accessory buildings shall be constructed of building materials consistent with the primary use of the site, if the site has a primary use other than a communication tower and shall be subject to site plan approval. The site plan requirements shall contain the information as required in this ordinance.
 - k. Communication towers shall only be illuminated as required by the Federal Communication Commission and/or the Federal Aviation Administration. Security lighting around the base of the communication tower may be provided if the lighting is shielded so that no light is directed towards adjacent properties or rights-of-way.
 - l. All communication towers must meet or exceed current standards and regulations of the Federal Aviation Administration, the Federal Communications Commission and any other agency of the federal government with the authority to regulate communication towers and antennas. As such standards and regulations change the owners of such towers and antennas governed by this ordinance shall bring such towers and communication antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring such towers and antennas into compliance with such revised standards and regulations shall constitute grounds for removal of such tower or antennas at the owner's expense.
 - m. In areas of the city where the cables, wires and other facilities of public utilities exist underground or are required by the city to be placed underground, the applicant shall also place all cables, wires and other facilities associated with the communication facility underground.
 - n. The base of the communication tower shall be screened from view with a solid screening fence a minimum of six inches in height. The materials of the fence, including any proposed razor wire or other security wire, shall be subject to the review of the planning commission and approval of the governing body. The governing body may waive the required screening if the design of the accessory building is architecturally compatible with the primary use of the property.
 - o. A landscape plan shall be required which will provide a continuous landscaped area around the perimeter of the accessory building or screening wall. All plant materials shall include a mixture of deciduous and coniferous planting materials. Drought tolerant plant materials are encouraged. The visual impact of the equipment building would be minimal, the landscaping requirement may be reduced or waived by the governing body.
 - p. Any communication antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned and the owner of such communication antenna or tower shall remove the same within 90 days of receipt of notice notifying the owner of such abandonment. If such communication antenna or tower is not removed within 90 days the city may remove such communication antenna or tower at the owner's expense. If there are two or more users on a single communication tower then this provision shall not become effective until all users cease using the communication tower.
 - q. To ensure the structural integrity of communication towers, the owners of the communication tower shall ensure that it is constructed and maintained in compliance with the standards contained in applicable and local building codes and the applicable standards for towers that are imposed by the Electronics Industries Association as amended from time to time. If, upon

inspection, the building inspector concludes that the communication tower fails to comply with such codes and standards and constitute a danger to persons or property, then upon notice being provided to the owner of the communication tower, the owner shall have 30 days to bring such communication tower into compliance with such standards. If the owner fails to bring such communication tower into compliance within the 30 days the city may cause removal of such communication tower at the owner's expense.

- r. At least every 12 months the communication tower shall be inspected by an expert who is regularly involved in the maintenance, inspection and/or erection of communication towers as approved by the city. At a minimum this inspection shall be conducted in accordance with the tower inspection checklist provided in the Electronic Industries Association (EIA) Standard 222; "Structural Standards for Steel Antennas Towers and Antenna Support Structures". A copy of such inspection record shall be provided to the city.
 - s. In the case of any disturbance to a street or other public property, caused by an applicant during the course of constructing or maintaining this communication facility the applicant shall at its own expense, replace or restore all paving, sidewalk, driveway, landscaping, or surface of any street or other public property damaged to as good or better condition as before the disturbance and in accordance with applicable federal, state and local laws, rules, regulations or administrative decisions. The duty to restore the street or public property shall include the repair of any area identified by the city as being weakened or damaged as a result of cutting or other invasion of the pavement of a street or other public property.
4. Every communication tower shall be subject to administrative review by the city after three years regardless of the approved term (if any) of the conditional use permit or the date such communication tower was installed. Reviews will subsequently be required every three years or thereafter. At the time of this review the holder of the conditional use permit shall demonstrate to the satisfaction of the city that:
- a. The general appearance of the communication tower has been adequately maintained. This shall include landscaping, fencing, surfacing, communication tower appearance, etc.
 - b. The structural integrity of the communication tower is uncompromised. A report from a licensed professional engineer shall be submitted by the holder of the conditional use permit certifying such structural integrity.
 - c. A good faith effort has been made to cooperate with other providers to establish co-location at the tower site. A good faith effort shall include, but is not limited to, a timely response to co-location inquiries from other providers and sharing of technical information to evaluate the feasibility of establishing co-location.
 - d. The city may request that the holder of the conditional use permit hire a qualified third party to prepare a report providing measurements of radio frequency radiation emissions and certifying compliance with all applicable regulations.
5. A tower permit may not be sold, transferred, leased nor assigned by any other person without the prior notification of the governing body.
6. In addition to the factors for consideration of a conditional use permit application under section 902.2 of the zoning ordinance, the planning commission may recommend approval of the conditional use permit, and the governing body may approve such permit for a communications tower, utilizing, but not limited to, the following factors as guidelines:
- a. Whether approval of the conditional use would be consistent with the intent and purpose of, and meets the requirements of, these regulations.

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- b. The aesthetic impact of the proposed communication tower on the surrounding neighborhood.
 - c. Whether the relative gain to the public health, safety and general welfare outweighs the hardship imposed upon the applicant by not granting the permit.
 - d. Whether the positions of the applicant and/or the opponents are substantiated by substantial competent evidence or rather generalized concerns or unsubstantiated claims are made to the planning and zoning commission and/or city commission.
 - e. Whether an F.C.C. license has been granted to the applicant authorizing provision of wireless services to the community and whether radio frequency emissions will comply with F.C.C. regulations.
 - f. Whether there is an existing tower upon which the applicant can co-locate and if so, what substantiated efforts have been made by applicant for co-location and upon what basis were any such towers deemed unacceptable by the applicant.
 - g. Will the tower adversely impact adjoining property values, present a hazard to air space, negatively impact the environment, traffic or in any other manner create negative impacts upon the neighborhood or community.
 - h. The recommendation of professional planning staff.
 - i. The expert testimony presented on behalf of and in opposition to the application.
 - j. Such other factors as may be relevant to the facts and evidence presented in the application.

Failure to adequately demonstrate adequate compliance on any one of these items shall subject the holder of the permit to revocation of the conditional use permit. The determination of whether or not to revoke the conditional use permit shall be made by the governing body after a public hearing requiring 30 days notice unless an emergency situation exists.

(Ord. No. 3919, § 2, 4-8-04)

1015.0. Accessory uses not located on the same lot or contiguous lot as the principal building or principal use served per 607.1.d.

1015.1. Special conditions: Accessory uses not located on the same lot or contiguous lot as the principal building or principal use served per 607.1.d shall meet the following provisions when authorized as a conditional use in any district:

- a. Must be located on an adjacent lot to the principal building or principal use served, excluding public rights-of-way.
- b. Must be located in the same zone as required for the principal building or principal use it serves.
- c. Must be under the same ownership as the principal building or principal use served.
- d. Must be located at the rear of the adjacent lot if there is access thereto.

1015.2. Revocation: Accessory uses granted by conditional use permit per Section 1015 will be required to continue to meet all special conditions per 1015.1. If the accessory uses no longer comply with one or more of the special conditions contained in 1015.1, then the conditional use permit will be revoked, and the accessory uses previously allowed will be required to either be removed or otherwise come into compliance with City code.

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's September 5,
2023 Meeting**

I. Call to Order

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

Absent: Andy McLenon, Mary Jo Meier

Tim Haynes, Chairperson, called the meeting to order.

II. Minutes

- a. Consider approving minutes of the August 8, 2023 Planning Commission/Board of Zoning Appeals meeting.

Motion:

On the motion of Scott Smith, seconded by Brent Littleton the Commission approved the minutes of the August 8, 2023 Planning Commission/Board of Zoning Appeals meeting.

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

Nay: None

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

- a. Public Hearing to receive comments on a variance request for the size of electronic signs in a C-3 central business district.

Tim Haynes, Chairperson, opened the public hearing.

Motion:

On the motion of Scott Smith, seconded by Rachel Lyon the Commission approved a variance of 6.98 square feet for the Independence Historical Museum to replace their marquee letterboard with a new digital sign.

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

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.

Tim Haynes, Chairperson, opened the public hearing.

Motion:

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's September 5,
2023 Meeting**

**On the motion of Tim Haynes, seconded by Lisa Richard the Commission
adjourned the public hearing until October 3, 2023 at 5:30 p.m.**

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

Nay: None

- b. Public hearing to consider a text amendment to the zoning code regarding storage sheds.

Tim Haynes, Chairperson, opened the public hearing.

**Kelly Passauer explained the added language to the code regarding accessory
uses in 1015.0 concerning accessory uses not located on the same lot or
contiguous lot as the principal building or principal use served and 1015.1
special conditions as a conditional use. Storage units are larger than they
have been in the past so the measurement was changed to 300 sq. ft.**

**By requiring the storage shed to be adjacent to the principal building or
principal use served, it will keep the number down. Also, because it requires a
conditional use, all neighbors will be notified.**

**Tim Haynes asked if possession is changed, would the new owner be required
to reapply for a conditional use.**

**Kelly Passauer said that yes, it will not transfer. If the property is sold, the
new owners would have to come into compliance.**

**Scott Smith wants everything left on one lot so there will not be units on
vacant lots.**

**Lisa Richard wants a definition added to the code to clarify the definition of
adjacent.**

Motion:

**On the motion of Rachel Lyon, seconded by Lisa Richard the Commission
recommended the City Commission adopt an ordinance for a text
amendment to the zoning code related to accessory uses as prepared by City
staff, but with the following additional modifications: defining the meaning of
adjacent.**

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

Nay: Scott Smith

Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's September 5, 2023 Meeting

- c. 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."

Tim Haynes, Chairperson, opened the public hearing.

Kelly Passauer reviewed the proposed ordinance with the commissioners.

Tim Haynes asked if the reference to size could be removed from the proposed ordinance. He also asked how the container engineering could be designed without specifying the sizes, i.e. to specify that not all containers that look like shipping containers are actually shipping containers.

Kelly Passauer asked if the building department would address this issue.

David Cowan said this issue would be addressed through the building code.

Motion:

On the motion of Tim Haynes, seconded by Rachel Lyon the Commission recommended the City Commission adopt an ordinance for a text amendment to Article B - Zoning concerning shipping containers pending the removal of size and dimension specifications from the language.

Aye: Lisa Richard, Scott Smith, Tim Haynes, Michelle Anderson, Brent Littleton, Rachel Lyon

Nay: Anthony (Tony) Royse

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

Tim Haynes, Chairperson, opened the public hearing.

Kelly Passauer explained the modified language under 403.0 - Definitions. Added for one- and two- dwelling units were open parking spaces off the alley with gravel, ribbon driveways and turf pavers.

Motion:

On the motion of Anthony (Tony) Royse, seconded by Lisa Richard the Commission moved to adopt a text amendment to off-street parking in residential areas as prepared by staff. This change is consistent with the intent and purpose of these regulations; the areas which are most likely to be directly affected by such change are residential zones; and such change is made necessary because of new planning concepts and social economic conditions in the areas and zoning districts affected as it offers a more eco-friendly and cost effective solution to off-street parking..

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's September 5,
2023 Meeting**

**Aye: Lisa Richard, Scott Smith, Tim Haynes, Michelle Anderson, Brent
Littleton, Anthony (Tony) Royse, Rachel Lyon
Nay: None**

V. Discussion

Kelly Passauer let the Commissioners know that the contract has been signed
for the comp plan.

VI. Adjournment

Motion:

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

**Aye: Lisa Richard, Scott Smith, Tim Haynes, Michelle Anderson, Brent
Littleton, Anthony (Tony) Royse, Rachel Lyon
Nay: None**



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
September 28, 2023

Department Admin

Director Approval Kelly Passauer

AGENDA ITEM Consider adopting an ordinance for a text amendment to the zoning code relating to Conex Containers.

SUMMARY RECOMMENDATION Adopt the ordinance or return it to the Planning Commission for further review.

BACKGROUND On September 5, 2023 the Planning Commission recommended adopting an ordinance amending the zoning code relating to shipping containers, also known as Conex Containers. A potential text amendment to the zoning code was being considered as this could be a more affordable alternative to traditional construction of residential, storage, or commercial-type structures. Also, the Planning Commission was concerned about these containers popping up around the community, which has occurred to some degree without any specific zoning regulations. The text amendment language was assigned to our former intern. The Planning Commission had some minor suggested modifications, which included removing the references to the sizes of containers. The text amendment was recommended on a 6 to 1 vote.

Since the Planning Commission meeting, it was brought up by one of the City Commissioners that one of the paragraphs of the proposed ordinance was not clear. Some additional modifications were added by staff, which are highlighted in the revised ordinance. It should be noted that there are no specific requirements listed for "shipping containers as businesses" other than the general statement included in 613.4, which states, "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."

If the City Commission wishes to have "shipping containers as businesses" addressed in a separate section or further clarified, it would be recommended to return the item to the Planning Commission for further consideration. It should be noted that the October Planning Commission meeting has been canceled. Therefore, if you return it to them for further consideration, it will be considered at their November 7, 2023 meeting. However, there is no rush to adopt the revisions, so delaying until November is not an issue.

If the City Commission is satisfied with handling these types of structures for commercial purposes by requiring them to meet the current Zoning and Building codes with no further restrictions, then it is recommended to adopt the revised ordinance.

FINANCIAL INFORMATION N/A

SUGGESTED MOTION The Commission has the following options:

1. I move to adopt an ordinance for a text amendment to the zoning code relating to Conex (shipping containers) as recommended by the Planning Commission with revisions as recommended by City staff.
2. I move to adopt an ordinance for a text amendment to the zoning code relating to Conex (shipping containers) as recommended by the Planning Commission.
3. I move to return this item back to the Planning Commission for further review and consideration in regard to clarifying "shipping containers as businesses."

SUPPORTING DOCUMENTS

1. Ordinance 4436 - Shipping Containers -- As Revised by Staff
2. Ordinance 4436 - Shipping Containers -- As Recommended by the Planning Commission
3. P/Z Staff Report -- Text Amendment-Conex Containers
4. September 5, 2023 Planning Commission Board of Zoning Minutes - Draft

ORDINANCE NO. 4436

**AN ORDINANCE PERTAINING TO SHIPPING CONTAINERS AMENDING CITY
CODE SECTIONS 403.0, 607.2 AND 607.4, AND ADOPTING NEW CITY CODE
SECTION 613.0.**

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

SECTION 1: Existing Section 403.0 of the Zoning Code is hereby amended to add the following definitions to be inserted alphabetically:

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:

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. They are secure and weather-resistant, making them versatile for various applications, including relocation, construction sites, and retail storage.

Shipping container, industrial: An “industrial shipping container” is a movable and enclosed structure typically made of durable materials like metal. It is designed for temporary storage of industrial goods and possessions.

SECTION 2. Existing Section 607.2 of the Zoning Code is hereby amended to add the following additional permitted accessory uses:

- 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.
- u. Industrial shipping containers for use as storage in M-1 and M-2 industrial districts. Industrial shipping containers are not authorized to be used as dwellings.

SECTION 3. Existing Section 607.4 of the Zone Code is hereby amended to add the following additional accessory uses permitted by conditional use:

- 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.

SECTION 4. There is hereby added to the Zoning Code a new Section 613.0 titled Shipping Containers 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.
- g. Industrial shipping containers are not permitted as dwellings in any district.

613.3. Shipping containers as storage: Shipping containers are permitted as storage in M-1 and M-2 industrial zones. Shipping containers are permitted **as storage** 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.
- e. In a construction site, industrial 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 **zoned** 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 **for receiving or exporting cargo**; it applies to using shipping containers as structures, **such as dwellings, businesses, storage, etc.**

SECTION 5. 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 20th day of September, 2023.

Louis Ysusi, Mayor

ATTEST:

David Schwenker, City Clerk

ORDINANCE NO. 4436

**AN ORDINANCE PERTAINING TO SHIPPING CONTAINERS AMENDING CITY
CODE SECTIONS 403.0, 607.2 AND 607.4, AND ADOPTING NEW CITY CODE
SECTION 613.0.**

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

SECTION 1: Existing Section 403.0 of the Zoning Code is hereby amended to add the following definitions to be inserted alphabetically:

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:

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. They are secure and weather-resistant, making them versatile for various applications, including relocation, construction sites, and retail storage.

Shipping container, industrial: An “industrial shipping container” is a movable and enclosed structure typically made of durable materials like metal. It is designed for temporary storage of industrial goods and possessions.

SECTION 2. Existing Section 607.2 of the Zoning Code is hereby amended to add the following additional permitted accessory uses:

- 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.
- u. Industrial shipping containers for use as storage in M-1 and M-2 industrial districts. Industrial shipping containers are not authorized to be used as dwellings.

SECTION 3. Existing Section 607.4 of the Zone Code is hereby amended to add the following additional accessory uses permitted by conditional use:

- 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.

SECTION 4. There is hereby added to the Zoning Code a new Section 613.0 titled Shipping Containers 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.
- g. Industrial shipping containers are not permitted as dwellings in any district.

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.
- e. In a construction site, industrial 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 5. 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 20th day of September, 2023.

Louis Ysusi, Mayor

ATTEST:

David Schwenker, City Clerk



**REQUEST FOR PLANNING COMMISSION ACTION
TEXT AMENDMENT
CITY OF INDEPENDENCE
SEPTEMBER 5, 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 Approve a text amendment to the zoning code regarding shipping containers.

BACKGROUND City Attorney, Jeff Chubb, drafted a shipping container ordinance, that is included in the packet, which contains the new language.

From August 8, 2023 meeting. 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.

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 City staff recommends approving the text amendment to Article B - Zoning concerning shipping containers to be sent to the City Commission for their approval and adoption.

SUGGESTED MOTION I move to recommend the City Commission adopt an ordinance for a text amendment to Article B - Zoning concerning shipping containers. Such change is consistent with the intent and purpose of these regulations; the areas which are most likely to

be directly affected by such change will be all zoning districts by allowing shipping containers with certain conditions in specific uses and zones; and the proposed amendment is made necessary because of new planning concepts and social economic conditions that encourage the use of shipping containers as a more affordable option for storage or dwellings.

SUPPORTING DOCUMENTS

1. 2023.08-22 Shipping Containers Ordinance
2. Shipping Containers Updated Draft
3. Shipping Containers Draft Amendment
4. 06062023-PZ Staff Report Conex Containers
5. June 6, 2023 Planning Commission Board of Zoning Appeals Minutes

ORDINANCE NO. _____

**AN ORDINANCE PERTAINING TO SHIPPING CONTAINERS AMENDING CITY
CODE SECTIONS 403.0, 607.2 AND 607.4, AND ADOPTING NEW CITY CODE
SECTION 613.0.**

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

SECTION 1: Existing Section 403.0 of the Zoning Code is hereby amended to add the following definitions to be inserted alphabetically:

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:

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.

Shipping container, industrial: An “industrial shipping container” is a movable and enclosed structure typically made of durable materials like metal. It is designed for temporary storage of industrial goods and possessions. This definition encapsulates any containers larger than the standard 10, 20, and 40 foot in length containers.

SECTION 2. Existing Section 607.2 of the Zoning Code is hereby amended to add the following additional permitted accessory uses:

- 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.
- u. Industrial shipping containers for use as storage in M-1 and M-2 industrial districts. Industrial shipping containers are not authorized to be used as dwellings.

SECTION 3. Existing Section 607.4 of the Zone Code is hereby amended to add the following additional accessory uses permitted by conditional use:

- 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.

SECTION 4. There is hereby added to the Zoning Code a new Section 613.0 titled Shipping Containers 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.
- g. Industrial shipping containers are not permitted as dwellings in any district.

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.
- e. In a construction site, industrial 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 5. 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 _____ day of _____, 2023.

Louis Ysusi, Mayor

ATTEST:

David Schwenker, City Clerk

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.

Shipping container, industrial: An “industrial shipping container” is a movable and enclosed structure typically made of durable materials like metal. It is designed for temporary storage of industrial goods and possessions. This definition encapsulates any containers larger than the standard 10, 20, and 40 foot in length containers.

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.

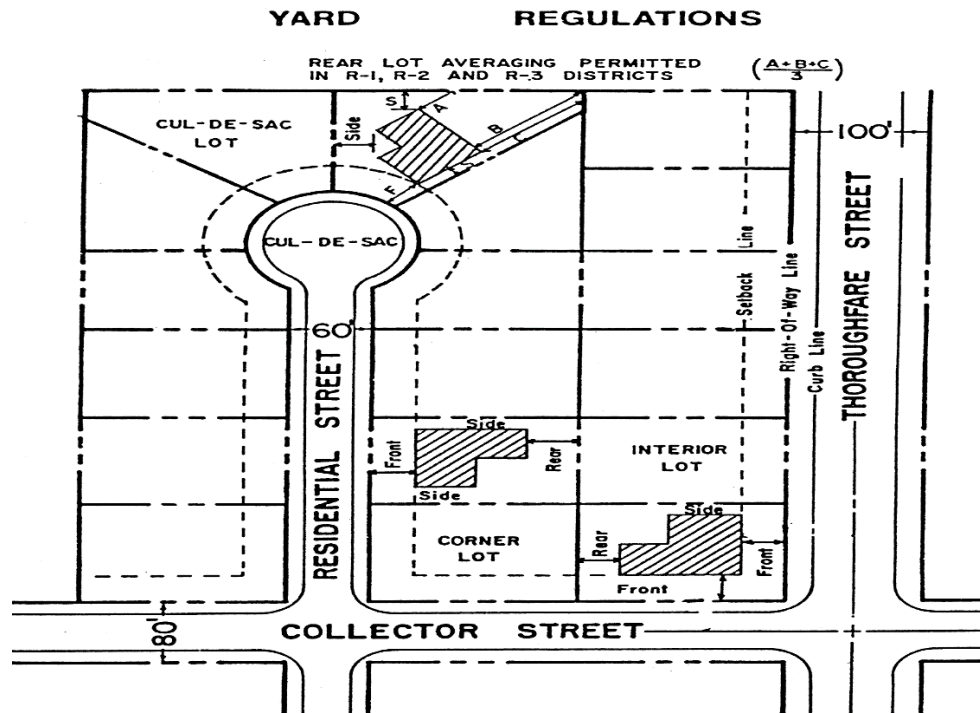
Zero lot line dwelling unit: A development approach in which a freestanding building is sited on one or more lot lines with no yard on the zero-lot line side in order to increase the amount of usable open space on the remaining area of the lot. Zero lot line dwellings are designed with no windows facing 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.
- u. Industrial shipping containers for use as storage in M-1 and M-2 industrial districts. Industrial 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.
- g. Industrial shipping containers are not permitted as dwellings in any district.

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.
- e. In a construction site, industrial 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

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.

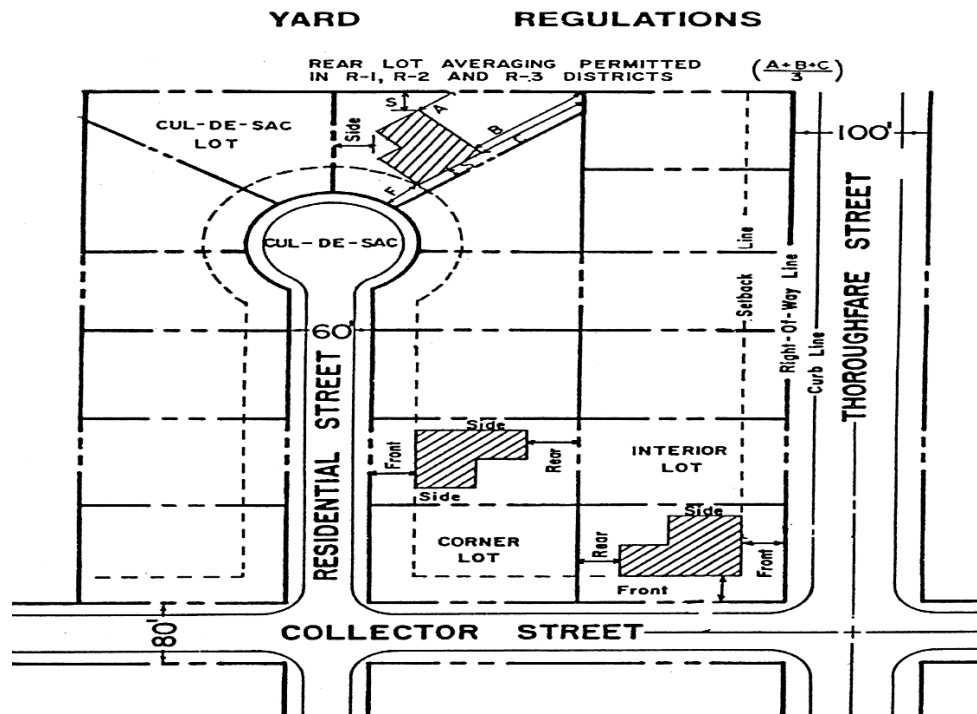
Zero lot line dwelling unit: A development approach in which a freestanding building is sited on one or more lot lines with no yard on the zero-lot line side in order to increase the amount of usable open space on the remaining area of the lot. Zero lot line dwellings are designed with no windows facing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

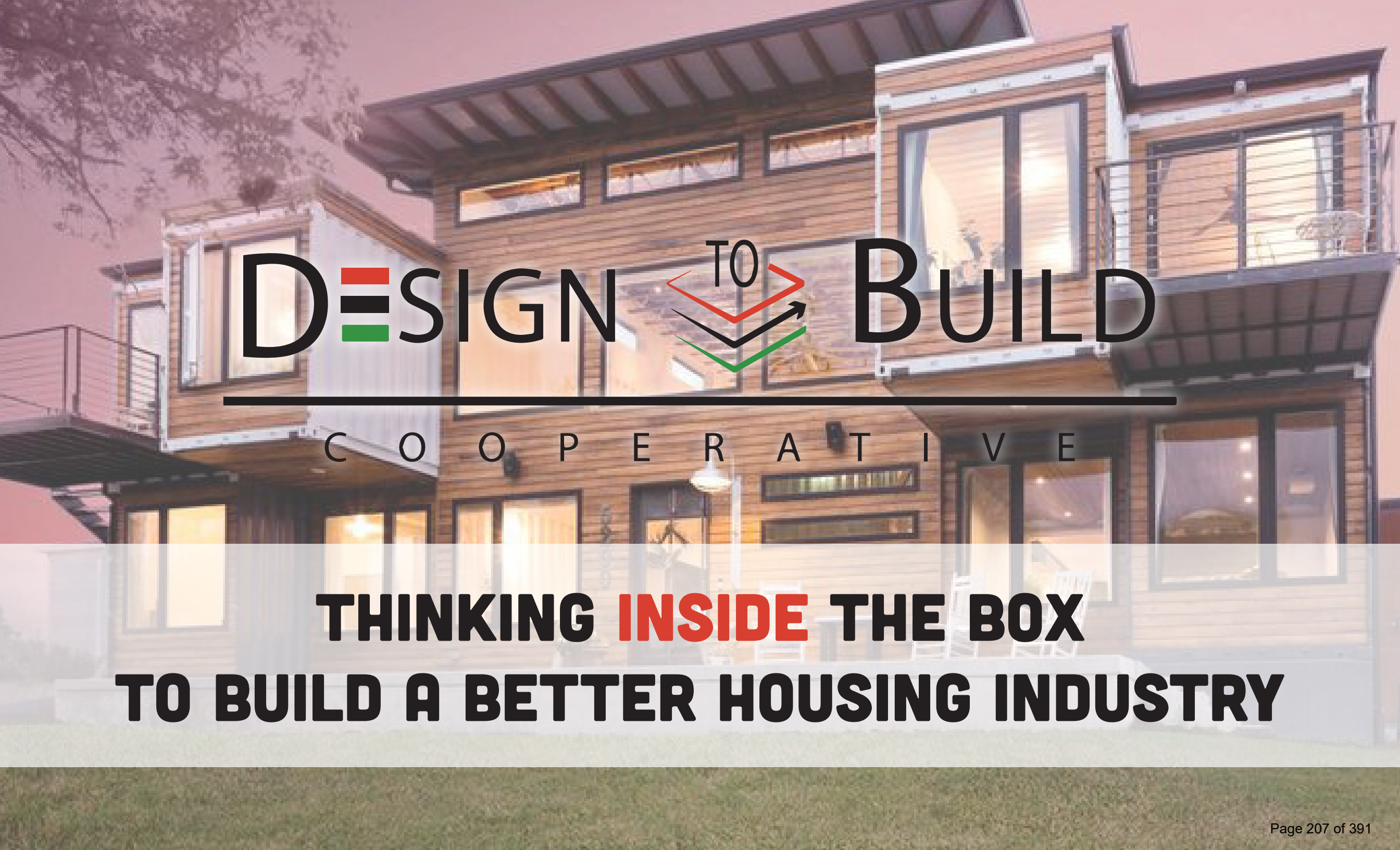


YMLU 490320

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 ^{TO} 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%

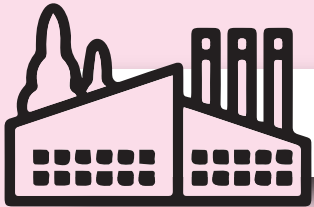
**3BR 2BATH – \$150K
EFFICIENCY – SIMILAR TO TESLA**



CUSTOM DEVELOPMENT – 20%

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

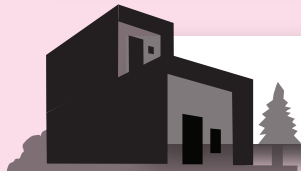
TRACTION



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

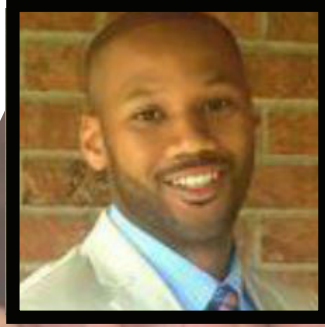
**7% OF REVENUE YEARLY UNTIL
YOU RECEIVE 1.25X YOUR CONTRIBUTION**

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



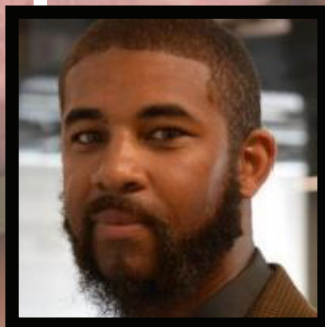
JOEL EGAN
CDO/DIR. OF FABRICATION

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:

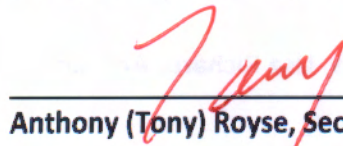
**On the motion of Tim Haynes, seconded by Scott Smith the Commission
adjourned the meeting.**

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

Nay: None



Tim Haynes, Chairperson



Anthony (Tony) Royse, Secretary

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's September 5,
2023 Meeting**

I. Call to Order

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

Absent: Andy McLenon, Mary Jo Meier

Tim Haynes, Chairperson, called the meeting to order.

II. Minutes

- a. Consider approving minutes of the August 8, 2023 Planning Commission/Board of Zoning Appeals meeting.

Motion:

On the motion of Scott Smith, seconded by Brent Littleton the Commission approved the minutes of the August 8, 2023 Planning Commission/Board of Zoning Appeals meeting.

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

Nay: None

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

- a. Public Hearing to receive comments on a variance request for the size of electronic signs in a C-3 central business district.

Tim Haynes, Chairperson, opened the public hearing.

Motion:

On the motion of Scott Smith, seconded by Rachel Lyon the Commission approved a variance of 6.98 square feet for the Independence Historical Museum to replace their marquee letterboard with a new digital sign.

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

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.

Tim Haynes, Chairperson, opened the public hearing.

Motion:

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's September 5,
2023 Meeting**

**On the motion of Tim Haynes, seconded by Lisa Richard the Commission
adjourned the public hearing until October 3, 2023 at 5:30 p.m.**

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

Nay: None

- b. Public hearing to consider a text amendment to the zoning code regarding storage sheds.

Tim Haynes, Chairperson, opened the public hearing.

**Kelly Passauer explained the added language to the code regarding accessory
uses in 1015.0 concerning accessory uses not located on the same lot or
contiguous lot as the principal building or principal use served and 1015.1
special conditions as a conditional use. Storage units are larger than they
have been in the past so the measurement was changed to 300 sq. ft.**

**By requiring the storage shed to be adjacent to the principal building or
principal use served, it will keep the number down. Also, because it requires a
conditional use, all neighbors will be notified.**

**Tim Haynes asked if possession is changed, would the new owner be required
to reapply for a conditional use.**

**Kelly Passauer said that yes, it will not transfer. If the property is sold, the
new owners would have to come into compliance.**

**Scott Smith wants everything left on one lot so there will not be units on
vacant lots.**

**Lisa Richard wants a definition added to the code to clarify the definition of
adjacent.**

Motion:

**On the motion of Rachel Lyon, seconded by Lisa Richard the Commission
recommended the City Commission adopt an ordinance for a text
amendment to the zoning code related to accessory uses as prepared by City
staff, but with the following additional modifications: defining the meaning of
adjacent.**

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

Nay: Scott Smith

Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's September 5, 2023 Meeting

- c. 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."

Tim Haynes, Chairperson, opened the public hearing.

Kelly Passauer reviewed the proposed ordinance with the commissioners.

Tim Haynes asked if the reference to size could be removed from the proposed ordinance. He also asked how the container engineering could be designed without specifying the sizes, i.e. to specify that not all containers that look like shipping containers are actually shipping containers.

Kelly Passauer asked if the building department would address this issue.

David Cowan said this issue would be addressed through the building code.

Motion:

On the motion of Tim Haynes, seconded by Rachel Lyon the Commission recommended the City Commission adopt an ordinance for a text amendment to Article B - Zoning concerning shipping containers pending the removal of size and dimension specifications from the language.

Aye: Lisa Richard, Scott Smith, Tim Haynes, Michelle Anderson, Brent Littleton, Rachel Lyon

Nay: Anthony (Tony) Royse

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

Tim Haynes, Chairperson, opened the public hearing.

Kelly Passauer explained the modified language under 403.0 - Definitions. Added for one- and two- dwelling units were open parking spaces off the alley with gravel, ribbon driveways and turf pavers.

Motion:

On the motion of Anthony (Tony) Royse, seconded by Lisa Richard the Commission moved to adopt a text amendment to off-street parking in residential areas as prepared by staff. This change is consistent with the intent and purpose of these regulations; the areas which are most likely to be directly affected by such change are residential zones; and such change is made necessary because of new planning concepts and social economic conditions in the areas and zoning districts affected as it offers a more eco-friendly and cost effective solution to off-street parking..

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's September 5,
2023 Meeting**

**Aye: Lisa Richard, Scott Smith, Tim Haynes, Michelle Anderson, Brent
Littleton, Anthony (Tony) Royse, Rachel Lyon
Nay: None**

V. Discussion

Kelly Passauer let the Commissioners know that the contract has been signed
for the comp plan.

VI. Adjournment

Motion:

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

**Aye: Lisa Richard, Scott Smith, Tim Haynes, Michelle Anderson, Brent
Littleton, Anthony (Tony) Royse, Rachel Lyon
Nay: None**



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
September 28, 2023

Department Admin

Director Approval Kelly Passauer

AGENDA ITEM Consider adopting an ordinance for a text amendment to the zoning code relating to off-street parking.

SUMMARY RECOMMENDATION Adopt the ordinance as recommended by the Planning Commission.

BACKGROUND On September 5, 2023 the Planning Commission unanimously recommended adopting an ordinance amending the off-street parking regulations. Reviewing a potential text amendment to the off-street parking regulations was requested by the Beautification Committee to provide affordable alternatives for people parking in their unimproved front yards that do not have a proper driveway. The modification allows gravel driveways off an alley, and ribbon driveways and/or turf pavers off a street.

FINANCIAL INFORMATION N/A

SUGGESTED MOTION I move to adopt an ordinance for a text amendment to the zoning code relating to off-street parking.

SUPPORTING DOCUMENTS

1. Ordinance 4437 - Text Amendments Relating to Off Street Parking
2. TextAmendment-Off-StreetParking
3. Unapproved September 5, 2023 Planning Commission Board of Zoning Minutes - Draft

ORDINANCE NO. 4437

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.

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, Open parking spaces for one- and two-family dwelling units, Vehicle storage lots, and M-1 and M-2 districts).

Ribbon driveway: Two parallel strips of concrete, asphalt, mortar-set stone or brick, or solid or turf pavers with an open, unpaved space in between. The strips in a ribbon driveway must be at least two feet wide and located so they are separated five feet on center. The space between the ribbons may be planted with grass or another ground cover, or filled with landscaping rocks or gravel. Ribbon designs are best suited to shorter, straight driveways, and can become impractical where driveways are long or curved.

Turf pavers: Also known as turf stone, turf block, grass block or grow-through pavers are made of concrete or recycled plastic with open cells that allow grass to grow through them. They're a porous, eco-friendly option for driveways and parking areas for one- and two-family dwelling units, and must be installed and maintained per the manufacturer's specifications.

ARTICLE VII. - OFF-STREET PARKING AND LOADING REGULATIONS

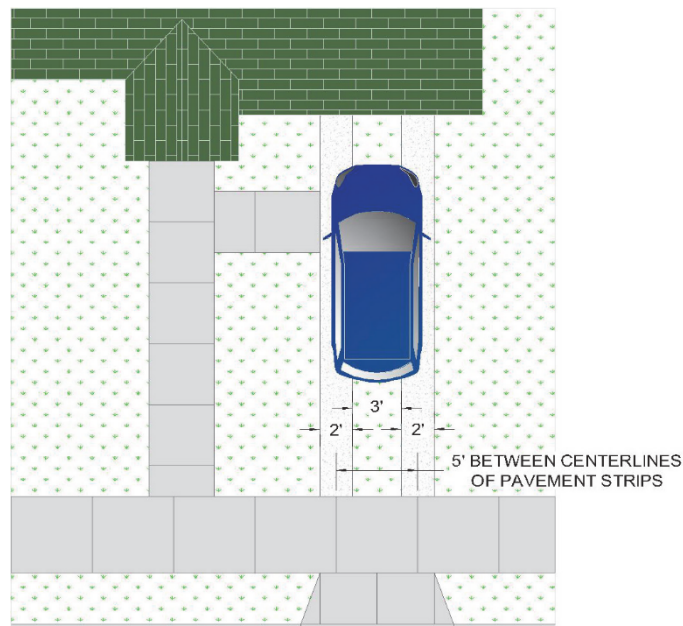
705.0. - Design requirements.

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:

Open parking spaces in the rear yard off an alley for one- and two-family dwelling units.

As an alternative to the surface material requirements in 705.1, open parking spaces in the front, side, or rear yard off a street for one- and two-family dwelling units may utilize a solid or ribbon driveway consisting of concrete, asphalt, mortar-set stone or brick, or solid or turf pavers. If using turf pavers, they must be installed and maintained per the manufacturer's specifications. If installing a ribbon driveway, the strips must be at least two feet wide and located so they are separated five feet on center (see schematic below). The space between the ribbons may be planted with grass or another ground cover, or filled with landscaping rocks or gravel.



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.

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 28th day of September 2023.

LOUIS YSUSI, Mayor

ATTEST:

DAVID W. SCHWENKER, City Clerk



**REQUEST FOR PLANNING COMMISSION ACTION
TEXT AMENDMENT
CITY OF INDEPENDENCE
SEPTEMBER 5, 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 Consider the text amendment recommended by staff.

BACKGROUND From the July 11, 2023 meeting: 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.

From the August 8, 2023 meeting: The board agreed that gravel drives can be allowed directly off the alley and that screening is not needed. The ordinance should include specifications that the area be kept up with clean gravel and weed control. A maximum width should be established, guidelines followed in slope and a plan for keeping the gravel contained on the property. The board also agreed that a hard-surface ribbon driveway for the front of the property could be considered as a less expensive alternative to the hard-surface drive.

The recommended text amendment addresses the direction of the Planning Commission by allowing an additional exception to the design requirements in 705.1 for parking in the rear off an alley of a one- or two-family dwelling. The additional requirements for exceptions already state the 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. This would cover the concern about the slope and a plan to keep the gravel contained on the property. The text amendment did not address weed control, as the current nuisance ordinance requires addressing grass or weeds over 8" in height. The text amendment also did not address the maximum width as the code already states in section 705.4 that 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.

In addition, another exception was added to the design requirements in 705.1 for parking in the front, side, or rear yard off a street for one- and two-family dwelling units may utilize a solid or ribbon driveway consisting of concrete, asphalt, mortar-set stone or brick, or solid or turf pavers. If turf pavers are used, they must be installed and maintained per the manufacturer's

specifications. The dimensions for a ribbon driveway are provided. The space between the ribbons is allowed to be grass, other ground cover, or gravel. I did not include allowing gravel inside the turf pavers themselves, as I was concerned that the gravel would be hard to contain since it would be in direct contact with the tires. You may have a similar concern about allowing gravel in the space between the ribbons.

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 approving the text amendment as prepared by staff; or adjourning the meeting to allow staff additional time to prepare an ordinance regarding this text amendment.

SUGGESTED MOTIONS

1. I move to recommend adoption of text amendment to off-street parking in residential areas as prepared by staff. This change is consistent with the intent and purpose of these regulations; the areas which are most likely to be directly affected by such change are residential zones; and such change is made necessary because of new planning concepts and social economic conditions in the areas and zoning districts affected as it offers a more eco-friendly and cost effective solution to off-street parking.
2. I move to adjourn the public hearing to October 3, 2023 at 5:30 PM.

SUPPORTING DOCUMENTS

1. Off-Street Parking in Residential Suggested Text Amendments
2. Sample Alternative Driveways
3. 05_Ribbon_driveways_20140102
4. InFocus – Grass Pavers
5. Turf Pavers fact sheet
6. August 8, 2023 Staff Report

ARTICLE IV. - RULES AND DEFINITIONS

403.0. - Definitions.

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Ribbon driveway: Two parallel strips of concrete, asphalt, mortar-set stone or brick, or solid or turf pavers with an open, unpaved space in between. The strips in a ribbon driveway must be at least two feet wide and located so they are separated five feet on center. The space between the ribbons may be planted with grass or another ground cover, or filled with landscaping rocks or gravel. Ribbon designs are best suited to shorter, straight driveways, and can become impractical where driveways are long or curved.

Turf pavers: Also known as turf stone, turf block, grass block or grow-through pavers are made of concrete or recycled plastic with open cells that allow grass to grow through them. They're a porous, eco-friendly option for driveways and parking areas for one- and two-family dwelling units, and must be installed and maintained per the manufacturer's specifications.

ARTICLE VII. - OFF-STREET PARKING AND LOADING REGULATIONS

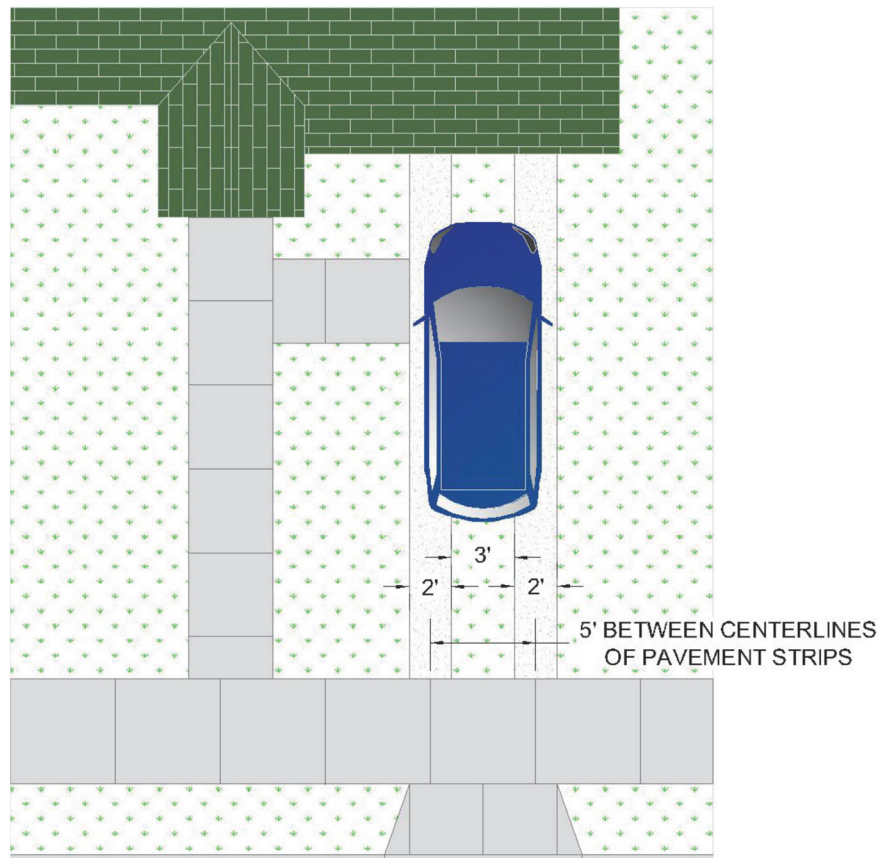
705.0. - Design requirements.

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:

Open parking spaces in the rear yard off an alley for one- and two-family dwelling units.

As an alternative to the surface material requirements in 705.1, open parking spaces in the front, side, or rear yard off a street for one- and two-family dwelling units may utilize a solid or ribbon driveway consisting of concrete, asphalt, mortar-set stone or brick, or solid or turf pavers. If using turf pavers, they must be installed and maintained per the manufacturer's specifications. If installing a ribbon driveway, the strips must be at least two feet wide and located so they are separated five feet on center (see schematic below). The space between the ribbons may be planted with grass or another ground cover, or filled with landscaping rocks or gravel.



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:

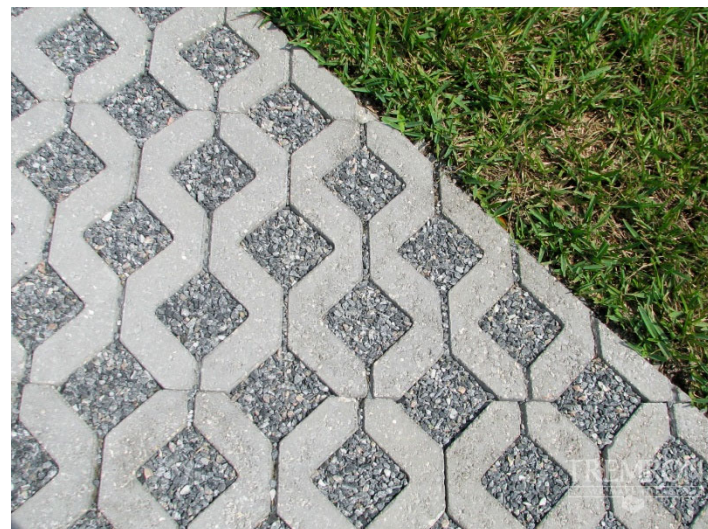
Non-ADA off-street parking areas shall be graded, paved or otherwise improved with an all-weather, dustless material that is contained in such a manner as to not allow surface material to wash off during heavy rains, and so drained as to avoid flow of water across sidewalks.

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

Sample Alternative Driveways:



Turf pavers filled with gravel (Not included in text amendment as an alternative due to the concern that gravel would not be contained in such a manner as to not allow surface material to wash off during heavy rains.):



Stormwater Friendly Driveways: Ribbon Driveways

Ribbon or “Hollywood” driveways became popular in the 1920s and consist of two parallel strips of concrete, mortar-set stone or brick, or solid or turf pavers with an open, unpaved space in between. The strips in a ribbon driveway should be at least two feet wide and located so they are separated five feet on center (see schematic on the following page). The space between the ribbons may be planted with grass or another ground cover, or filled with landscaping rocks or gravel. Ribbon designs are best suited to shorter, straight driveways, and can become impractical where driveways are long or curved.

LOWER COST: Ribbon driveways require far less material and installation time than fully paved driveways. Ribbon driveways can be contoured and designed to fit most any space.

CURB APPEAL: Ribbon driveways provide great opportunities for landscaping, with many design and pattern options. Ribbon driveways can be combined with porous pavement, permeable pavers, bricks, or turf pavers. Ribbon driveways can be incorporated into historical restoration or used to add quaint charm and character to your home.

WATER QUALITY: Ribbon driveways typically contain 60-70% less impervious surface than a full width driveway, allowing more water to drain into the ground below and reducing runoff.

DURABILITY: Ribbon driveways are able to respond more dynamically to frost and thaw cycles than fully paved driveways and are less prone to cracking. If needed, replacement of ribbon driveways is easier, quicker, and less costly.

CONSIDERATIONS: Ensure that the ground doesn’t become compacted when tires miss the strips—consider placing small markers to avoid driving off the paved areas. The center open ribbon may need annual maintenance to top off gravel, or keep vegetation healthy after each winter snowplowing season. If ground cover or grass is selected for the open ribbon, parked vehicles must be moved periodically so that a single location is not continuously shaded. Snow-blowers work well with ribbon driveways.

As of December 2013, ribbon driveways are the only layout that receives coverage credit under the zoning regulations, as only the paved strip portion (beyond the required 38 feet of parking space) is counted in calculating lot coverage.

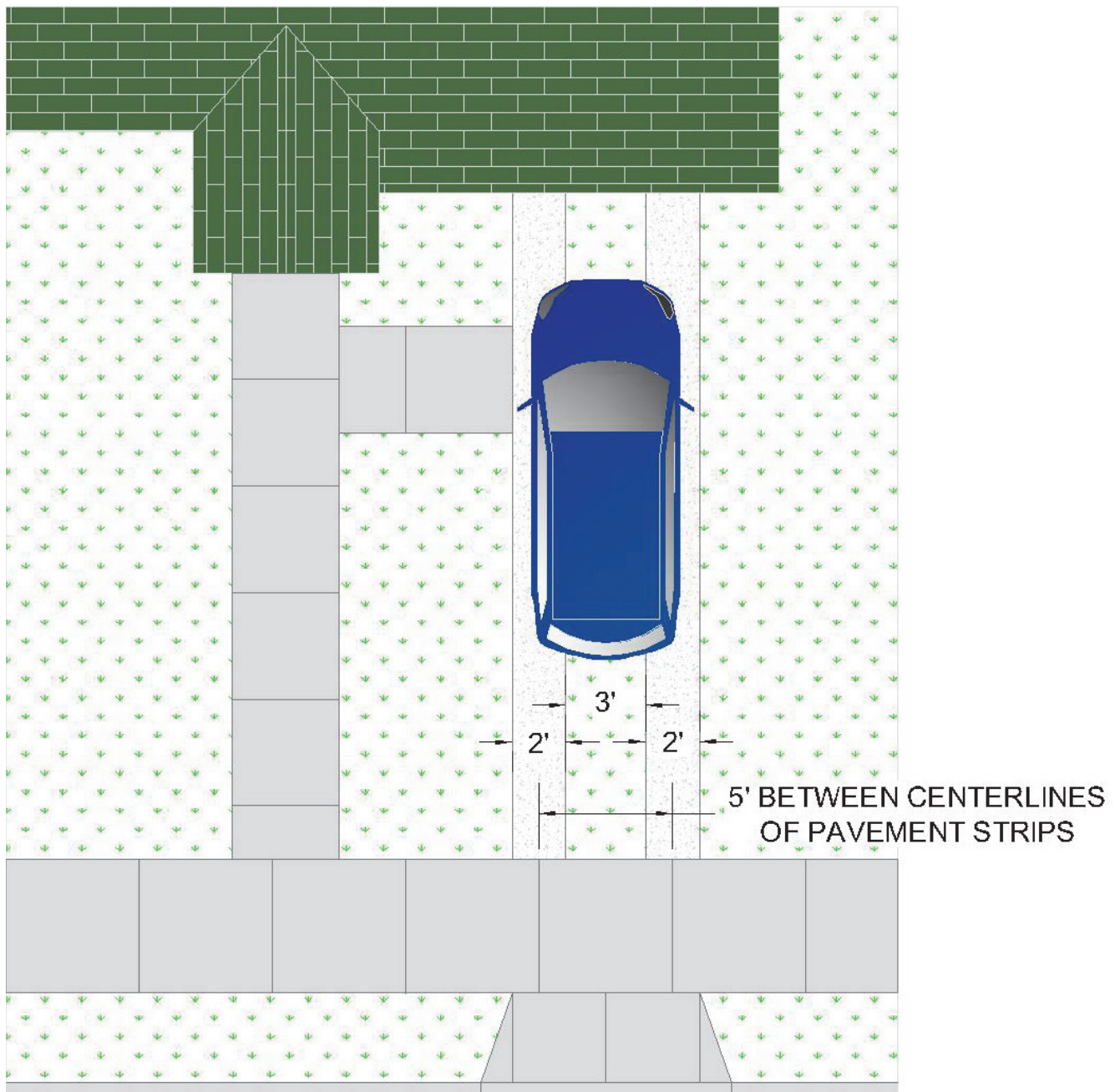


A concrete ribbon driveway in Burlington.



A concrete paver ribbon driveway in Burlington.

Ribbon Driveways: Schematic Drawing (not to scale)



NOTES:

- (1) Refer to the companion Local Vendors List for locally available products.

The typical cross sections provided herein are conceptual only and are not intended for use as construction documents. Refer to manufacturer for installation and maintenance requirements for all products. Modifications to the typical sections may be necessary based upon soil conditions and site suitability. Contact a qualified professional to verify suitability for each application.

What Are Grass Pavers?



Grass or block pavers, or grow-through pavers—are an alternative to traditional asphalt that can be made from concrete or recycled plastic. The open cells in the paver system allow grass to grow through them making them eco-friendly. Applications include driveways, walkways, crossovers on medians, boat launching ramps, fire lanes, and even RV and boat parking lots.

Creative Grass Paver Driveway

The example shown is the center strip of a fully functioning ribbon driveway which showcases a variety of succulents and thymes. Although a portion of the garden is necessarily hidden when the car is in residence and occasionally a flower will get decapitated when an auto pulls in, this complex assemblage of succulents provides a startling pop of beauty in a totally unexpected place!

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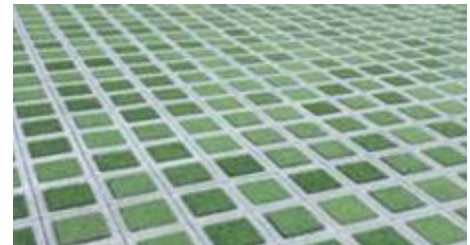
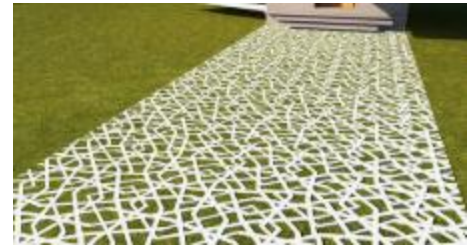
What Are The Benefits?

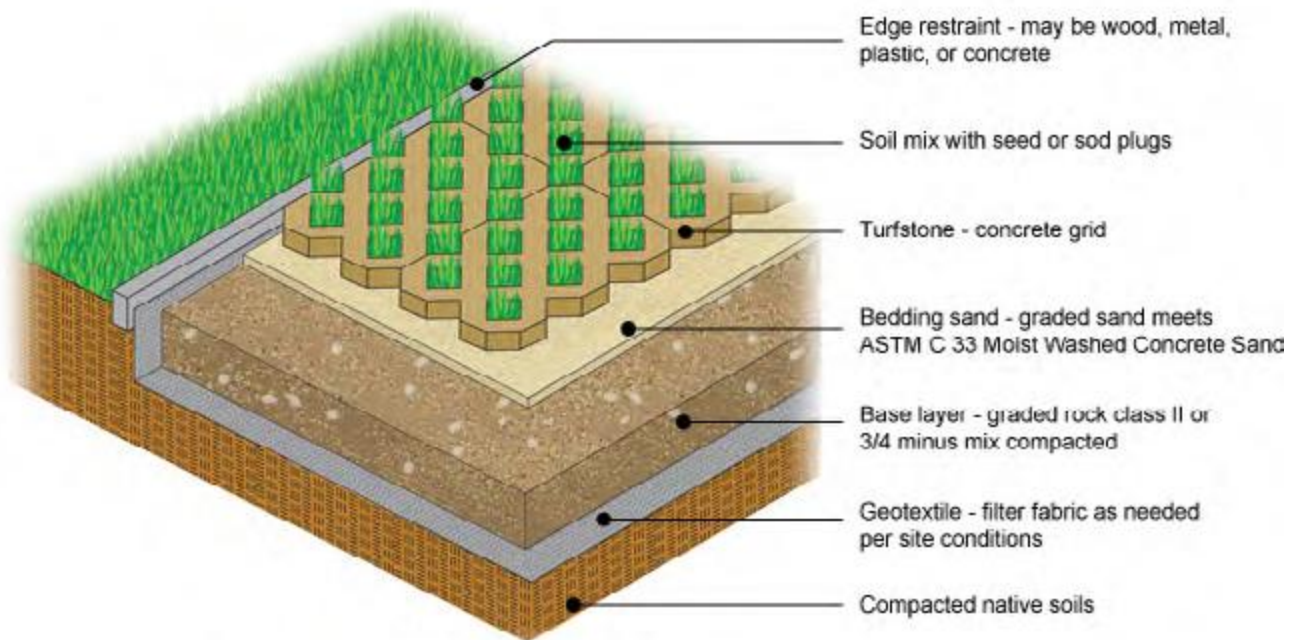
- Paver systems help to reduce stormwater runoff and filter out pollutants. Stormwater runoff on a regular pavement can pick up oil and other road pollutants and washes the toxic mess into rivers, bays, and streams.
- Pavers also absorb water, reducing or slowing down the water that races over the pavement in a rainstorm, preventing erosion.
- Grass pavers recharge groundwater. Those spots of grass allow rain to soak into the ground, putting it back into aquifers.
- Through the magic of transpiration, porous pavers will keep the air around your driveway cooler!

Many Shapes and Styles

Be creative. Paver designs come in many shapes and sizes. You can even create your own design.

How to Install





Journal of Civil & Environmental Engineering

- #1 Stake out the area for your paver system. Make a phone call to 811. Often time homeowners make risky assumptions about whether or not they should get their utility lines marked, but every digging job requires a call – even “small” projects like a paver project.
- #2 Clear the area of grass or other material and dig at least 6 inches or the height of the paver system. Make certain you allow at 2 inches or more for stone. This provides good drainage.
- #3 Level and compact the area. This can be accomplished with any of the remaining soil that was removed.
- #4 After the area is leveled add a layer of filter fabric and a 2” layer of pea gravel for drainage.
- #5 Install the grass paver system or any pattern design.
- #6 Plant grass, thyme or other low plant material. Sod plugs work best if available.

Turf Pavers

PURPOSE: Turf pavers used in place of traditional impervious paving materials reduce the total amount of impervious surface area, promote infiltration of runoff into the ground, and can aid with reducing peak runoff velocity and volume.

Turf pavers are an innovative alternative to conventional impervious paving, which contributes a significant amount of runoff to storm sewers and waterways, especially in urban areas. This type of paver is a matrix of polymer, concrete or cement blocks designed to form a void space that is filled with grass, sand, or gravel, which allows runoff to infiltrate into the soil. The material used for the paver itself is resistant to weathering and the effects of prolonged sunlight.

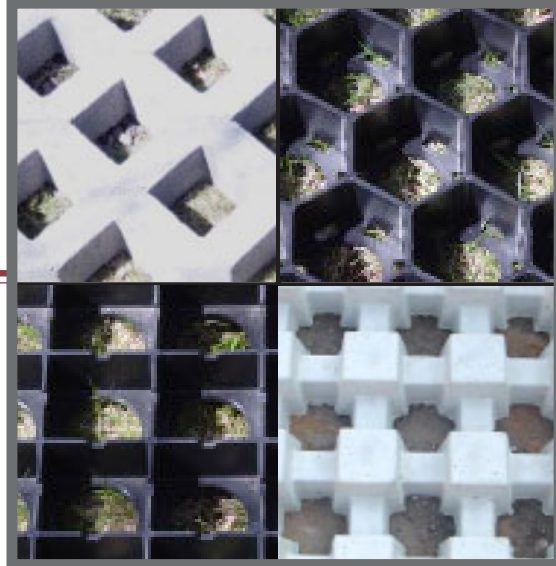
Turf pavers are well-suited for areas that receive pedestrian and light vehicular traffic, such as walkways, bike paths, overflow parking lots, fire lanes and golf cart paths. The paver grid provides extra support to prevent vegetated areas from being destroyed by tires.

Installation of pavers begins with a level base of existing soil. A layer of crushed gravel may be spread over the soil base to provide a reservoir for holding runoff prior to infiltration. Incorporating a gravel base will add the benefits of reducing peak runoff velocity and volume. Next, a layer of sand or sand/gravel mix is placed and compacted to the required depth. The pavers are laid in place, then filled with another layer of compacted concrete sand or sand/soil mix to the depth called for in the paver manufacturer's specifications. Finally, a cover of turf or grass seed is spread on top of the paver cells. *Manufacturer's specifications should be followed as to the materials used for the base and surface.*

NOTE: Sand-filled openings provide greater infiltration rates than grass openings. Some turf pavers are designed for use on sloped areas; consult the product specifications to determine the type of paver suitable for sloped site conditions.

General Design Considerations

- Use in areas with soil permeability between 0.5 and 3.0 inches per hour
- Existing soil and/or stone reservoir base must be graded flat
- Install at least two to five feet above seasonal high groundwater table to prevent contamination of groundwater
- Location should be at least 100 feet from drinking water wells to avoid contamination
- Thickness of gravel base may vary according to designated use of area (ex. a thicker base may be required to sustain weight of fire trucks)
- Design should include overflow drainage to remove excess stormwater
- Gravel used in sand/gravel mix should be no larger than 3/4 inch in diameter
- Follow manufacturer's specifications for depth of sand underneath pavers
- Pavers should be swept clean of fill prior to adding grass seed or turf
- Remove any invasive vegetation, including small tree seedlings, from paver grids
- Maintenance includes regular mowing
- Use snow plows, sand and salt with caution during snow removal
- Installation in areas of high traffic or heavy contamination not recommended (ex. service stations)



Benefits and Uses

- Reduces total amount of impervious cover
- Enhances aesthetics of local landscape
- Recharges groundwater supply
- Reduces peak velocity and volume of stormwater runoff delivered to storm sewer system
- Alleviates flooding and erosion downstream
- Prevents soil compaction by vehicle weight and promotes healthy root growth
- Applicable to all types of sites

Additional Resources

PA Department of Environmental Protection

- www.dep.state.pa.us

- Pennsylvania Stormwater Best Management Practices Manual

US Environmental Protection Agency

www.epa.gov

Cahill Associates

www.thcahill.com - click on "Technologies" for project examples and general information

Low Impact Development Center

www.lid-stormwater.net - click on Site Map and select Permeable Paving

Metropolitan Council Environmental Services

www.metrocouncil.org - click on "Environmental Services" to find the link to the *Urban Small Sites BMP Manual*

Stormwater Manager's Resource Center

www.stormwatercenter.net



**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-obscurer 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.

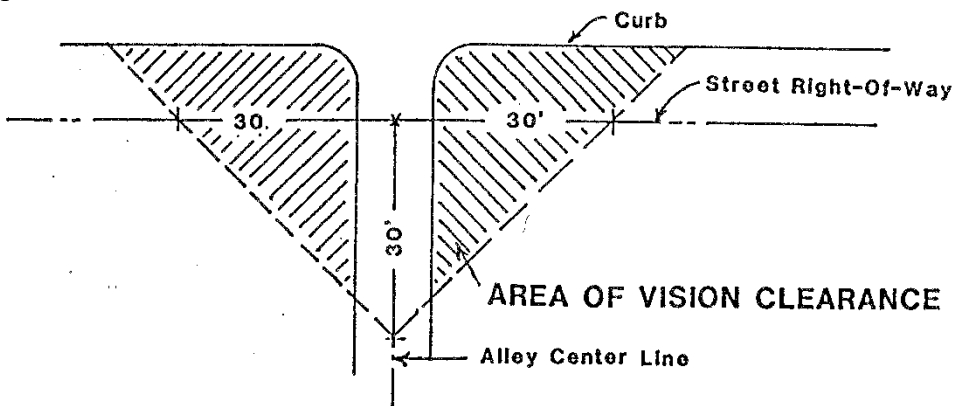
705.3. Lighting: Artificial lighting which may be provided shall be so deflected as not to shine or create glare in any residential district or on any adjacent dwelling.

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.

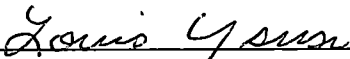
c. Accessible parking spaces shall have markings and identifying signage as required by the ADA.

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.

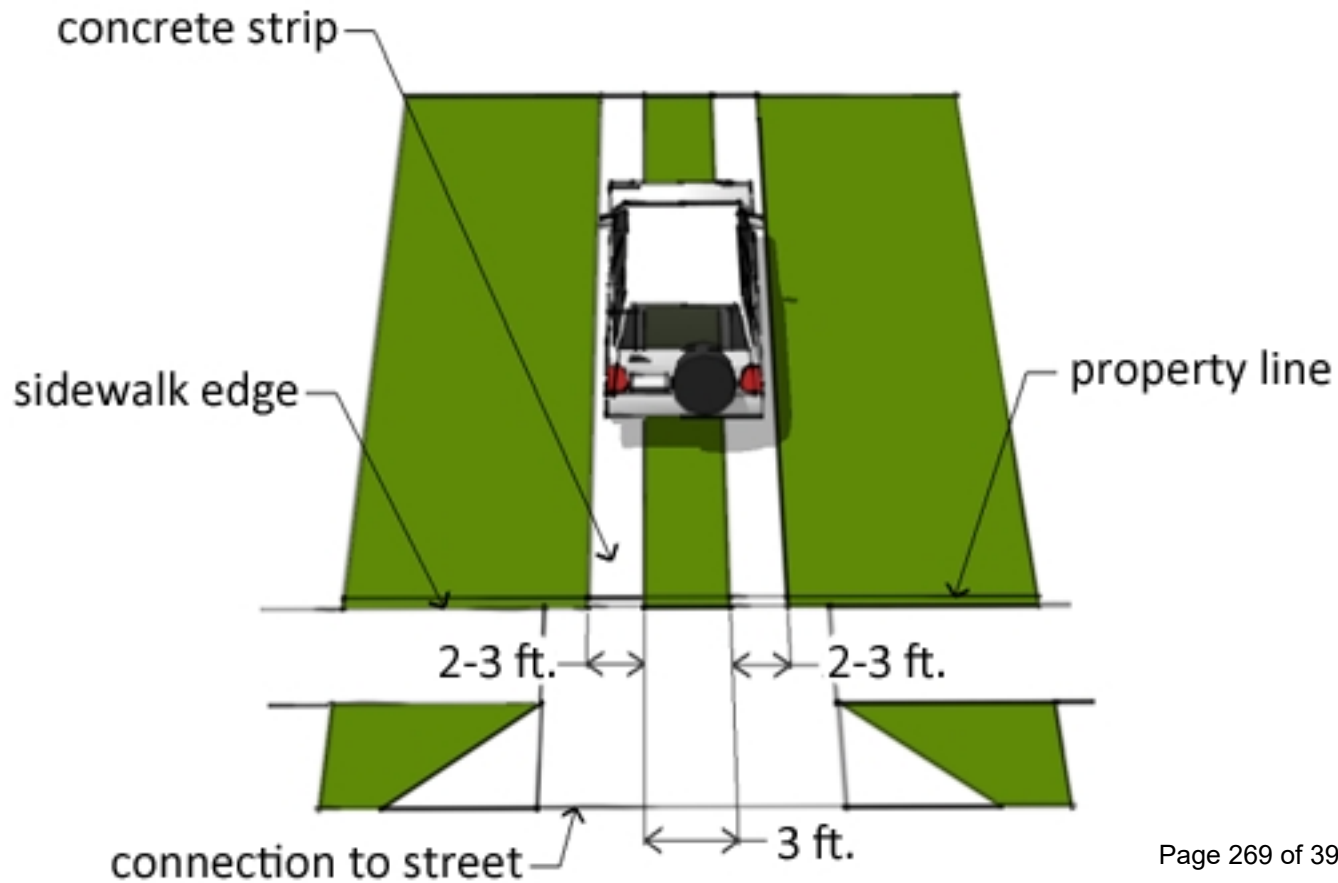



LOUIS YSUSI, Mayor

ATTEST:

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

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

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's September 5,
2023 Meeting**

I. Call to Order

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

Absent: Andy McLenon, Mary Jo Meier

Tim Haynes, Chairperson, called the meeting to order.

II. Minutes

- a. Consider approving minutes of the August 8, 2023 Planning Commission/Board of Zoning Appeals meeting.

Motion:

On the motion of Scott Smith, seconded by Brent Littleton the Commission approved the minutes of the August 8, 2023 Planning Commission/Board of Zoning Appeals meeting.

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

Nay: None

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

- a. Public Hearing to receive comments on a variance request for the size of electronic signs in a C-3 central business district.

Tim Haynes, Chairperson, opened the public hearing.

Motion:

On the motion of Scott Smith, seconded by Rachel Lyon the Commission approved a variance of 6.98 square feet for the Independence Historical Museum to replace their marquee letterboard with a new digital sign.

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

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.

Tim Haynes, Chairperson, opened the public hearing.

Motion:

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's September 5,
2023 Meeting**

**On the motion of Tim Haynes, seconded by Lisa Richard the Commission
adjourned the public hearing until October 3, 2023 at 5:30 p.m.**

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

Nay: None

- b. **Public hearing to consider a text amendment to the zoning code regarding storage
sheds.**

Tim Haynes, Chairperson, opened the public hearing.

**Kelly Passauer explained the added language to the code regarding accessory
uses in 1015.0 concerning accessory uses not located on the same lot or
contiguous lot as the principal building or principal use served and 1015.1
special conditions as a conditional use. Storage units are larger than they
have been in the past so the measurement was changed to 300 sq. ft.**

**By requiring the storage shed to be adjacent to the principal building or
principal use served, it will keep the number down. Also, because it requires a
conditional use, all neighbors will be notified.**

**Tim Haynes asked if possession is changed, would the new owner be required
to reapply for a conditional use.**

**Kelly Passauer said that yes, it will not transfer. If the property is sold, the
new owners would have to come into compliance.**

**Scott Smith wants everything left on one lot so there will not be units on
vacant lots.**

**Lisa Richard wants a definition added to the code to clarify the definition of
adjacent.**

Motion:

**On the motion of Rachel Lyon, seconded by Lisa Richard the Commission
recommended the City Commission adopt an ordinance for a text
amendment to the zoning code related to accessory uses as prepared by City
staff, but with the following additional modifications: defining the meaning of
adjacent.**

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

Nay: Scott Smith

Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's September 5, 2023 Meeting

- c. 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."

Tim Haynes, Chairperson, opened the public hearing.

Kelly Passauer reviewed the proposed ordinance with the commissioners.

Tim Haynes asked if the reference to size could be removed from the proposed ordinance. He also asked how the container engineering could be designed without specifying the sizes, i.e. to specify that not all containers that look like shipping containers are actually shipping containers.

Kelly Passauer asked if the building department would address this issue.

David Cowan said this issue would be addressed through the building code.

Motion:

On the motion of Tim Haynes, seconded by Rachel Lyon the Commission recommended the City Commission adopt an ordinance for a text amendment to Article B - Zoning concerning shipping containers pending the removal of size and dimension specifications from the language.

Aye: Lisa Richard, Scott Smith, Tim Haynes, Michelle Anderson, Brent Littleton, Rachel Lyon

Nay: Anthony (Tony) Royse

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

Tim Haynes, Chairperson, opened the public hearing.

Kelly Passauer explained the modified language under 403.0 - Definitions. Added for one- and two- dwelling units were open parking spaces off the alley with gravel, ribbon driveways and turf pavers.

Motion:

On the motion of Anthony (Tony) Royse, seconded by Lisa Richard the Commission moved to adopt a text amendment to off-street parking in residential areas as prepared by staff. This change is consistent with the intent and purpose of these regulations; the areas which are most likely to be directly affected by such change are residential zones; and such change is made necessary because of new planning concepts and social economic conditions in the areas and zoning districts affected as it offers a more eco-friendly and cost effective solution to off-street parking..

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's September 5,
2023 Meeting**

**Aye: Lisa Richard, Scott Smith, Tim Haynes, Michelle Anderson, Brent
Littleton, Anthony (Tony) Royse, Rachel Lyon
Nay: None**

V. Discussion

Kelly Passauer let the Commissioners know that the contract has been signed
for the comp plan.

VI. Adjournment

Motion:

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

**Aye: Lisa Richard, Scott Smith, Tim Haynes, Michelle Anderson, Brent
Littleton, Anthony (Tony) Royse, Rachel Lyon
Nay: None**



**REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
September 28, 2023**

Department Housing

Director Approval April Nutt

AGENDA ITEM Consider approval of a Rural Housing Incentive District agreement between the City of Independence and Trident Partnerships LLC.

SUMMARY RECOMMENDATION The Independence Housing Authority recommends the Independence City Commission approve a Rural Housing Incentive District Agreement between the City of Independence and Trident Partnerships LLC.

BACKGROUND Trident Partnerships LLC has purchased six buildings in historic downtown Independence for the purpose of renovating the downtown floors into usable commercial space while renovating the upper floors into apartments..Tirident Partnership LLC is requesting the city approve a Rural Housing Incentive District agreement. The RHID is a program that will assist developers in the development of upper-story housing.

FINANCIAL INFORMATION The taxing entities will not receive an increase in the ad valorum taxes due to the improvements in constructing upper-story housing units for a period of 25 years or the developer's eligible expenses are paid back, whichever threshold is met first.

SUGGESTED MOTION I move to authorize the Mayor to sign the Rural Housing Incentive District agreement between the City of Independence and Trident Partnership LLC following final approval by the City Attorney.

SUPPORTING DOCUMENTS

1. RHID Trident Development Agreement 09252023

**DEVELOPMENT AGREEMENT
TRIDENT PARTNERS PROJECT
DOWNTOWN CENTRAL BUSINESS DEVELOPMENT DISTRICT PART 1
REINVESTMENT HOUSING INCENTIVE DISTRICT**

THIS DEVELOPMENT AGREEMENT (“Agreement”) is entered into effective as of September 20, 2023 (the **“Effective Date”**), by and between the **CITY OF INDEPENDENCE**, Kansas, a municipal corporation of the State of Kansas (**“City”**), and **TRIDENT PARTNERS, L.L.C.**, a Kansas limited liability company (**“Developer”**). The City and the Developer are each a **“Party”** and collectively the **“Parties.”**

RECITALS

- A.** Developer has acquired certain parcels of real property and improvements located within the boundaries of City and described on ***Exhibit A*** attached hereto and incorporated herein by reference (collectively, the **“Property”**).
- B.** Developer desires to redevelop the Property into mixed use commercial properties including multifamily residential components totaling an aggregate of 20 upper story living units (**“Project”**), all as more fully described herein.
- C.** City has determined that the construction of the Project will foster the economic development of City and surrounding area of Montgomery County, Kansas.
- D.** The Parties are authorized to enter into this Agreement and to complete the responsibilities set forth herein with respect to the Project.

AGREEMENT

NOW THEREFORE, in consideration of the premises and promises contained herein and other good and valuable consideration, the adequacy and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

**ARTICLE I
DEFINITIONS AND RULES OF CONSTRUCTION**

- 1. Definitions.** As used in this Agreement, the following words and terms have the meaning set forth below:

“Agreement” means this Development Agreement, as the same may be from time to time modified, amended or supplemented in writing by the Parties hereto.

“City” means the City of Independence, Kansas.

“City Expenses” means all legal and professional costs, fees and expenses incurred by City with regard to the preparation of this Agreement and any and all other Ordinances, Resolutions or other documents necessary for implementation of the District as well as for representation and appearances of legal counsel at any hearings or proceedings required to implement the District.

“Concept Site Plan” means the site development plan prepared by a licensed professional engineer, or firm thereof, acceptable to City, depicting the conceptual program for construction of the Project.

“Construction Plans” means plans, drawings, specifications and related documents, and construction schedules for the construction of the Project, together with all supplements, amendments or corrections.

“Developer” means Trident Partners, L.L.C., a Kansas limited liability company, or its permitted successors or assigns.

“Development Costs” means the total amount spent or expected to be spent by Developer to construct the Project.

“Development Plan” means the Development Plan prepared by the City in accordance with the provisions of the Reinvestment Housing Incentive District Act, a copy of which is attached hereto at *Exhibit F*.

“District” means the Downtown Central Business Development District Part 1 Reinvestment Housing Incentive District established pursuant the Reinvestment Housing Incentive District Act and the RHID Ordinance.

“Eligible Costs” means the City Expenses, the cost of the Property, and the costs of residential improvements made to the second or higher floors of buildings or structures located in the District that are more than 25 years of age and used primarily for residential purposes which are reimbursable to the Developer pursuant to the provisions of K.S.A. 12-5249, including associated legal, engineering and project finance costs, all as more specifically described on *Exhibit C* attached hereto and incorporated herein by this reference.

“Governing Body” means the City Commission of the City of Independence, Kansas.

“KHRC” means the Kansas Housing Resources Corporation.

“Material Change” means any change in the Concept Site Plan that modifies the number of residential units, or increases/decreases the cost of the Project by \$50,000 or more for each change or \$200,000 in the aggregate.

“Mayor” means the Mayor of the City of Independence, Kansas, or their duly authorized agent.

“MIH Program” means the Moderate Income Housing Program administered by KHRC.

“Project” means the redevelopment of the Property into mixed use commercial properties including multifamily residential components totaling an aggregate of 20 upper story living units in accordance with the Concept Site Plan, including; (1) renovation of existing improvements located on the Property; (2) construction, reconstruction and/or relocation of utilities; (3) construction of the residential units and related structures; (4) construction and installation of site landscaping on the Property, as described in the Concept Site Plan; and (5) all other work described in the Concept Site Plan, or reasonably necessary to effectuate the intent of this Agreement.

“Property” means the real property (including but not limited to fee interests, leasehold interests, tenant-in-common interests, and such other like or similar interests) on which the Project will be located, more specifically described in **Exhibit A** attached hereto and depicted on **Exhibit B** attached hereto.

“Related Party” means any party related to the Developer by one of the relationships described in Section 267(b) of the United States Internal Revenue Code of 1986, as amended and any successor entity in which the principals of the Developer (either individually or collectively) or Developer own or control no less than fifty percent (50%) of the voting interest in such successor entity.

“RHID Funds” means those amounts paid from the Montgomery County Treasurer to the Treasurer of the City pursuant to K.S.A. 12-5250(b)(2)(A) as a result of the Project.

“RHID Ordinance” means Ordinance No. 4415 passed by the Governing Body on November 10, 2022, approving the Development Plan and establishing the District.

“Reinvestment Housing Incentive District Act” means K.S.A. 12-5241 *et seq.*, as amended.

“Substantial Completion” means the stage in the progress of the Project when the Project or designated portions thereof is sufficiently complete in accordance with the Construction Plans, excepting all punch list items so that Developer can occupy or utilize the Project for its intended purpose.

1.2 Rules of Construction. For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the following rules of construction apply in construing the provisions of this Agreement:

- (a) The terms defined in this Article include the plural as well as the singular.
- (b) All accounting terms not otherwise defined herein have the meanings assigned to them, and all computations herein provided for will be made, in accordance with generally accepted accounting principles.
- (c) All references herein to “generally accepted accounting principles” refer to such principles in effect on the date of the determination, certification, computation or other action to be taken hereunder using or involving such terms.
- (d) All references in this instrument to designated “Articles,” “Sections” and other subdivisions are to the designated Articles, Sections and other subdivisions of this instrument as originally executed.
- (e) The words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision.
- (f) The Article and Section headings herein are for convenience only and will not affect the construction hereof.

ARTICLE II REPRESENTATIONS AND WARRANTIES

2.1 Representations of the City. The City makes the following representations and warranties, which are true and correct on the date hereof, to the best of the City’s knowledge:

(a) ***Due Authority.*** The City has full constitutional and lawful right, power and authority, under current applicable law, to execute and deliver and perform the terms and obligations of this Agreement, and this Agreement has been duly and validly authorized and approved by all necessary City proceedings, findings and actions. Accordingly, this Agreement constitutes the legal valid and binding obligation of the City, enforceable in accordance with its terms.

(b) ***No Defaults or Violation of Law.*** The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of any agreement or instrument to which it is now a party, and do not and will not constitute a default under any of the foregoing.

(c) ***No Litigation.*** There is no litigation, proceeding or investigation pending or, to the knowledge of the City, threatened against the City with respect to this Agreement or affecting the Property. In addition, no litigation, proceeding or investigation is pending or, to the knowledge of the City, threatened against the City seeking to restrain, enjoin or in any way limit the approval or issuance and delivery of this Agreement or which would in any manner challenge or adversely affect the existence or powers of the City to enter into and carry out the transactions described in or contemplated by the execution, delivery, validity or performance by the City of the terms and provisions of this Agreement.

(d) ***Governmental or Corporate Consents.*** No consent or approval is required to be obtained from, and no action need be taken by, or document filed with, any governmental body or corporate entity in connection with the execution and delivery by the City of this Agreement.

(e) ***No Default.*** No default or Event of Default has occurred and is continuing, and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute a default or an event of default in any material respect on the part of the City under this Agreement.

2.2 Representations of the Developer. The Developer makes the following representations and warranties, which are true and correct on the date hereof, to the best of the Developer's knowledge:

(a) ***Due Authority.*** The Developer has all necessary power and authority to execute and deliver and perform the terms and obligations of this Agreement and to execute and deliver the documents required of the Developer herein, and such execution and delivery has been duly and validly authorized and approved by all necessary proceedings. Accordingly, this Agreement constitutes the legal valid and binding obligation of the Developer, enforceable in accordance with its terms.

(b) ***No Defaults or Violation of Law.*** The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of any corporate or organizational restriction or of any agreement or instrument to which they are now a party, and do not and will not constitute a default under any of the foregoing.

(c) ***No Litigation.*** No litigation, proceeding or investigation is pending or, to the knowledge of the Developer, threatened against the Project, the Developer or any officer, director, member or shareholder of the Developer. In addition, no litigation, proceeding or investigation is pending or, to the knowledge of the Developer, threatened against the Developer seeking to restrain, enjoin or in any way limit the approval or issuance and delivery of this Agreement or which would in any manner challenge or adversely affect the existence or powers of the Developer to enter into and carry out the transactions described in or contemplated by the execution, delivery, validity or performance by the Developer, of the terms and provisions of this Agreement.

(d) **No Material Change.** (1) The Developer has not incurred any material liabilities or entered into any material transactions other than in the ordinary course of business except for the transactions contemplated by this Agreement and (2) there has been no material adverse change in the business, financial position, prospects or results of operations of the Developer, which could affect the Developer's ability to perform its obligations pursuant to this Agreement from that shown in the financial information provided by the Developer to the City prior to the execution of this Agreement.

(e) **Governmental or Corporate Consents.** No consent or approval is required to be obtained from, and no action need be taken by, or document filed with, any governmental body or corporate entity in connection with the execution, delivery and performance by the Developer of this Agreement other than as set forth herein.

(f) **No Default.** No default or Event of Default has occurred and is continuing, and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute a default or an event of default in any material respect on the part of the Developer under this Agreement, or any other material agreement or material instrument to which the Developer is a party or by which Developer is or may be bound.

(g) **Compliance with Laws.** The Developer is in material compliance with all valid laws, ordinances, orders, decrees, decisions, rules, regulations and requirements of every duly constituted governmental authority, commission and court applicable to any of its affairs, business, operations as contemplated by this Agreement.

(h) **Other Disclosures.** The information furnished to the City by the Developer in connection with the matters covered in this Agreement is true and correct and does not contain any untrue statement of any material fact and does not omit to state any material fact required to be stated therein or necessary to make any statement made therein, in the light of the circumstances under which it was made, not misleading.

2.3 Maintenance of Existence. During the term of this Agreement the Developer will maintain its legal existence, will continue to be in good standing under the laws of the State of Kansas and will not dissolve consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it.

2.4 Conditions to the Effectiveness of this Agreement. Contemporaneously with the execution of this Agreement, and as a precondition to the effectiveness of this Agreement, the Developer will submit the following documents to the City:

- (a) a copy of the Developer's Articles of Organization and a good standing certificate dated within one month of the date of this Agreement, each certified by the Secretary of State of the State of Kansas;
- (b) a certified copy of the Operating Agreement of the Developer; and
- (c) a list of the officers and members of the Developer.

2.5 City Discretion. The zoning commission and the City retain full discretion within existing ordinances and policy regarding its zoning, planning, permitting and inspection requirements.

ARTICLE III REINVESTMENT HOUSING INCENTIVE DISTRICT

3.1 Preliminary Resolution. The Governing Body has heretofore adopted Resolution No. 2022-004 (the “Preliminary Resolution”), which made certain findings pursuant to the Reinvestment Housing Incentive District Act, relative to the need for housing in the City and declaring an intent to establish reinvestment housing incentive districts within the City.

3.2 Department of Commerce Finding. Pursuant to the Preliminary Resolution, the City forwarded a copy of its Housing Needs Analysis with the Preliminary Resolution, to the Kansas Secretary of Commerce. On March 22, 2022, the Kansas Secretary of Commerce issued a letter to the City making certain findings required by the Reinvestment Housing Incentive District Act, and approved the City’s ability to establish reinvestment housing incentive districts.

3.3 District Creation. The City prepared the Development Plan in accordance with the provisions of the Reinvestment Housing Incentive District Act, called for and held a public hearing relative to the Development Plan, and passed the RHID Ordinance approving the Development Plan and establishing the District. The District was deemed to be established at the time the RHID Ordinance was passed by the Governing Body and published as required by law.

ARTICLE IV CONSTRUCTION

4.1 Concept Site Plan.

(a) Developer, at its cost, has had prepared the Concept Site Plan, which is hereby approved by the Parties. Notwithstanding anything to the contrary herein, the City’s acceptance of the Concept Site Plan is not acceptance of the final site plan as required by the City ordinances and the City retains full and complete discretion to review, modify and approve or not approve such final site plan through its normal planning, zoning and permitting process.

(b) Developer will promptly notify City in writing of any proposed Material Changes to the Concept Site Plan at least 30 days prior to the implementation of any such Material Change, including a description of the Material Change and reasons therefore, including any supporting documentation requested by the City. Developer may implement a proposed Material Change to the Concept Site Plan only with the advance written consent of the City.

(c) Developer may make changes which are not Material Changes to the Concept Site Plan or any aspect thereof as site conditions or other issues of feasibility may dictate or as may be necessary or desirable in the sole determination of Developer to enhance the economic viability of the Project, with approval from the City.

4.2 Schedule. Developer will commence renovation and construction of the Project no later than December 31, 2023. Developer will diligently pursue and must obtain Substantial Completion of the Project within [18] months after commencement of construction.

4.3 Project Construction.

(a) Developer will construct, at its cost, the Project in a good and workmanlike manner in accordance with the terms of the Development Plan and this Agreement and as set forth in the Construction Plans. Notwithstanding anything to the contrary herein, all work on the Project will comply with existing City codes, rules and regulations. If Developer serves as general contractor for the Project, Developer will not charge more for such services than a third-party contractor would customarily charge for such services.

All work on the Project will be inspected by City staff during construction as if this Agreement did not exist.

(b) Developer may enter into one or more construction contracts to complete the Project. Prior to the commencement of construction of the Project, Developer will obtain, or will require that any such contractor obtain, the insurance required in **Section 7.8** hereof and will deliver evidence of such insurance to City.

(c) Promptly after Substantial Completion of the Project, in accordance with the provisions of this Agreement, Developer will furnish to City a Certificate of Substantial Completion in the form attached hereto as **Exhibit D**. The City will, within thirty (30) days following delivery of the Certificate of Substantial Completion, carry out such inspections as it deems necessary to (i) verify reasonable satisfaction with, and the accuracy of, the certifications contained in the Certificate of Substantial Completion, and (ii) verify, in the City's sole discretion, that the Project complies with all applicable City code and permitting requirements. The Certificate of Substantial Completion will be deemed accepted by City unless, prior to the end of such 30-day period after delivery to City of each Certificate of Substantial Completion, City furnishes Developer with specific written objections to the status of the Project, describing such objections and the written objections to the status of the Project, describing such objections and the measures required to correct such objections in reasonable detail.

ARTICLE V FINANCING OBLIGATIONS

5.1 Project Financing. All costs of the Project will be paid in cash or financed by Developer. The City will use RHID Funds to reimburse Developer for all or a portion of the Eligible Costs, subject to the terms of this Agreement. Reimbursements will be made solely to the Developer. So long as the total amount of Eligible Costs requested for reimbursement does not exceed the actual amount expended for such use or 120% of the total set forth on **Exhibit C**:

(a) the Developer may seek reimbursement of any particular line item on **Exhibit C** not exceeding 120% of the amount stated therein; and

(b) the Developer will be permitted to adjust the amounts estimated as Eligible Costs within and between each line item with the written consent of the City Manager.

5.2 Request for Reimbursement. The Developer will certify all costs and expenditures to be made in connection with the Eligible Costs in accordance with the following:

(a) The Developer will submit to the City a Request for Reimbursement in the form attached hereto as **Exhibit E** setting forth the amount for which reimbursement is sought and an itemized listing of the related Eligible Costs.

(b) Each Request for Reimbursement will be accompanied by such bills, contracts, invoices, or other evidence reasonably satisfactory to the City to document that payment has been made by the Developer for such Eligible Costs.

5.3 Reimbursement. The City will have 30 calendar days after receipt of any Request for Reimbursement to review and respond by written notice to the Developer. If the submitted documentation demonstrates that: (1) the Request for Reimbursement shows payment of the Eligible Costs; (2) the expense was incurred; (3) the Developer is not in default under this Agreement; and (4) the City has not discovered any fraud on the part of the Developer, then the City will approve the Request for Reimbursement and

promptly reimburse the Developer for the Eligible Costs pursuant to the terms of this Agreement if sufficient RHID Funds are available, and quarterly as funds become available in the event that RHID Funds in the City's possession are at that time insufficient. In the event the City does not respond within such 30day period, the Request for Reimbursement will be deemed approved. If the City disapproves of the Request for Reimbursement, the Parties will meet to resolve any such differences. If a resolution is not found regarding specific cost(s), the denied cost will not be Eligible Costs unless and until a final order from a court of competent jurisdiction is received by the City requiring the cost to be accepted as an Eligible Cost or other written agreement of the Parties. Reimbursements will cease upon the earlier of (a) such time as the Eligible Costs have been fully reimbursed to Developer, or (b) 25 years after the date of the establishment of the District. The City will have no liability and/or responsibility to Developer for any payment greater than the amounts received from the Montgomery County Treasurer pursuant to the provisions of K.S.A. 12-5250(b)(2)(A) as a result of the creation of the District and attributable to the Property.

5.4 Payment of City Expenses. The Developer will pay or reimburse the City for payment of City Expenses. All City Expenses paid by the Developer will be Eligible Costs.

ARTICLE VI MODERATE INCOME HOUSING GRANT PROGRAM

6.1 MIH Support Ordinance. The Governing Body has heretofore adopted Ordinance No. 4415 (the "**MIH Support Ordinance**"), which authorized the City to support an application to the MIH Program for the Project. Based upon the MIH Support Ordinance, the Developer has submitted an application (the "**MIH Application**") to KHRC requesting MIH Program grant funds to assist with financing of the Project.

6.2 Developer Assumption of MIH Grant Obligations. If KHRC awards an MIH Program grant for the Project, the City will enter into a Grant Agreement with KHRC, with terms to be approved by the City Manager and City Attorney (the "**Grant Agreement**"). Upon effectiveness of the Grant Agreement, the City assigns all rights under the Grant Agreement to Developer and Developer assumes and agrees to undertake responsibility for carrying out all activities required or contemplated under the Grant Agreement in a manner satisfactory to the City and consistent with all standards required as a condition of the MIH Program grant by KHRC. On or after the date of execution and effectiveness of the Grant Agreement, the City and Developer will execute an Acknowledgment of Assignment and Assumption ("**Acknowledgment**") substantially in the form attached hereto as ***Exhibit G*** pursuant to which the City and Developer will acknowledge and affirm the assignment and assumption of the Grant Agreement rights and obligations pursuant to the terms of this ***Section 6.2***. As part of its responsibilities under this Agreement, Developer:

- (a) Will carry out all activities set forth in the MIH Application;
- (b) Covenants, promises, and agrees that it will be bound by all terms, provisions, and covenants of the Grant Agreement as if it had been the original grantee under the Grant Agreement;
- (c) Unconditionally assumes and agrees to timely perform all obligations of the City as grantee under the Grant Agreement and all other documents executed by the City in connection with the Grant Agreement;
- (d) Will promptly provide the City with a copy of all correspondence to or from KHRC related to the MIH Application, the Grant Agreement, or the Project;

(e) Will provide the City with a copy of all reports, including without limitation all monthly status reports, submitted to KHRC under the terms of the Grant Agreement;

(f) Will at all times act in accordance with the policies, procedures, and other requirements of KHRC, including any written amendments or additional guidance or regulations provided by KHRC or otherwise required by law; and

(g) Will execute and deliver any further instruments, notices, releases, acquittances, or other documents as may be necessary to carry out or otherwise effect the transactions contemplated by this Agreement or any MIH Program materials.

6.3 Indemnity from Developer and Principal. Notwithstanding anything in this Agreement to the contrary, the Developer and Christopher Stemler and Nicholas Irick, individually as members of the Developer, jointly and severally agree to defend, indemnify, and hold the City, its officers, officials, representatives, and employees harmless from any and all claims, injuries, damages, losses or suits (including the payment of the City's reasonable attorney fees) arising out of or in connection with their performance under the Grant Agreement or any MIH Program documents or agreements related to the Project, including without limitation any penalties imposed by KHRC as a result of any noncompliance by the Developer.

6.4 Failure to Obtain Grant. If KHRC does not award an MIH Program grant for the Project by September 20, 2024, Developer may terminate this Agreement by written notice to the City; provided, however, that the Developer will remain liable for all City Expenses and be liable for and will hold the City harmless from all legal and professional costs, fees and expenses incurred by City with regard to the termination of this Agreement and the District.

ARTICLE VII GENERAL PROVISIONS

7.1 City's Right to Terminate. In addition to all other rights of termination as provided herein, City may terminate this Agreement at any time if Developer defaults in or breaches any material provision of this Agreement and fails to cure such default or breach within thirty (30) days after receipt of written notice from City of such default or breach.

7.2 Developer's Right to Terminate. In addition to all other rights of termination as provided herein, Developer may terminate this Agreement at any time if City defaults in or breaches any material provision of this Agreement (including any City default under *Article V* hereof) and fails to cure such default or breach within 30 days after receipt of written notice from Developer of such default or breach.

7.3 Successors and Assigns.

(a) This agreement will be binding on and inure to the benefit of the Parties and their respective heirs, administrators, executors, personal representatives, agents, successors and assigns.

(b) Until Substantial Completion of the Project has occurred, the obligations of Developer under this Agreement may not be assigned in whole or in part without the prior written approval of City, which approval will not be unreasonably withheld, conditioned, or delayed upon a reasonable demonstration by Developer of the proposed assignee's experience and financial capability to undertake and complete all portions of the Project, all in accordance with this Agreement. Notwithstanding the foregoing, Developer is permitted to subcontract the construction of any portion of the Project without the consent of City but Developer will remain liable under this Agreement.

(c) The City hereby approves, and no prior consent will be required in connection with:

(1) the right of Developer to encumber or collaterally assign its interest in the Property or any portion thereof or any interest in the Agreement to secure loans, advances or extensions of credit to finance or from time to time refinance all or any part of the Eligible Costs, or the right of the holder of any such encumbrance or transferee of any such collateral assignment;

(2) the right of Developer to assign Developer's rights, duties and obligations under the Agreement to a Related Party; or

(3) the right of Developer to lease portions of the Property in the ordinary course of the development of the Project;

provided that in each such event Developer named herein will remain liable hereunder for the Substantial Completion of the Project, and will be released from such liability hereunder only upon Substantial Completion of the Project.

7.4 Remedies.

(a) Except as otherwise provided in this Agreement and subject to Developer's and City's respective rights of termination, in the event of any breach of any term or condition of this Agreement by either Party, or any successor, the breaching Party (or successor) will, upon written notice from the other Party specifying such claimed breach, proceed immediately to cure or remedy such breach, and will, in any event, within 30 days after receipt of notice, cure or remedy such default. If the breach is not cured or remedied, the aggrieved Party may hold the breaching Party in default of this Agreement and there upon may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including, but not limited to proceedings to compel specific performance by the defaulting or breaching Party, withholding funds received pursuant to K.S.A. 12-5250(b)(2)(A) and/or repeal of the RHID Ordinance establishing the District. For purposes of this **Section 7.4**, no Party may be deemed in default of this Agreement unless and until it has received notice of any claimed breach and has been given an opportunity to cure the same.

(b) Notwithstanding any other provision of this Agreement, in no event will the Developer or the City ever be liable for any punitive, special, incidental, or consequential damages in connection with this Agreement, or otherwise. For purposes of this **Section 7.4**, consequential damages include, but are not limited to, lost profits, lost tax revenue, or other similar losses which are not direct out-of-pocket costs incurred by the non-defaulting Party. Any monetary damages owed by the City will be limited to and will only be payable from RHID Funds actually received by the City as a result of the creation of the District and attributable to the Property.

(c) Any delay by a Party in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this Section will not operate as a waiver of such rights or limit it in any way. No waiver in fact made by a Party of any specific default will be considered or treated as a waiver of the rights with respect to any other defaults, or with respect to the particular default except to the extent specifically waived.

7.5 Force Majeure. Neither City nor Developer nor any successor in interests will be considered in breach or default of their respective obligations under this Agreement, and times for performance of obligations hereunder will be extended in the event of any delay caused by force majeure, including, without limitation, damage or destruction by fire or casualty; strike; lockout; civil disorder; act

of terror; war; restrictive government regulations; lack of issuance of any permits and/or legal authorization by any governmental entity necessary for the Developer to proceed with construction of the Project or any portion thereof, shortage of delay in shipment of material or fuel; acts of God; unusually adverse weather or soil conditions; unforeseen site conditions that render the site economically or physically undevelopable (as a result of additional cost or delay), or any other cause or contingency similarly; or other causes beyond the Parties' reasonable control, including but not limited to, any litigation, court order or judgment resulting from any litigation affecting the validity of this Agreement; provided that such event of force majeure will not be deemed to exist as to any matter initiated or unreasonably sustained by Developer, and further provided that Developer notifies city in writing within thirty (30) days of the commencement of such claimed event of force majeure.

7.6 Notices. Any notice, demand or other communication required by this Agreement to be given by either Party hereto to the other will be in writing and will be sufficiently given or delivered if dispatched by certified United States first class mail, postage prepaid, or delivered personally,

(a) In the case of Developer, to:

Trident Partners, L.L.C.
Attn: Manager
Christopher Stemler____

Email: Christopher@tridentpartnerships.com
Phone: [785-438-7311](tel:785-438-7311)

(b) In the case of City, to:

With a copy to:

City of Independence, Kansas
Attention: City Manager
811 West Laurel Street
Independence, Kansas 67301
Email: kellyp@Independenceks.gov
Phone: (620) 332-2500

City of Independence, Kansas
Attn: City Attorney
811 West Laurel Street
Independence, Kansas 67301
Email: _____
Phone: (620) 332-2500

Or to such other address with respect to either Party as that Party may, from time to time, designate in writing and forward to the other as provided in this **Section 7.6**.

7.7 Conflict of Interest. No member of the Governing Body or any branch of City's government who has any power of review or approval of any of Developer's undertakings, or of City's contracting for goods or services for the Project, will participate in any decisions relating thereto which affect that member's personal interests or the interests of any corporation or partnership in which that member is directly or indirectly interested. Any person having such interests will immediately, upon knowledge of such possible conflict, disclose, in writing, to the Governing Body the nature of such interest and seek a determination by the Governing Body with respect to such interest and, in the meantime, will

not participate in any actions or discussions relating to the activities herein proscribed. City represents to Developer that no such conflicts of interest exist as of the date hereof.

7.8 Insurance; Damage or Destruction.

(a) Developer will cause there to be insurance coverage as hereinafter set forth at all times during the process of constructing the Project and, from time to time at the request of City, will furnish City with proof of payment of premiums on:

(1) Builder's Risk insurance, written on the so called "Builder's Risk—Completed Value Basis," in an amount equal to one hundred percent (100%) of the insurable value of the Project at the date of completion, and with coverage available in non-reporting form on the so called "all risk" form of policy. The interest, if any, of City will be protected in accordance with a clause in form and content satisfactory to City; and,

(2) Comprehensive general liability insurance (including operations, operations of subcontractors, completed operations and contractual liability insurance) together with an owner's contractor's policy, with limits against bodily injury and property damage of not less than Five Million Dollars (\$5,000,000.00) for all claims arising out of a single accident or occurrence and Two Million Dollars (\$2,000,000.00) for any one person in a single accident or occurrence (to accomplish the above required limits, an umbrella excess liability policy may be used); and

(3) Workers Compensation insurance, with statutorily required coverage.

(b) The policies of insurance required pursuant to clauses (1) and (2) above will be in form and content reasonably satisfactory to City and will be placed with financially sound and reputable insurers licensed to transact business in the State of Kansas with general policy holder's rating of not less than A- and a financial rating of A- as rated in the most current available "Best's" insurance reports. The policy of insurance delivered pursuant to clause (1) above will contain an agreement of the insurer to give not less than 30 days advance written notice to the City in the event of cancellation of such policy or change affecting the coverage thereunder. All policies of insurance required pursuant to this section will name City as an additional insured. Developer will deliver to City evidence of all insurance to be maintained hereunder.

7.9 Inspection. Developer will allow City and its employees, agents and representatives to inspect, upon request, all architectural, engineering, demolition, construction and other contracts and documents pertaining to the construction of the Project as City determines is reasonable and necessary to verify Developer's compliance with the terms of this Agreement.

7.10 Choice of Law. This Agreement will be deemed to have been fully executed, made by the Parties in, and governed by the laws of State of Kansas for all purposes and intents.

7.11 Entire Agreement; Amendment. The Parties agree that this Agreement, the Development Plan, and the Assignment and Assumption Agreement, collectively constitute the entire agreement between the Parties and that no other agreements or representations other than those contained in this Agreement have been made by the Parties. This Agreement may be amended only in writing and effective when signed by the authorized agents of the Parties.

7.12 Counterparts. This Agreement is executed in multiple counterparts, each of which constitute one and the same instruments.

7.13 Severability. If any term or provision of this Agreement is held to be unenforceable by a court of competent jurisdiction, the remainder will continue in full force and effect, to the extent the remainder can be given effect without the invalid provision.

7.14 Representatives Not Personally Liable. No elected or appointed official, agent, employee or representative of City will be personally liable to Developer in the event of any default or breach by any Party under this Agreement or for any amount which may become due to any Party or on any obligations under the terms of this Agreement.

7.15 Legal Actions. If a third party brings an action against City, or any officials, agents, employees or representatives thereof contesting the validity or legality of any of the terms of this Agreement, or the ordinance approving this Agreement, Developer may, at Developer's option but only with City's consent, assume the defense of such claim or action (including without limitation, to settle or compromise any claim or action for which Developer has assumed the defense) with counsel of Developer's choosing. The Parties expressly agree that so long as no conflicts of interest exist between them, the same attorney or attorneys may simultaneously represent City and Developer in any such proceeding; provided, Developer and its counsel will consult with City throughout the course of any such action and Developer will pay all reasonable and necessary costs incurred by City in connection with such action. If such defense is assumed by Developer, all costs of any such action incurred by City will be promptly paid by Developer. If City refuses to permit Developer to assume the defense of any action, then costs incurred by City will be paid by City.

7.16 Release and Indemnification. Notwithstanding the expiration, termination or breach of this Agreement by either Party, the indemnifications and covenants contained in this **Section 7.16** will, except as otherwise expressly set forth herein, survive such expiration, termination or breach of this Agreement by Parties hereto.

(a) Notwithstanding anything herein to the contrary, City and its Governing Body members, officers, agents, servants, employees and independent contractors will not be liable to Developer for damages or otherwise in the event that any ordinance, order or resolution adopted in connection with this Agreement is declared invalid or unconstitutional in whole or in part by the final (as to which all rights of appeal have expired or have been exhausted) judgment of any court of competent jurisdiction, and by reason thereof either City is prevented from performing any of the covenants and agreements herein or Developer is prevented from enjoying the rights and privileges hereof.

(b) Developer releases from, agrees to indemnify and hold harmless City, its Governing Body members, officers, agents, servants and employees against, and covenants and agrees that City and its Governing Body members, officers, agents, servants, employees and independent contractors will not be liable for, any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect in the acquisition of the Property or construction of the Project including any and all claims arising from the acquisition of the Property, including, but not limited to, location of hazardous wastes, hazardous materials or other environmental contaminants on the Property, including all costs of defense, including attorney's fees, except for those matters rising out of the willful and/or wanton negligence of City and its governing body members, officers, agents, servants, and employees.

(c) City and its Governing Body members, officers, agents, servants and employees will not be liable for any damage or injury to the persons or property of Developer or its officers, agents, servants or employees or any other person who may be about the Property or the Project except for matters arising out of the willful and/or wanton negligence of City and its Governing Body members, officers, agents, servants and employees.

(d) All covenants, stipulations, promises, agreements and obligations of City contained herein will be deemed to be the covenants, stipulations, promises, agreements and obligations of City and not of any of its Governing Body members, officers, agents, servants or employees in their individual capacities.

(e) No official, employee or representative of City will be personally liable to Developer in the event of a default or breach by any Party to this Agreement.

(f) Developer releases from and covenants and agrees the City, its Governing Body members, officers, employees, agents and independent contractors will not be liable for, and agrees to indemnify and hold City, its Governing Body, members, officers, employees, agents and independent contractors harmless from and against any and all suits, interest, claims and cost of attorney fees incurred by any of them, resulting from, arising out of, or in any way connected with: (1) the Project or its approval, (2) the construction of the Project, (3) the negligence or willful misconduct of Developer, its employees, agents or independent contractors in connection with the management, development, and construction of the Project, (4) the compliance by Developer with all applicable state, federal and local environmental laws, regulations, ordinances and orders, (5) underground storage tanks located on or about the Property, (6) friable asbestos or asbestos-containing materials at, on, or in the Property, (7) the operation of all or any part of the Property, or the condition of the Property, including, without limitation, any environmental cost or liability, or (8) negotiations, inspections, acquisitions, preparations, construction, leasing, operations, and other activities of Developer or its agents in connection with or leading to the Project or the Property; except that the foregoing release and indemnification will not apply in the case of such liability arising directly out of the willful and/or wanton negligence of City or its authorized Governing Body members, officers, employees and agents or which arises out of matters undertaken by City following termination of this Agreement.

7.17 Tax Implications. The Developer acknowledges and represents that (1) neither the City nor any of its officials, employees, consultants, attorneys or other agents has provided to the Developer any advice regarding the federal or State income tax implications or consequences of this Agreement and the transactions contemplated hereby, and (2) the Developer is relying solely upon its own tax advisors in this regard.

7.18 Cash Basis and Budget Laws. The Parties acknowledge and agree that the ability of the City to enter into and perform certain financial obligations pursuant to this Agreement are subject to the K.S.A. 10-1101 *et seq.* and K.S.A. 79-2935 *et seq.*

7.19 No Partnership. Nothing contained herein will be construed as creating a partnership between the Parties.

7.20 Term. The term of this Agreement will commence on the Effective Date and, unless terminated earlier as provided in this Agreement, expire on the latest of: (i) the date all Eligible Costs have been reimbursed with RHID Funds, subject to the requirements and limitations set forth in this Agreement; or (ii) when the City has released all RHID Funds that have been collected for 25 years after the date of the RHID Ordinance.

7.21 Authorized Parties. Whenever under the provisions of this Agreement and other related documents, instruments or any supplemental agreement, a request, demand, approval, notice or consent of the Parties are required, or the Parties are required to agree or to take some action at the request of the other Party, such approval or such consent or such request shall be given for the City, unless otherwise provided herein, by the City Manager and for the Developer by any officer of Developer so authorized; and any person shall be authorized to act on any such agreement, request, demand, approval, notice or consent or other action and neither Party shall have any complaint against the other as a result of any such action taken.

[BALANCE OF THIS PAGE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, City and Developer have caused this Agreement to be executed in their respective names and City has caused its seal to be affixed thereto, and attested as to the date first above written.

CITY OF INDEPENDENCE, KANSAS

(SEAL)

By: _____
Mayor

ATTEST:

By: _____
City Clerk

TRIDENT PARTNERS, L.L.C.

By:

Name: Christopher Stemler

Title: Owner

Joined individually as to Section 6.3 only:

Christopher Stemler

Nicholas Irick

SCHEDULE OF EXHIBITS

Exhibit A	Property Description
Exhibit B	Property Map
Exhibit C	Eligible Costs for Project
Exhibit D	Certification of Substantial Completion Form
Exhibit E	Request for Reimbursement Form
Exhibit F	Development Plan
Exhibit G	Acknowledgment of Assignment and Assumption Form

EXHIBIT A

RHID PROPERTY DESCRIPTION DOWNTOWN CENTRAL BUSINESS DEVELOPMENT DISTRICT PART 1 REINVESTMENT HOUSING INCENTIVE DISTRICT

ORIG PLAT, S31, T32, R16, BLOCK 31, COM 19.45' S NW COR LOT 16 AS POB E 50.2' S 73' E 20' N 20.35' E 18.2' S 60' W 101.2' N 40.55' TO POB; Lot Width: 040.5 Lot Depth: 101.2
(Commonly known as 0000 North 8th)

ORIG PLAT, S31, T32, R16, 4826 SQUARE FEET, N 70' LTS 17-19 BLK 42; Lot Width: 070.0 Lot Depth: 070.0
(Commonly known as 106 North 8th)

ORIG PLAT, S31, T32, R16, BEG NW COR LT 20 BLK 42, E 21.4' S 19.8' S ALG PARTY WALL 83.7' E 5.5' S 11.9' E 9.7' S 8.3' E 10.5' S 16.7' M/L TO S; Lot Width: 140.0 Lot Depth: 046.6
(Commonly known as 120 North 8th)

ORIG PLAT, S31, T32, R16, E 30' N 10' LT 16; E 30' LTS 17 & 18 BLK 31; LOT WIDTH: 030.0 LOT DEPTH: 130.0
(Commonly known as 113 West Laurel)

ORIG PLAT, S31, T32, R16, BLOCK 54, Lot 6, 3484 SQUARE FEET, Lot Width: 025.0 Lot Depth: 140.0
(Commonly known as 113 East Main)

ORIG PLAT, S31, T32, R16, 5585 SQUARE FEET, LT 10; & BEG NE COR LT 11 W 29' S 80' E 2' N 6' SELY TO PT 2' W & 85' S NE COR LT 11 S 55' E 2' N TO POB BLK 56; Lot Width: 052.0 Lot Depth: 140.0
(Commonly known as 219 West Main)

EXHIBIT B

**RHID PROPERTY MAP
DOWNTOWN CENTRAL BUSINESS DEVELOPMENT DISTRICT PART 1
REINVESTMENT HOUSING INCENTIVE DISTRICT**

[to be inserted]

EXHIBIT C

**ELIGIBLE COSTS FOR
TRIDENT PARTNERS PROJECT
DOWNTOWN CENTRAL BUSINESS DEVELOPMENT DISTRICT
REINVESTMENT HOUSING INCENTIVE DISTRICT**

Category	Estimated Amount
Acquisition Costs	\$615000
2 nd and 3 rd Floor Residential Improvements/Remodeling	[8,000,000]
Miscellaneous & City Expenses	[]
<i>Total</i>	

EXHIBIT D

CERTIFICATION OF SUBSTANTIAL COMPLETION FORM

The undersigned, on behalf of Trident Partners, L.L.C. (the "Developer"), pursuant to **Section 4.4** of the Development Agreement dated as of [_____] (the "Development Agreement") by and among the City of Independence, Kansas, and the Developer, hereby certifies as follows. All capitalized terms used herein have the meaning attributable to such terms in the Development Agreement.

1. The Project is sufficiently complete in accordance with the Construction Plans, excepting all punch list items, such that the Developer can occupy or utilize the Project for its intended purpose.
2. The Project has been completed in a good and workmanlike manner.
3. There are no mechanic's or materialmen's liens or other statutory liens on file encumbering title to the Property; all bills for labor and materials furnished for such portion of the Project which could form the basis of a mechanic's, materialmen's or other statutory lien against the Property have been paid in full, and within the past four months no such labor or materials have been furnished which have not been paid for.
4. All applicable building codes have been complied with in connection with the Project.

Dated: _____, 20____

TRIDENT PARTNERS, L.L.C.

By: _____
Name: _____
Title: _____

EXHIBIT E
REQUEST FOR REIMBURSEMENT

City of Independence, Kansas
Attention: City Manager

You are hereby requested by the undersigned, an authorized representative of Trident Partners, L.L.C. (the "Developer") to disburse funds held by the City in the special revenue fund created pursuant the authority in K.S.A. 12-5250(b)(2)(A) for the Trident Partners project (the "Fund") and set forth in the Development Agreement between the City of Independence, Kansas and the Developer for the Trident Partners project within the Downtown Central Business Development District Part 1 Reinvestment Housing Incentive District dated [] (the "Agreement") to reimburse expenditures made by the Developer for Eligible Costs (as defined in the Agreement) as described on and in the amounts set forth in the Schedules attached to this invoice and incorporated herein by this reference (the "Schedules").

I hereby certify that the amounts requested in the attached Schedules have been paid by the Developer in payment of costs that are Eligible Costs, as defined in the Agreement.

I further certify that no part of the amounts set forth in the Schedules have been the basis for any previous withdrawal of any moneys from the Fund.

Attached to the Schedules is a description of the nature of the item billed, a reference to which type of Eligible Cost the expense applies to under the Reinvestment Housing Incentive Act and the Agreement, and a copy of the contract, invoice or other billing for the Eligible Costs for which Developer seeks reimbursement, along with copies of checks, evidence of wire transfers or other evidence of payment by the Developer of such Eligible Costs and hereby certify that such copies are true and accurate copies of the original documents.

Dated: _____, 20____

TRIDENT PARTNERS, L.L.C.

By: _____
Name: _____
Title: _____

Invoice Reimbursement Schedule

Pursuant **Section 5.2** of the Agreement, I hereby request reimbursement of the amounts specified below and I certify that the description of the purchase or nature of each payment is reasonable, accurate and complete and that Developer has previously paid such Eligible Costs:

	Payee Name	Date of Payment	Purpose or Nature of Payment	Amount
1.				\$
2.				\$
3.				\$
4.				\$
5.				\$
6.				\$

Total Expenses \$ _____

Developer Signature

Note: Copies of bills, contracts, checks and other evidence reflecting the amounts shown above (as described in Section 5.2 of the Agreement) should be attached to this Schedule.

EXHIBIT F

DEVELOPMENT PLAN

We have purchased 6 buildings and are renovating them to first floor mixed use and second floor and above residential spaces. Building designs attached.

EXHIBIT G

ACKNOWLEDGMENT OF ASSIGNMENT AND ASSUMPTION

This Acknowledgment of Assignment and Assumption is dated effective as of _____, 20__ by and between the City of Independence, Kansas (the “**City**”) and Trident Partners, L.L.C., a Kansas limited liability company (the “**Developer**”).

1. The City and the Developer have entered into a Development Agreement (the “**Development Agreement**”) dated as of [____], related to the redevelopment of the Trident Partners project (the “**Project**”). Capitalized terms used but not defined herein will have the meaning set forth in the Development Agreement.

2. Pursuant to **Section 6.1** of the Development Agreement, the Developer has submitted an MIH Application to the Kansas Housing Resources Corporation (“**KHRC**”) requesting Moderate Income Housing Program grant funds to assist with financing of the Project.

3. KHRC has approved an MIH grant award totaling \$[____] for the Project.

4. The City and KHRC have entered into a Grant Agreement dated [____, 20__] (the “**Grant Agreement**”), which is attached as **Appendix I** and incorporated herein.

5. Pursuant to the terms of the Development Agreement, the City agreed to assign its rights and obligations under the Grant Agreement to the Developer and the Developer agreed to accept the rights and undertake and guarantee fulfillment of the obligations of the City under the Grant Agreement.

6. The City and the Developer hereby acknowledge and affirm (a) the assignment of the City’s rights and obligations under the Grant Agreement to the Developer and (b) the Developer’s assumption of the rights and obligations of the City under the Grant Agreement, all as described in **Section 6.2** of the Development Agreement.

[BALANCE OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, City and Developer have caused this Acknowledgment of Assignment and Assumption to be executed in their respective names and City has caused its seal to be affixed thereto, and attested as to the date first above written.

CITY OF INDEPENDENCE, KANSAS

(SEAL)

By: _____
Mayor

ATTEST:

By: _____
City Clerk

TRIDENT PARTNERS, L.L.C.

By: _____
Name: _____
Title: _____

APPENDIX I
GRANT AGREEMENT



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
September 28, 2023

Department Housing

Director Approval April Nutt

AGENDA ITEM Authorize going out for bid for the construction of the infrastructure for the Jefferson Subdivision

SUMMARY RECOMMENDATION The Independence Housing Authority recommends the Independence City Commission authorize the letting of the infrastructure bids for the Jefferson Subdivision.

BACKGROUND The Independence Housing Authority is developing the Jefferson Subdivision, a new 20 single-family home subdivision. Nine of the homes will be sold to moderate-income qualifying buyers, with eleven homes being sold at market rate. The Jefferson Subdivision has been established as a Rural Housing Incentive District; therefore funds being expended on the construction of the infrastructure will be reimbursed through the ad valorem taxes paid for the construction of the 20 new homes.

FINANCIAL INFORMATION The City of Independence has received a \$200,000 Moderate-Income Housing Grant for the construction of the Jefferson Subdivision infrastructure. The city will contribute \$500,000 from the city utility fund, with the balance of needed funds coming from the Independence Housing Authority development fund. These funds will be reimbursed through the Rural Housing Incentive District that has been established for this development.

SUGGESTED MOTION I move to authorize bidding for the construction of the infrastructure for the Jefferson Subdivision.

SUPPORTING DOCUMENTS



**REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
September 28, 2023**

Department Admin

Director Approval David Cowan

AGENDA ITEM Consider setting the date of December 14, 2023 for a Public Hearing to consider the condemnation of 427 S. 15th Street as dangerous and unsafe.

SUMMARY RECOMMENDATION City staff recommends setting the date.

BACKGROUND The City Staff received a complaint about this structure and activity occurring at the residence. City staff found the structure to be a blight, doors were open, and the house is in disrepair and uninhabitable. The structure last had utilities in 2015. The City Staff recommends setting the date to consider condemnation of the structure.

FINANCIAL INFORMATION The cost of removal if the owner fails to commence repair or removal of the structure.

SUGGESTED MOTION I move to adopt a resolution setting the date of December 14, 2023 at 5:30 PM for a Public Hearing to consider the condemnation of 427 S. 15th Street as dangerous and unsafe.

SUPPORTING DOCUMENTS

1. RESOLUTION 2023-045 - CONDEMNATION - PH - 427 S 15th
2. 427 S. 15th - Condemnation Notice - 09192023
3. Parcel Listing
4. Photo 1
5. Photo 2
6. Photo 3
7. Photo 4
8. Photo 5
9. Photo 6
10. Photo 7

RESOLUTION NO. 2023-045

A RESOLUTION FIXING A TIME AND PLACE AND PROVIDING FOR NOTICE OF HEARING BEFORE THE GOVERNING BODY OF THE CITY OF INDEPENDENCE, KANSAS, OF WHICH OWNERS, OWNERS AGENTS, LIEN HOLDERS OF RECORD AND ANY OCCUPANTS, IF ANY, OF THE STRUCTURE OR STRUCTURES IDENTIFIED BELOW, IN SAID CITY MAY APPEAR AND SHOW CAUSE WHY SAID STRUCTURE OR STRUCTURES SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED PURSUANT TO K.S.A. 12-1751 ET. SEQ.

WHEREAS, the enforcing officer of the City of Independence, Kansas, did on the 28th day of September 2023, file with the Governing body of said City, statements, and reports in writing that the structure or structures located on said properties hereinafter described are unsafe and/or dangerous:

Legal: Lot 1 and the North 1/2 of Lot 2, Block 1 of the Andrews Subdivision of Lot 11, Holmans Suburban Addition to the City of Independence, Montgomery County, Kansas.

Common Address: 427 S 15th Street.

Mortgage:

NOW, THEREFORE, be it resolved by the Governing Body of the City of Independence, Kansas:

That a public hearing will be held on Thursday, **December 14, 2023** before the Governing Body of the City of Independence, Kansas, at **5:30 p.m.**, in the Civic Center, Memorial Hall, Penn Ave. and Locust Streets, Independence, Kansas, at which time the owner, the owners agent, any lien holders of record and any occupant of the structure or structures located on the properties described herein, may appear and show cause why such structure or structures should not be condemned as unsafe and/or dangerous and ordered repaired or removed.

Be it further resolved that the City Clerk shall cause this Resolution to be published one time each week for two consecutive weeks on the same day of each week, that at least thirty (30) days shall elapse between the last publication and the date set for hearing and the City Clerk shall give notice of the aforesaid hearing in the manner provided by Ordinance and by law.

Be it further resolved by the Governing Body of the City of Independence that its authority for the actions set forth herein is established pursuant to K.S.A. 12-1751 ET. SEQ.

Adopted this 28th day of September 2023.

(SEAL)

Mayor

City Clerk



"Delivering Excellence"

September 19, 2023

Patricia Padua-Panfilo
308 Willow St.
Coffeyville, Ks. 67337

Dear Ms. Padua-Panfilo

I am writing to inform you that the City Commission will be setting a Public Hearing at their September 28, 2023, meeting to consider the **Condemnation of 427 S. 15th as dangerous and unsafe on December 14, 2023.**

The following action must begin to avoid having your residential property condemned as dangerous and unsafe on July 13, 2023.

1. Immediate Repairs need to start
 - a. Secure the Structure
 - i. No utilities to the house, it is not considered habitable
 - b. Holes in the roof
 - c. Debris in the yard
2. A timeline of the repairs must be submitted to the building inspector
 - a. Timeline of repairs working towards the occupancy of the building.
3. If no, you do not plan to repair this residential property.
 - a. The City of Independence will proceed with condemnation of the structure.
 - b. Please inform us of your timeline to remove the structure to avoid condemnation.
 - c. City will hire a company to secure the structure at the owner's expense when condemned and waiting for removal.
4. If I do not hear from you by September 28, 2023, it will be **imperative** that you communicate or attend December 14, 2023, meeting to avoid condemnation of the property.

Please contact me by calling 620-332-2528 or emailing me at davidc@independenceks.gov.

David Cowan, Building Inspector
City of Independence Kansas

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The Parcel Number for this Property is 063-087-36-0-10-38-007.00-0
Quick Ref ID: 4133

Owner Information

Owner Name	PADUA-PANFILO, PATRICIA
Address	308 WILLOW ST COFFEYVILLE, KS 67337

Property Situs Address

Address	427 S 15TH ST, Independence, KS 67301
----------------	---------------------------------------

Land Based Classification System

Function	Single family residence (detached)
Activity	Household activities
Ownership	Private-fee simple
Site	Developed site - with buildings

General Property Information

Prop Class	Residential - R
Living Units	1
Zoning	
Neighborhood	108.F
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
Residential - R	1,700	0	1,700
Total	1,700	0	1,700

Tract Description

ANDREWS SUBD, S36, T32, R15, LT 1; N/2 LT 2 BLK 1; Lot Width: 067.4 Lot Depth: 140.0 Plat Book/Page 4 /5 Deed
Book/Page 662 /268 653 /1375 543 /135 503 /252 458 /323 431 /386 427 /102 427 /101 427 /100 142 /156

Deed Information

Book1	Page1	Book2	Page2	Book3	Page3	Book4	Page4
662	268	653	1375				

Market Land Information

Method	Type	AC/SF	Eff FF	Depth	D-Fact	Inf1	Fact1	Inf2	Fact2	Ovrd	Class	Value Est
Sqft	vacant- 2	9380										1,700

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REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
September 28, 2023

Department Admin

Director Approval David Cowan

AGENDA ITEM Consider setting the date of December 14, 2023 for a Public Hearing to consider the condemnation of 501 S. 15th Street as dangerous and unsafe.

SUMMARY RECOMMENDATION City Staff recommends setting a public hearing date.

BACKGROUND The City of Independence has received complaints regarding the structure at 501 S.15th. City Staff found the structure to be open, with holes in the roof, trash, debris and tall grass when inspecting. The structure last had utilities in June of 2021. City staff recommends setting the date of December 14, 2023 to consider condemnation of the structure.

FINANCIAL INFORMATION The cost of removal if the owner fails to commence repair or removal of the structure.

SUGGESTED MOTION I move to adopt a resolution setting the date of December 14, 2023 at 5:30 PM for a Public Hearing to consider the condemnation of 501 S. 15th as dangerous and unsafe.

SUPPORTING DOCUMENTS

1. RESOLUTION 2023-044 - CONDEMNATION - PH - 501 S 15th
2. 501 S. 15th - Condemnation Notice - 09192023
3. Parcel Listing - 501 S. 15th
4. Photo 1
5. Photo 2
6. Photo 3
7. Photo 4
8. Photo 5
9. Photo 6
10. Photo 7
11. Photo 8
12. Photo 9
13. Photo 10
14. Photo 11

RESOLUTION NO. 2023-044

A RESOLUTION FIXING A TIME AND PLACE AND PROVIDING FOR NOTICE OF HEARING BEFORE THE GOVERNING BODY OF THE CITY OF INDEPENDENCE, KANSAS, OF WHICH OWNERS, OWNERS AGENTS, LIEN HOLDERS OF RECORD AND ANY OCCUPANTS, IF ANY, OF THE STRUCTURE OR STRUCTURES IDENTIFIED BELOW, IN SAID CITY MAY APPEAR AND SHOW CAUSE WHY SAID STRUCTURE OR STRUCTURES SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED PURSUANT TO K.S.A. 12-1751 ET. SEQ.

WHEREAS, the enforcing officer of the City of Independence, Kansas, did on the 28th day of September 2023, file with the Governing body of said City, statements, and reports in writing that the structure or structures located on said properties hereinafter described are unsafe and/or dangerous:

Legal: Lot 3 and the South 10 feet of Lot 2, Block 1 and Adjacent Vacated Alley of the Andrews Subdivision to the City of Independence, Montgomery County, Kansas.

Common Address: 501 S 15th Street.

Mortgage:

NOW, THEREFORE, be it resolved by the Governing Body of the City of Independence, Kansas:

That a public hearing will be held on Thursday, **December 14, 2023** before the Governing Body of the City of Independence, Kansas, at **5:30 p.m.**, in the Civic Center, Memorial Hall, Penn Ave. and Locust Streets, Independence, Kansas, at which time the owner, the owners agent, any lien holders of record and any occupant of the structure or structures located on the properties described herein, may appear and show cause why such structure or structures should not be condemned as unsafe and/or dangerous and ordered repaired or removed.

Be it further resolved that the City Clerk shall cause this Resolution to be published one time each week for two consecutive weeks on the same day of each week, that at least thirty (30) days shall elapse between the last publication and the date set for hearing and the City Clerk shall give notice of the aforesaid hearing in the manner provided by Ordinance and by law.

Be it further resolved by the Governing Body of the City of Independence that its authority for the actions set forth herein is established pursuant to K.S.A. 12-1751 ET. SEQ.

Adopted this 28th day of September 2023.

(SEAL)

Mayor

City Clerk



"Delivering Excellence"

September 19, 2023

Kaylene Ferguson
501 S. 15th
Independence, Ks. 67301

Dear Ms. Ferguson,

I am writing to inform you that the City Commission will be setting a Public Hearing at their September 28, 2023, meeting to consider the **Condemnation of 501 S. 15th as dangerous and unsafe on December 14, 2023.**

The following action must begin to avoid having your residential property condemned as dangerous and unsafe on July 13, 2023.

1. Immediate Repairs need to start
 - a. Secure the Structure
 - i. No utilities to the house, it is not considered habitable
 - b. Holes in the roof
 - c. Debris in the yard
2. A timeline of the repairs must be submitted to the building inspector
 - a. Timeline of repairs working towards the occupancy of the building.
3. If no, you do not plan to repair this residential property.
 - a. The City of Independence will proceed with condemnation of the structure.
 - b. Please inform us of your timeline to remove the structure to avoid condemnation.
 - c. City will hire a company to secure the structure at the owner's expense when condemned and waiting for removal.
4. If I do not hear from you by September 28, 2023, it will be **imperative** that you communicate or attend December 14, 2023, meeting to avoid condemnation of the property.

Please contact me by calling 620-332-2528 or emailing me at davidc@independenceks.gov.

David Cowan, Building Inspector
City of Independence Kansas

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The Parcel Number for this Property is 063-087-36-0-10-41-001.00-0
Quick Ref ID: 4149

Owner Information

Owner Name	FERGUSON, KAYLENE
Address	501 S 15TH ST INDEPENDENCE, KS 67301

Property Situs Address

Address	501 S 15TH ST, Independence, KS 67301
----------------	---------------------------------------

Land Based Classification System

Function	Single family residence (detached)
Activity	Household activities
Ownership	Private-fee simple
Site	Developed site - with buildings

General Property Information

Prop Class	Residential - R
Living Units	1
Zoning	
Neighborhood	108.F
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
Residential - R	5,040	1,170	6,210
Total	5,040	1,170	6,210

Tract Description

ANDREWS SUBD, S36, T32, R15, LOT 3; S 10' LOT 2 BLK 1; & N 15' ADJ ALLEY; Lot Width: 140.0 Lot Depth: 075.0 Plat Book/Page 4 /5 Lot Width: 140.0 Lot Depth: 075.0 Deed Book/Page 577/111 527 /513 519 /284 466 /105 464 /001 362 /144

Deed Information

Book1	Page1	Book2	Page2	Book3	Page3	Book4	Page4
578	615	577	111				

Market Land Information

Method	Type	AC/SF	Eff FF	Depth	D-Fact	Inf1	Fact1	Inf2	Fact2	Ovrd	Class	Value Est
Sqft	Primary Site - 1	10500										5,040

Dwelling Information

Dwelling Information		Comp Sales Information	
Res Type	Single-family Residence	Arch Style	UN Dwelling (shed)
Quality	FR-	Bsmt Type	Crawl - 2
Year Built	1900	Total Rooms	7
Eff Year		Bedrooms	4
MS Style	1 1/2 Story Finished	Family Rooms	
LBCSStruct	Detached SFR unit	Full Baths	1
No. of Units		Half Baths	
Total Living Area		Garage Cap	
Calculated Area	1,444	Foundation	Brick - 5
Main Floor Living Area	1,174		
Upper Floor Living Area Pct.	23		
CDU	UN		
Phys/Func/Econ	UN/ /		
Ovr Pct Gd/RCN	/117,020		
Remodel			
Percent Complete			
Assessment Class			
MU Cls/Pct			

Dwelling Components

Code	Units	Pct	Quality	Year
Wood Deck (SF) with Roof	160		1	
Frame, Siding, Vinyl		100		
Composition Shingle		100		
Raised Subfloor (% or SF)		100		
Wall Furnace		100		
Plumbing Fixtures (#)	5			
Plumbing Rough-ins (#)	1			
Automatic Floor Cover Allowance				

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**REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
September 28, 2023**

Department Admin

Director Approval David Cowan

AGENDA ITEM Consider setting the date of December 14, 2023 for a Public Hearing to consider the condemnation of 600 S. 15th Street as dangerous and unsafe.

SUMMARY RECOMMENDATION City Staff recommends setting a public hearing date.

BACKGROUND The City of Independence has received numerous complaints regarding this residence and the structure's condition, junking, campers, tents on the property, and there are no utilities to the residence. The owner of the residence is deceased, and the City has made contact with the family of the deceased and they are aware of the situation occurring at this location. The structure and the property is blighted, and without utilities, the house should not be occupied. The city served the occupants of the residence with a 10-day notice regarding the nuisance and notified them of the condemnation process starting.

FINANCIAL INFORMATION The cost of removal if the owner fails to commence repair or removal of the structure.

SUGGESTED MOTION I move to adopt a resolution setting the date of December 14, 2023 at 5:30 PM for a Public Hearing to consider the condemnation of 600 S. 15th as dangerous and unsafe.

SUPPORTING DOCUMENTS

1. RESOLUTION 2023-042 - CONDEMNATION - PH - 600 S 15th
2. Notice of Condemnation - 600 S. 15TH - 09192023
3. Parcel - 600 S. 15th
4. Photo 1
5. Photo 2
6. Photo 3
7. Photo 4

RESOLUTION NO. 2023-042

A RESOLUTION FIXING A TIME AND PLACE AND PROVIDING FOR NOTICE OF HEARING BEFORE THE GOVERNING BODY OF THE CITY OF INDEPENDENCE, KANSAS, OF WHICH OWNERS, OWNERS AGENTS, LIEN HOLDERS OF RECORD AND ANY OCCUPANTS, IF ANY, OF THE STRUCTURE OR STRUCTURES IDENTIFIED BELOW, IN SAID CITY MAY APPEAR AND SHOW CAUSE WHY SAID STRUCTURE OR STRUCTURES SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED PURSUANT TO K.S.A. 12-1751 ET. SEQ.

WHEREAS, the enforcing officer of the City of Independence, Kansas, did on the 28th day of September 2023, file with the Governing body of said City, statements, and reports in writing that the structure or structures located on said properties hereinafter described are unsafe and/or dangerous:

Legal: Lot 102 of the Glenwood Addition to the City of Independence, Montgomery County, Kansas.

Common Address: 600 S 15th Street.

Mortgage:

NOW, THEREFORE, be it resolved by the Governing Body of the City of Independence, Kansas:

That a public hearing will be held on Thursday, **December 14, 2023** before the Governing Body of the City of Independence, Kansas, at **5:30 p.m.**, in the Civic Center, Memorial Hall, Penn Ave. and Locust Streets, Independence, Kansas, at which time the owner, the owners agent, any lien holders of record and any occupant of the structure or structures located on the properties described herein, may appear and show cause why such structure or structures should not be condemned as unsafe and/or dangerous and ordered repaired or removed.

Be it further resolved that the City Clerk shall cause this Resolution to be published one time each week for two consecutive weeks on the same day of each week, that at least thirty (30) days shall elapse between the last publication and the date set for hearing and the City Clerk shall give notice of the aforesaid hearing in the manner provided by Ordinance and by law.

Be it further resolved by the Governing Body of the City of Independence that its authority for the actions set forth herein is established pursuant to K.S.A. 12-1751 ET. SEQ.

Adopted this 28th day of September 2023.

(SEAL)

Mayor

City Clerk



"Delivering Excellence"

September 19, 2023

Philomena Fromong
3791 CR 3855
Independence, Ks. 67301

Dear Ms. Philomena & Family:

I am writing to inform you that the City Commission will be setting a Public Hearing at their September 28, 2023, meeting to consider the **condemnation of 600 S. 15th as dangerous and unsafe on December 14, 2023.**

The following action must begin to avoid having your residential property condemned as dangerous and unsafe on July 13, 2023.

1. Immediate Repairs need to start
 - a. Secure the Structure
 - i. No utilities to the house, it is not considered habitable
 - b. Remove the tents and camper
 - c. Clean up the yard, remove debris piles, and scraping piles
2. A timeline of the repairs must be submitted to the building inspector
 - a. Timeline of repairs working towards the occupancy of the building.
3. If no, you do not plan to repair this residential property.
 - a. The City of Independence will proceed with condemnation of the structure.
 - b. Please inform us of your timeline to remove the structure to avoid condemnation.
 - c. City will hire a company to secure the structure at the owner's expense when condemned and waiting for removal.
4. If I do not hear from you by September 28, 2023, it will be **imperative** that you communicate or attend December 14, 2023, meeting to avoid condemnation of the property.

Please contact me by calling 620-332-2528 or emailing me at davidc@independenceks.gov.

David Cowan, Building Inspector
City of Independence Kansas

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The Parcel Number for this Property is 063-087-36-0-40-05-005.00-0

Quick Ref ID: 4598

Owner Information

Owner Name	FROMONG, DONALD, II
Address	600 S 15TH ST INDEPENDENCE, KS 67301

Property Situs Address

Address	600 S 15TH ST, Independence, KS 67301
----------------	---------------------------------------

Land Based Classification System

Function	Single family residence (detached)
Activity	Household activities
Ownership	Private-fee simple
Site	Developed site - with buildings

General Property Information

Prop Class	Residential - R
Living Units	1
Zoning	
Neighborhood	108.F
Tax Unit Group	108

Property Factors

Topography	Level - 1
Utilities	All Public - 1
Access	Paved Road - 1 Sidewalk - 6
Fronting	Dead End - 7
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
Residential - R	5,780	10,090	15,870
Total	5,780	10,090	15,870

Tract Description

GLENWOOD ADD, S36, T32, R15, Lot 102; Lot Width: 072.0 Lot Depth: 200.0 Plat Book/Page A /5 Lot Width: 072.0 Lot Depth: 200.0 Deed Book/Page 546 /467
509 /025 470 /274 440 /328 420 /065 413 /009 409 /024 408 /263 356 /431

Deed Information

Book1	Page1	Book2	Page2	Book3	Page3	Book4	Page4
546	467						

Market Land Information

Method	Type	AC/SF	Eff FF	Depth	D-Fact	Inf1	Fact1	Inf2	Fact2	Ovrd	Class	Value Est
Sqft	Primary Site - 1	14400										5,780

Dwelling Information

Dwelling Information		Comp Sales Information	
Res Type	Single-family Residence	Arch Style	Bungalow
Quality	LO+	Bsmt Type	Crawl - 2
Year Built	1900	Total Rooms	5
Eff Year		Bedrooms	2
MS Style	One Story	Family Rooms	
LBCSStruct	Detached SFR unit	Full Baths	1
No. of Units		Half Baths	
Total Living Area		Garage Cap	

Calculated Area	840
Main Floor Living Area	840
Upper Floor Living Area Pct.	
CDU	PR
Phys/Func/Econ	PR/ /
Ovr Pct Gd/RCN	/83,410
Remodel	
Percent Complete	
Assessment Class	
MU Cls/Pct	

Foundation	Concrete - 2
-------------------	--------------

Dwelling Components

Code	Units	Pct	Quality	Year
Raised Slab Porch (SF) with Roof	138		1	
Frame, Plywood or Hardboard		100		
Composition Shingle		100		
Raised Subfloor (% or SF)		100		
Plumbing Fixtures (#)	9			
Plumbing Rough-ins (#)	1			
Automatic Floor Cover Allowance				
Wall Furnace		100		

Building Improvements

Id	Occupancy	MSCls	Rank	Qty	Yr Blt	Eff Yr	LBCS	Area	Perim	Hgt	Dimensions	Stories	Phys	Func	Econ	OVR%	Rsn	Cls	RCN	%Gd	Value
35	Prefabricated Storage Shed	S	0.50	1	1900			64		8		1	2						780	10	80

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REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
September 28, 2023

Department Admin

Director Approval David Cowan

AGENDA ITEM Consider setting the date of December 14, 2023 for a Public Hearing to consider the condemnation of 601 S. 15th Street as dangerous and unsafe.

SUMMARY RECOMMENDATION City Staff recommends setting a public hearing date.

BACKGROUND The City of Independence has received complaints about this structure and activity occurring in the structure. The City found the structure a blight and in disrepair with the back door kicked in, holes in the roof and the property without utilities since 2016. City Staff recommends setting a date of December 14, 2023, for a Public Hearing to consider condemnation.

FINANCIAL INFORMATION The cost of removal if the owner fails to commence repair and removal of the structure.

SUGGESTED MOTION I move to adopt a resolution setting the date of December 14, 2023 at 5:30 PM for a Public Hearing to consider the condemnation of 601 S. 15th as dangerous and unsafe.

SUPPORTING DOCUMENTS

1. RESOLUTION 2023-043 - CONDEMNATION - PH - 601 S 15th
2. 601 S. 15th - Notice of Condemnation - 09192023
3. Parcel - 601 S. 15th
4. Photo 1
5. Photo 2
6. Photo 3
7. Photo 4
8. Photo 5
9. Photo 6
10. Photo 7

RESOLUTION NO. 2023-043

A RESOLUTION FIXING A TIME AND PLACE AND PROVIDING FOR NOTICE OF HEARING BEFORE THE GOVERNING BODY OF THE CITY OF INDEPENDENCE, KANSAS, OF WHICH OWNERS, OWNERS AGENTS, LIEN HOLDERS OF RECORD AND ANY OCCUPANTS, IF ANY, OF THE STRUCTURE OR STRUCTURES IDENTIFIED BELOW, IN SAID CITY MAY APPEAR AND SHOW CAUSE WHY SAID STRUCTURE OR STRUCTURES SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED PURSUANT TO K.S.A. 12-1751 ET. SEQ.

WHEREAS, the enforcing officer of the City of Independence, Kansas, did on the 28th day of September 2023, file with the Governing body of said City, statements, and reports in writing that the structure or structures located on said properties hereinafter described are unsafe and/or dangerous:

Legal: Lot 12, and all that part of Lot 11, lying North of the Railroad right of way, in Block 1 of the Mcinnis & Andrews Sub-division of the s ½ of Lot 16, and N ¼ of Lot 17, Holman's Suburban Addition to the City of Independence, Montgomery County, Kansas.

Common Address: 601 S 15th Street.

Mortgage:

NOW, THEREFORE, be it resolved by the Governing Body of the City of Independence, Kansas:

That a public hearing will be held on Thursday, **December 14, 2023** before the Governing Body of the City of Independence, Kansas, at **5:30 p.m.**, in the Civic Center, Memorial Hall, Penn Ave. and Locust Streets, Independence, Kansas, at which time the owner, the owners agent, any lien holders of record and any occupant of the structure or structures located on the properties described herein, may appear and show cause why such structure or structures should not be condemned as unsafe and/or dangerous and ordered repaired or removed.

Be it further resolved that the City Clerk shall cause this Resolution to be published one time each week for two consecutive weeks on the same day of each week, that at least thirty (30) days shall elapse between the last publication and the date set for hearing and the City Clerk shall give notice of the aforesaid hearing in the manner provided by Ordinance and by law.

Be it further resolved by the Governing Body of the City of Independence that its authority for the actions set forth herein is established pursuant to K.S.A. 12-1751 ET. SEQ.

Adopted this 28th day of September 2023.

(SEAL)

Mayor

City Clerk



September 19, 2023

Harry & Tilley Allen
716 S. Ozark St.
Girard, Ks. 66743

Dear Mr. Allen,

I am writing to inform you that the City Commission will be setting a Public Hearing at their September 28, 2023, meeting to consider the **condemnation of 601 S. 15th as dangerous and unsafe on December 14, 2023.**

The following action must begin to avoid having your residential property condemned as dangerous and unsafe on July 13, 2023.

1. Immediate Repairs need to start
 - a. Secure the Structure
 - i. No utilities to the house, it is not considered habitable
 - b. Holes in the roof
 - c. Debris in the yard
2. A timeline of the repairs must be submitted to the building inspector
 - a. Timeline of repairs working towards the occupancy of the building.
3. If no, you do not plan to repair this residential property.
 - a. The City of Independence will proceed with condemnation of the structure.
 - b. Please inform us of your timeline to remove the structure to avoid condemnation.
 - c. City will hire a company to secure the structure at the owner's expense when condemned and waiting for removal.
4. If I do not hear from you by September 28, 2023, it will be **imperative** that you communicate or attend December 14, 2023, meeting to avoid condemnation of the property.

Please contact me by calling 620-332-2528 or emailing me at davidc@independenceks.gov.

David Cowan, Building Inspector
City of Independence Kansas

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The Parcel Number for this Property is 063-087-36-0-40-10-001.00-0
Quick Ref ID: 4628

Owner Information

Owner Name	ALLEN, HARRY S & TILLEY, MANDA R
Address	716 S OZARK ST GIRARD, KS 66743

Property Situs Address

Address	601 S 15TH ST, Independence, KS 67301
----------------	---------------------------------------

Land Based Classification System

Function	Single family residence (detached)
Activity	Household activities
Ownership	Private-fee simple
Site	Developed site - with buildings

General Property Information

Prop Class	Residential - R
Living Units	1
Zoning	
Neighborhood	108.F
Tax Unit Group	108

Property Factors

Topography	Level - 1
Utilities	All Public - 1
Access	Semi Improved Road - 2 Alley - 7
Fronting	Dead End - 7
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
Residential - R	4,780	10,820	15,600
Total	4,780	10,820	15,600

Tract Description

MCINNIS & ANDREWS SUB, S36, T32, R15, LOTS 11 & 12 BLK 1, LYG N RR R/W; LOT WIDTH: 140.0 LOT DEPTH; 065.2 Plat Book/Page 4 /4 Deed Book/Page 672 /254 599 /75 236 /477

Deed Information

Book1	Page1	Book2	Page2	Book3	Page3	Book4	Page4
672	254	599	75	592	2		

Market Land Information

Method	Type	AC/SF	Eff FF	Depth	D-Fact	Inf1	Fact1	Inf2	Fact2	Ovrd	Class	Value Est
Sqft	Primary Site - 1	9165										4,780

Dwelling Information

Dwelling Information		Comp Sales Information	
Res Type	Single-family Residence	Arch Style	Old Style
Quality	FR	Bsmt Type	Crawl - 2
Year Built	1900	Total Rooms	6
Eff Year		Bedrooms	3
MS Style	Two Story	Family Rooms	
LBCSStruct	Detached SFR unit	Full Baths	1
No. of Units		Half Baths	
Total Living Area		Garage Cap	
Calculated Area	1,550	Foundation	Stone - 4
Main Floor Living Area	981		
Upper Floor Living Area Pct.	58		
CDU	FR-		
Phys/Func/Econ	PR/ /		
Ovr Pct Gd/RCN	/135,270		
Remodel			
Percent Complete			
Assessment Class			
MU Cls/Pct			

Dwelling Components				
Code	Units	Pct	Quality	Year
Enclosed Wood Deck (SF), Screened Walls	160			
Frame, Plywood or Hardboard		100		
Composition Shingle		100		
Raised Subfloor (% or SF)		100		
Plumbing Fixtures (#)	5			
Plumbing Rough-ins (#)	1			
Automatic Floor Cover Allowance				
Electric Radiant Heat		100		

Building Improvements																			
Id	Occupancy	MSCls	Rank	Qty	Yr Bld	Eff Yr	LBCS	Area	Perim	Hgt	Dimensions	Stories	Phys	Func	Econ	OVR%	Rsn	ClS	RCN
39	Tool Shed	D	0.50	1	1900			400	80	8	20 X 20	1	1						3,320
																			6
																			200

Building Improvement Components							
Id	Code	Units	Pct	Size	Other	Rank	Year
39	Single -Wall-Boards on Wood		100				

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**REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
September 28, 2023**

Department Admin

Director Approval David Cowan

AGENDA ITEM Consider setting the date of December 14, 2023 for a Public Hearing to consider the condemnation of 1010 N. 9th Street as dangerous and unsafe.

SUMMARY RECOMMENDATION City Staff recommends setting the date.

BACKGROUND The City has received numerous complaints about the occupants of the residence at 1010 N. 9th the condition of the structure and the blight on the neighborhood. The structure has been without utilities since October 2021. City Staff recommends setting the date to consider condemnation.

FINANCIAL INFORMATION The cost of removal if the owner fails to commence repair or removal of the structure.

SUGGESTED MOTION I move to adopt a resolution setting the date of December 14, 2023 at 5:30 PM for a Public Hearing to consider the condemnation of 1010 N. 9th as dangerous and unsafe.

SUPPORTING DOCUMENTS

1. RESOLUTION 2023-046 - CONDEMNATION - PH - 1010 N 9th
2. 1010 N. 9th - Condemnation Notice - 09192023
3. Parcel Listing
4. Before Picture
5. Photo 1
6. Photo 2
7. Photo 3
8. Photo 4
9. Photo 5
10. Photo 6
11. Photo 7
12. Photo 8
13. Photo 9

RESOLUTION NO. 2023-046

A RESOLUTION FIXING A TIME AND PLACE AND PROVIDING FOR NOTICE OF HEARING BEFORE THE GOVERNING BODY OF THE CITY OF INDEPENDENCE, KANSAS, OF WHICH OWNERS, OWNERS AGENTS, LIEN HOLDERS OF RECORD AND ANY OCCUPANTS, IF ANY, OF THE STRUCTURE OR STRUCTURES IDENTIFIED BELOW, IN SAID CITY MAY APPEAR AND SHOW CAUSE WHY SAID STRUCTURE OR STRUCTURES SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED PURSUANT TO K.S.A. 12-1751 ET. SEQ.

WHEREAS, the enforcing officer of the City of Independence, Kansas, did on the 28th day of September 2023, file with the Governing body of said City, statements, and reports in writing that the structure or structures located on said properties hereinafter described are unsafe and/or dangerous:

Legal: Lot 8, Block 2 of the Johnston's Second Addition to the City of Independence, Montgomery County, Kansas.

Common Address: 1010 N 9th Street.

Mortgage:

NOW, THEREFORE, be it resolved by the Governing Body of the City of Independence, Kansas:

That a public hearing will be held on Thursday, **December 14, 2023** before the Governing Body of the City of Independence, Kansas, at **5:30 p.m.**, in the Civic Center, Memorial Hall, Penn Ave. and Locust Streets, Independence, Kansas, at which time the owner, the owners agent, any lien holders of record and any occupant of the structure or structures located on the properties described herein, may appear and show cause why such structure or structures should not be condemned as unsafe and/or dangerous and ordered repaired or removed.

Be it further resolved that the City Clerk shall cause this Resolution to be published one time each week for two consecutive weeks on the same day of each week, that at least thirty (30) days shall elapse between the last publication and the date set for hearing and the City Clerk shall give notice of the aforesaid hearing in the manner provided by Ordinance and by law.

Be it further resolved by the Governing Body of the City of Independence that its authority for the actions set forth herein is established pursuant to K.S.A. 12-1751 ET. SEQ.

Adopted this 28th day of September 2023.

(SEAL)

Mayor

City Clerk



September 19, 2023

Dan & Janette Riedle
PO Box 28
Sycamore, Ks. 67363

Dear Mr. Riedle,

I am writing to inform you that the City Commission will be setting a Public Hearing at their September 28, 2023, meeting to consider the **Condemnation of 1010 N. 9th as dangerous and unsafe on December 14, 2023.**

The following action must begin to avoid having your residential property condemned as dangerous and unsafe on July 13, 2023.

1. Immediate Repairs need to start
 - a. Secure the Structure
 - i. No utilities to the house, it is not considered habitable
 - b. Condition of structure
 - c. Debris in the yard
2. A timeline of the repairs must be submitted to the building inspector
 - a. Timeline of repairs working towards the occupancy of the building.
3. If no, you do not plan to repair this residential property.
 - a. The City of Independence will proceed with condemnation of the structure.
 - b. Please inform us of your timeline to remove the structure to avoid condemnation.
 - c. City will hire a company to secure the structure at the owner's expense when condemned and waiting for removal.
4. If I do not hear from you by September 28, 2023, it will be **imperative** that you communicate or attend December 14, 2023, meeting to avoid condemnation of the property.

Please contact me by calling 620-332-2528 or emailing me at davidc@independenceks.gov.

David Cowan, Building Inspector
City of Independence Kansas

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The Parcel Number for this Property is 063-099-30-0-20-29-004.00-0
Quick Ref ID: 5953

Owner Information

Owner Name	RIEDLE, DAN & JANETTE
Address	PO BOX 28 SYCAMORE, KS 67363

Property Situs Address

Address	1010 N 9TH ST, Independence, KS 67301
----------------	---------------------------------------

Land Based Classification System

Function	Single family residence (detached)
Activity	Household activities
Ownership	Private-fee simple
Site	Developed site - with buildings

General Property Information

Prop Class	Residential - R
Living Units	1
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
Residential - R	10,940	28,220	39,160
Total	10,940	28,220	39,160

Tract Description

JOHNSTONS 2ND ADD, S30, T32, R16, BLOCK 2, Lot 8; Lot Width: 050.0 Lot Depth: 140.0 Plat Book/Page 4 /24 Deed Book/Page 582 /587 338 /226

Deed Information

Book1	Page1	Book2	Page2	Book3	Page3	Book4	Page4
582	587	582	/587	338	226		

Market Land Information

Method	Type	AC/SF	Eff FF	Depth	D-Fact	Inf1	Fact1	Inf2	Fact2	Ovrd	Class	Value Est
Sqft	Primary Site - 1	7000										10,940

Dwelling Information

Dwelling Information		Comp Sales Information	
Res Type	Single-family Residence	Arch Style	Bungalow
Quality	FR-	Bsmt Type	Crawl - 2
Year Built	1915	Total Rooms	5
Eff Year		Bedrooms	3
MS Style	One Story	Family Rooms	
LBCS Struct	Detached SFR unit	Full Baths	1
No. of Units		Half Baths	
Total Living Area		Garage Cap	
Calculated Area	1,188	Foundation	Block - 3
Main Floor Living Area	1,188		
Upper Floor Living Area Pct.			
CDU	FR		
Phys/Func/Econ	PR/ /		
Ovr Pct Gd/RCN	/112,890		
Remodel			
Percent Complete			
Assessment Class			
MU Cls/Pct			

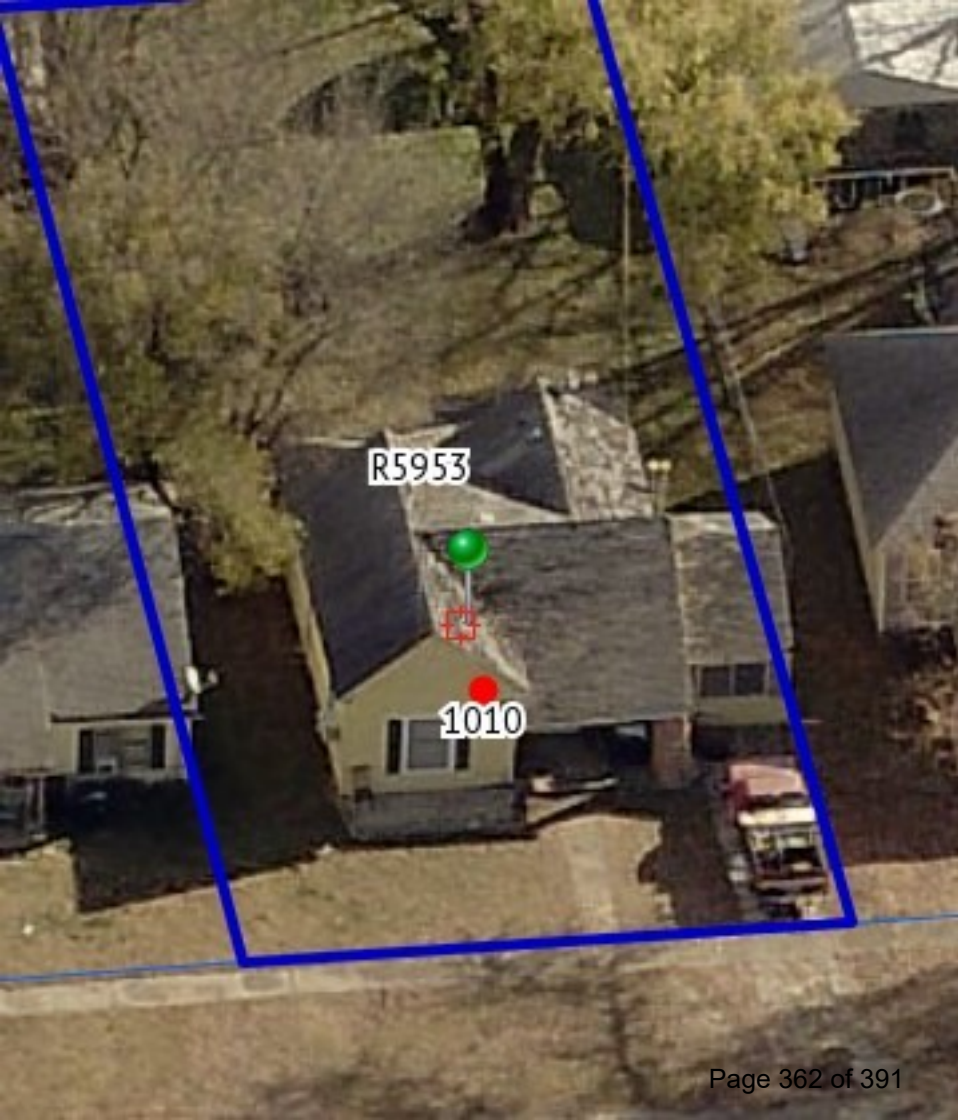
Dwelling Components				
Code	Units	Pct	Quality	Year
Wood Deck (SF) with Roof	112			
Frame, Siding, Metal		100		
Composition Shingle		100		
Raised Subfloor (% or SF)		100		
Forced Air Furnace		100		
Plumbing Fixtures (#)	5			
Plumbing Rough-ins (#)	1			
Automatic Floor Cover Allowance				
Wood Deck (SF)	99			2 1980
Open Slab Porch (SF)	135			2 1970

Building Improvements																					
Id	Occupancy	MSCIs	Rank	Qty	Yr Blt	Eff Yr	LBCS	Area	Perim	Hgt	Dimensions	Stories	Phys	Func	Econ	OVR%	Rsn	Cl	RCN	%Gd	Value
66	Prefabricated Storage Shed	D	2.00	1	2003			120	44	8	12 X 10	1	0	0					2,930	0	0

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R5953

1010





















REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
September 28, 2023

Department Admin

Director Approval David Cowan

AGENDA ITEM Consider adopting a resolution rescinding condemnation action for 712 N. 12th Street.

SUMMARY RECOMMENDATION City Staff is recommending rescinding the condemnation process of 712 N. 12th Street.

BACKGROUND This garage structure was involved in a structure fire that destroyed the garage and vehicles inside. The owner has removed the debris and cleaned up the yard. In the area where the garage was located, they did a nice job and turned it into a patio. The owner had a mower and some tin they were taking to the salvage yard the week of the 25th and I will have a final picture for the commission meeting of the completed yard.

FINANCIAL INFORMATION No financial impact

SUGGESTED MOTION I move to authorize the Mayor to sign a resolution rescinding the condemnation of 712 N. 12th Street.

SUPPORTING DOCUMENTS

1. RESOLUTION 2023-047 - RESCIND CONDEMNATION - 712 N 12th
2. Photo 1
3. Photo 2

RESOLUTION NO. 2023-047

A RESOLUTION RESCINDING A PREVIOUS RESOLUTION WHICH SET A HEARING DATE TO CONSIDER CONDEMNATION

WHEREAS, the Governing Body of the City of Independence, Kansas, previously adopted a resolution setting a hearing to consider condemning certain property located within the City as being dangerous and unsafe;

AND WHEREAS, the owner of said property has taken steps to make repairs and/or improvements to the property.

NOW, THEREFORE, be it resolved by the Governing Body of the City of Independence, Kansas:

The resolution setting a hearing to consider condemning the following described property as being dangerous and unsafe is hereby rescinded and the property is released from all condemnation proceedings:

Legal Description

Lot 12, Block 7 of the Bunkers Addition to the City of Independence, Montgomery County, Kansas

Common Address

712 N 12th Street

Mortgage

Adopted this 28th day of September, 2023.

(SEAL)

Mayor

City Clerk







REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
September 28, 2023

Department Street

Director Approval John Garris

AGENDA ITEM Consider authorizing acceptance of KDOT City Connecting Link Improvement Program (CCLIP) bid and for Restoration – Penn Avenue (US 75) from Morningside Drive to North City Limits.

SUMMARY RECOMMENDATION Authorize acceptance.

BACKGROUND

Kansas Department of Transportation (KDOT) City Connecting Link Improvement Program (CCLIP) applications were submitted in March of 2021. The bid was let on September 20, 2023. The following project is “as approved” by the Commission.

CCLIP Pavement Restoration – Penn Avenue (US 75) from Morningside Drive to North City Limits, 3” mill, construct 2’ widening with 6” gravel and 4’ asphalt base, then 4” overlay cross section.

Estimated Cost	Estimated City Match – (10%)	Non-Participating Costs	Total City Cost
\$505,127.00	\$41,415.60	\$90,971.00	\$132,386.60

Here are the as-bid numbers for the same project.

Estimated Cost	Estimated City Match – (10%)	Non-Participating Costs	Total City Cost
\$702,350.00	\$70,235.00	\$49,000.00	\$119,235.00

Although the bid prices are higher than anticipated, the Construction Engineering is now included as part of the CCLIP project, which lowers the overall cost of the project to the City, despite the higher construction costs.

FINANCIAL INFORMATION Project is shown at a lower cost than budgeted.

SUGGESTED MOTION I move to approve acceptance of the KDOT City Connecting Link Improvement Program (CCLIP) bid and for Restoration – Penn Avenue (US 75) from Morningside Drive to North City Limits and for execution of any necessary documents required.

SUPPORTING DOCUMENTS

1. 063_KA-6448-01_ATA Packet

Dwight D. Eisenhower State Office Building
700 S.W. Harrison Street
Topeka, KS 66603-3745



Phone: 785-296-3861
Fax: 785-296-6946
kdot#publicinfo@ks.gov
http://www.ksdot.gov

Calvin E. Reed, P.E., Secretary
Tod L. Salfrank, Chief

Laura Kelly, Governor

September 21, 2023

Project Number: 063 KA-6448-01
ACNHP-A644(801)

City of Independence
Mr. John Garris
City Engineer
120 N 6th St
Independence, KS 67301-

Dear Mr. Garris:

We are listing below the bidder and the low bid received at Topeka, KS on 9/20/2023 for the above numbered project.

CONTRACTOR	TYPE OF WORK	AMOUNT
MISSION CONSTRUCTION CO INC	Independence CCLIP-GI: US-75 from Morningside Dr to NCL	\$612,647
ST PAUL, KS		

This is considered satisfactory when compared with the engineer's estimate, and we believe that contracts should be awarded to the low bidder. If this bid is acceptable to the City, please sign the enclosed resolution and return it to this office. In order to guarantee the low bid, we must receive the expected resolution on or before 10/13/2023. Upon receipt of the signed resolution and approval by the Secretary of Transportation the contract will be awarded.

A combination of bid items and construction engineering less a maximum of \$1,000,000 State funds will require City matching funds in the amount of \$71,000. The City remittance should be made on or before 11/9/2023.

Sincerely,

Cara Hodges
Digitally signed by Cara Hodges
DN: c=US,
E=cara.hodges@ks.gov,
O=Kansas Department of
Transportation, OU=Bureau of
Local Projects, CN=Cara
Hodges
Date: 2023.09.21
12:28:09-05'00'

for Tod L. Salfrank, Chief
Bureau of Local Projects

tls/cch

Enclosures

c Mayor/City Manager

Ms. Pam Anderson, Chief of Fiscal Services

Mr. Wayne Gudmonson, P.E., District Four Engineer

**AUTHORITY TO AWARD CONTRACT
COMMITMENT OF CITY FUNDS**
9/21/2023

2 Copies to City
Project Number: 063 KA-6448-01
ACNHP-A644(801)

WHEREAS bids were received at Topeka, KS on 9/20/2023 for the performance of work covered by plans on the above numbered project, and

WHEREAS the bidder and the low bid or bids on work covered by this project were:

CONTRACTOR	TYPE OF WORK	AMOUNT
MISSION CONSTRUCTION CO INC	Independence CCLIP-GI: US-75 from Morningside Dr to NCL	\$612,647
ST PAUL, KS		

WHEREAS bids are considered satisfactory and have been recommended by the Secretary of Transportation of the State of Kansas, hereinafter referred to as the SECRETARY, for consideration and acceptance of the work on this project as covered by such bid or bids.

**A combination of bid items and construction engineering less a maximum of \$1,000,000
State funds will require City matching funds in the amount of \$71,000.**

BE IT FURTHER RESOLVED that City funds in the amount of \$71,000 which are required for the matching of Maximum State funds are hereby pledged by the City to be remitted to the Chief of Fiscal Services of the Department of Transportation of the State of Kansas on or before 11/9/2023 for use by the SECRETARY in making payments for construction work and engineering on the above designated project with final cost being determined upon completion and audit of the project.

The City certifies that no known or foreseeable legal impediments exist that would prohibit completion of the project and that the project complies with all applicable codes, standards and/or regulations required for completion.

Adopted this _____ day of _____, 20_____, at _____, Kansas.

Recommended for Approval:

City Engineer/Road Supervisor

_____, Mayor

Attest:

(Seal)

_____, Member

_____, Member

City Clerk

INVOICE

Keep for your Records

Due on or before 11/9/2023

PRELIMINARY STATEMENT OF COSTS

063 KA-6448-01

ACNHP-A644(801)

Independence CCLIP-GI: US-75 from Morningside Dr to NCL

Please Remit Payment to:
Kansas Department of Transportation
Bureau of Fiscal Services
700 SW Harrison Street, 3rd Floor West
Topeka, KS 66603

Construction and CE Breakdown	
Actual Bid	\$612,647
Water (for grading)	\$0
Sub-Total Actual Bid Amount	\$612,647
LPA CE Contract	\$89,703
Sub-Total Construction and CE	\$702,350
State-aid Non-Participating Const. Costs	\$0
State-aid Non-Participating CE	\$0
Participating PE Costs	\$0
Participating Railroad Costs	\$0
Participating ROW Costs	\$0
Participating Utility Costs	\$0
State Participating Project Costs	\$702,350
Total Project Costs	\$702,350

CE Breakdown	
Total LPA CE	\$89,703
State Non-Participating CE	\$0
State Participating CE	\$89,703

State/City Funding Summary	
Total Project Costs	\$702,350
100% City Funds Due to Non-Participating	\$0
State Participating Project Costs	\$702,350
Fund 1- Available Funding	\$702,350
90% State Funds	\$632,115
10% City Funds	\$70,235
100% City Funds Due to Max Funding	\$0

Fund 1- Maximum State Funds 90/10	\$1,000,000
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Key	
KDOT	Kansas Department of Transportation
LPA	Local Public Authority
CE	Construction Engineering (Inspection)
Const.	Construction

Totals				
	City Funds	Federal Funds	State Funds	Total Funds
State Non-Participating Construction	\$0			\$0
State Non-Participating CE	\$0			\$0
Fund 1- 90% State Funds			\$632,115	\$632,115
Fund 1- 10% City Funds	\$70,235			\$70,235
City Funds Due to Max Funding	\$0			\$0
Total	\$70,235	\$0	\$632,115	\$702,350

Amount to Bill City (Rounded Up)	\$71,000
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BUREAU OF CONSTRUCTION & MATERIALS

As Read By Project (Bidders List by Individual Project)

Date: 09/20/2023

Contract Number: 523092454

Project Number: U075-063 KA 6448-01

Federal Number: ACNHP-A644(801)

Description: GRADING AND SURFACING

County: MONTGOMERY

State Ties: --

Total Records: 2

[Helpful Definitions](#)

Contractor Name

Bid Amount

MISSION CONSTRUCTION CO INC \$612,647.00

BETTIS ASPHALT & CONSTRUCTION INC \$793,658.00

TRAVELER INFORMATION

TRAFFIC & TRAVELER INFO
KANDRIVE
SAFETY INFORMATION
STATE MAPS
TOURIST INFORMATION
KANSAS BYWAYS
ROAD WEATHER STATIONS
KANSAS CITY METRO
TOPEKA/LAWRENCE METRO
WICHITA METRO

DOING BUSINESS

PERMITS
BIDDING & LETTING
COMMERCIAL VEHICLES
DESIGN CONSULTANTS
HIGHWAY CONTRACTORS
LOCAL GOVERNMENTS
OFFICE OF CONTRACT
COMPLIANCE
BRIDGE INSP. PORTAL
LOCAL PROJECTS

INSIDE KDOT

ABOUT KDOT
KANSAS CITY METRO
TOPEKA/LAWRENCE METRO
WICHITA METRO
DISTRICTS
PERFORMANCE

PROJECTS/PUBLICATIONS

T-WORKS
PROJECTS/STUDIES
TRANSPORTATION PLANNING
PUBLICATIONS

PUBLIC INFORMATION

NEWS
OPEN RECORDS
MEDIA CONTACTS
PROPERTY DAMAGE CLAIMS

CONNECT WITH KDOT

MEDIA CONTACTS
CONTACT
FACEBOOK
TWITTER
YOUTUBE
DIRECTORY



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
September 28, 2023

Department Public Works & Utilities

Director Approval John Garris

AGENDA ITEM Consider adopting a resolution implementing Stage 2 (Water Warning) of the City's Water Conservation Plan.

SUMMARY RECOMMENDATION Adopt a resolution implementing Stage 2 (Water Warning) per the City's Water Conservation Plan.

BACKGROUND Due to the current drought conditions as per our Water Conservation Plan, in which the Elk City Reservoir elevation has reached five feet below normal seasonal levels, the City needs to implement Stage 2 (Water Warning). The goals of this stage are to reduce peak demands by 20% and to reduce overall weekly consumption by 10%.

The City will implement the following management actions:

1. Provide weekly news releases to local media describing present conditions and any changes to the water supply.
2. Provide weekly summaries of temperature, precipitation, water levels and storage.
3. Provide water conservation articles and information to local news media outlets.
4. Include water-saving tips in billing statements to utility customers.
5. Shut down fountains, discontinue washing of City vehicles and halt watering of City grounds or properties.

Residents and all customers using City water will be required to adhere to the following measures:

1. Residents with odd-numbered addresses will water only on odd-numbered days; even-numbered addresses will water only on even-numbered days.
2. Outdoor water use, including lawn watering and car washing, shall occur only before 10 a.m. or after 9 p.m.
3. Outdoor watering is restricted to hand-held hoses or buckets only.
4. Golf course watering will be limited to tees and greens, following the above restrictions.
5. Refilling swimming pools is limited to one day a week, after sunset.
6. Excess water charges for consumption above winter levels will be considered.
7. Wasting of water will be prohibited, via ordinance with potential penalties enforced.

FINANCIAL INFORMATION The financial impact will be reduced water utility revenue due to reduced water usage. The goal is to reduce water consumption by 10%.

SUGGESTED MOTION I move to adopt a resolution implementing Stage 2 (Water

Warning) of the City's Water Conservation Plan.

SUPPORTING DOCUMENTS

1. Resolution 2023-049 - Stage 2 water warning

RESOLUTION NO. 2023-049

A Resolution Declaring a Stage 2 Water Warning

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

Section 1. Water Conservation Plan. The City of Independence currently has a municipal water conservation plan recently adopted by the governing body which is on file with the Kansas Water Office.

Section 2. Stage 2 Water Warning. Pursuant to the city's water conservation plan, the governing body hereby declares a Stage 2 Water Warning which is being triggered by the following condition:

- a. The Elk City Reservoir elevation is five (5) feet below normal seasonal levels.

Section 3. Ordinance. The governing body is in the process of adopting an ordinance which formally sets forth the City's existing water conservation plan. Upon adoption, City staff is authorized and directed to take all education actions, management actions, and regulation actions as set forth in the ordinance.

Section 4. Effective Date. This resolution shall take effect on its publication in the official city newspaper.

Adopted by the Governing Body of the City of Independence, Kansas, on the 28th day of September, 2023.

LOUIS YSUSI, Mayor

ATTEST:

DAVID W. SCHWENKER, City Clerk



Report
CITY OF INDEPENDENCE
September 28, 2023

Department Public Works & Utilities

Director Approval

AGENDA ITEM Monthly Project Report

BACKGROUND

SUPPORTING DOCUMENTS

1. Project Status 9-2023cc

	Project Title	Project Description/Scope	Approx. Cost (000's)	Grant Portion	Arch. or Eng. Partner	Status	Last Month Progress	Next Month Plan/Issues	Projected Const Start	Projected Compl.
1	Water Plant Next Phase	Water Plant Capital Work Per Master Plan	\$6,000		PEC	Design.	Revise scope to include dechlorination after Commission review.	Reviewed scope with PEC.	3Q23	4Q26
2	Parking Lot N. of City Hall	Design and construct new parking lot north of historic City Hall	TBD	TBD	TranSystems	Design.	Design start.	Awaiting survey data.	1Q24	3Q24
3	SPCC - Airport	Containment upgrades for fueling	\$150	n/a	TranSystems	Design.	Obtain survey data, preliminary design.	30% design.	3Q23	1Q24
4	CCLIP Grant - Main	Main Street - 8th to 2nd, mill and overlay	\$1,000	\$800	TranSystems	Design.	Review traffic control options for high traffic area.	Resubmitted to KDOT.	1Q24	3Q24
5	Transp. Alt. Grant	8' sidewalk to Wal-Mart and Labette	\$1,350	\$980	TranSystems	Design.	Review ROW plan.	Meeting with local KDOT.	1Q24	2Q24
6	Big Straw	Water pipeline to Bartlett.	\$11,000	All (via Bartlett)	EBH	Pre-bid.	Bid pipe, complete survey, finalize route.	Award pipe, issue bid documents for pipeline construction.	4Q23	1Q25
7	KDOT KAIP	New Beacon	\$120	\$108	Lochner	Pre-bid.	Work design.	Issue bid documents for beacon.	3Q23	1Q24
8	KDHE Wastewater Loan	New sewer lines around 1st and Birch and around the Westminster area.	\$3,000		TranSystems	Pre-bid.	Waiting on final loan document (waiting on KDHE). Working on obtaining easements.	Receive final loan document (waiting on KDHE). Preparing condemnation. TranSystems calling State regularly.	4Q23	1Q24
9	CCLIP Grant - Penn	Reconstruct Penn from Morningside to City Limits	\$500	\$370	TranSystems	Pre-bid.	Design complete. 9/2023 bid.	September Bid (via KDOT).	2Q24	3Q24
10	Central Park - Phase I	New soccer fields, revamp existing ball fields.	\$6,800	\$2,100	Indigo	Pre-construction.	RCA for award.	Hold precon.	3Q23	3Q24
11	CCLIP Grant - Chestnut	Mill and overlay Chestnut from 9th to Penn	\$287	\$258	TranSystems	Pre-construction.	Wait for precon.	Hold precon.	3Q23	4Q23
12	Waterline/Meter Project	New Water Meters, Replace Some Water Main	\$3,600		PEC	Pre-construction.	Awarded.	Documentation, hold precon.	3Q23	1Q24
13	Precision Rail	Rail work to be paid for by KDOT grant and precision, contract with City.	\$1,000	\$1,000	(Precision)	In construction.	Awarded, contractor mobilized.	Prepare for construction.	3Q23	2Q24
14	Enterprise Drive	Buildout of street, utilities	\$1,700	\$1,300	TranSystems	In construction.	Need City easement form.	Need easements from landowners.	1Q22	4Q23
15	KDOT: Maple Street Cost Share	Complete rebuild, 17th Street to City Limits	\$3,780	\$1,600	TranSystems	In construction.	Planning storm sewer work. Scheduling work with RR, paving complete. Need City easement form.	Easement with landowner.	1Q22	4Q23
16	Myrtle Street Overlay	Mill and overlay 10th to 17th	\$260			In construction.	Change order for additional quantities. Construction started.	Project nearing completion. Last time on list.	3Q23	3Q23
17	City Hall/Fire/EMS	Refinish City Hall, construct new Fire/EMS personnel spaces	\$10,400		Treanor	Complete.	Final walkthroughs, punchlist.	Moving, minor item completion, remove from list.	1Q22	3Q23
A	Whiskey Creek	Artificial lake for runoff water impoundment	TBD		TranSystems	Hold.	Fifth meeting in July.	Sixth meeting TBD.	TBD	TBD
B	Airport Infrastructure	Paving at airport to support business.	\$434	\$349	TranSystems/ Lochner	Developing.	Getting contract from Transystems, RCA for KAIP Grant in September.	Apply for grant.	2024	2024
C	CCLIP 2025, 2026	Paving at various locations.	TBD	TBD	TranSystems		Grant applied for, wait.	Grants not received. Will reapply later.	2025	2027
D	KDOT Bridge Grant	Replace Cherry Street bridge with box culvert.	\$400	TBD	TranSystems		Grant applied for, wait.	Grant applied for, wait.	TBD	TBD
E	SS4A	Safe Streets for All grant application.	\$1,605	\$1,605	TranSystems		Grant applied for, wait.	Grant applied for, wait.	TBD	TBD
F	Jefferson Subdivision	Streets and infrastructure for new subdivision.	TBD	TBD	TranSystems	In development.	New on list.	RCA to request City participation, advertise for bid. October bid.	4Q23	3Q24
G	KDOT Cost Share	Sycamore Cost Share project.	\$1,011	\$711	TranSystems	In development.	RCA to apply for Cost Share Grant.	Apply for grant.	2Q25	4Q25

Green shade denotes changed/new information from last month.



Report
CITY OF INDEPENDENCE
September 28, 2023

Department Admin

Director Approval Kelly Passauer

AGENDA ITEM City Board Minutes

BACKGROUND

SUPPORTING DOCUMENTS

1. IHPRC - March 27, 2023 Minutes
2. IHPRC - June 26, 2023 Minutes
3. IHPRC - July 24, 2023 Minutes

Monday, March 27, 2023
Historic Preservation Resource Commission
Meeting Minutes

Members Present: Darin Axthelm, Bill Gour, Brea Sanford, Gary Hogsett, Jason Rutledge
City Staff: David Cowan
Ex Officio: Lisa Wilson
Absent: John George, Tim White
Special Guest: Omar Elsabassy

Members went over the February 27, 2023 meeting minutes. Gary Hogsett made a motion to approve the minutes as presented. Bill Gour seconded the motion and all were in favor of accepting the minutes as presented.

Discussion:

The members discussed the approval of the signage for Empire, located at 208 North Pennsylvania Avenue. Owner Omar Elsabassy was present and told members that it would be a single-sided sign with raised lettering, much like the Cantrell's Jewelry sign. A firm out of Parsons claimed that it would take two to three weeks for design, fabrication and installation. Gary Hogsett motioned to accept the design for the signage. Bill Gour seconded the motion and it passed with everyone in favor.

Also approved was the certificate of appropriateness for the new exterior planned for Schenk's Insurance, located at 224 West Main Street. All were in favor.

Brea Sanford motioned to end the meeting. Bill Gour seconded the meeting and the commission adjourned.

Monday, June 26, 2023
Historic Preservation Resource Commission
Meeting Minutes

Members Present: Darin Axthelm, Bill Gour, Brea Sanford, Tim White, Jason Rutledge, Gary Hogsett
City Staff: David Cowan
Ex Officio: Lisa Wilson, Tabatha Snodgrass
Absent: John George
Special Guest: Matt Turner

Members went over the March 27 minutes. Bill Gour made a motion to approve the minutes as presented. Gary Hogsett seconded the motion and all were in favor of accepting the minutes as presented.

Discussion:

Matt Tucker, owner of Uncle Jack's presented a proposal for window signage at Uncle Jack's. Signage would be black with gold lettering, of a perforated material, like a window cling. Tim White made a motion to accept the proposal. Gary Hogsett seconded the motion and all were in favor.

Survey of Historic Resources

Members heard from David about the possibility of conducting a new survey and the grant opportunities available. The Committee is in favor of pursuing the grant to update the survey. Also discussed was the difference between local and national landmark districts.

Brea Sanford motioned to adjourn the meeting until Monday, July 24. Tim White seconded the motion and all were in favor.

Monday, July 24, 2023
Historic Preservation Resource Commission
Meeting Minutes

Members Present: Darin Axthelm, Brea Sanford, Gary Hogsett, Jason Rutledge, Tim White

City Staff: David Cowan, Kelly Passauer

Ex Officio: Lisa Wilson, Tabatha Snodgrass

Absent: John George, Bill Gour

Special Guest: Ray Rothgeb, Ashley Hovell, Craig Null, Miranda Bruening, Drew Demo and Cory Wright

Members went over the June 26, 2023 meeting minutes. Gary Hogsett made a motion to approve the minutes as presented. Brea Sanford seconded the motion and all were in favor of accepting the minutes as presented.

Discussion:

The members discussed the approval of the signage at King's Bar Room. The owner of the sign company was in attendance and members let him know that as long as it meets the requirements of the zoning commission that the design is fine. A motion was made to accept the Certificate of Appropriateness by Tim White. Gary Hogsett seconded and all were in favor.

Members also discussed the approval of an electronic sign at the History Museum. Darin Axthelm bowed out and appointed Jason as chairperson. It was noted that the sign is slightly larger than what the board specifies for electronic sign. If approved at the IHPRC, the Museum will then go after a variance with the Planning and Zoning Commission and then will go before the City Commission. Tim White made a motion to accept the Certificate of Appropriateness. Brea Sanford seconded the motion and all were in favor.

In further discussion, Miranda Bruening addressed the Commission about the downtown upper story development. Grant funds have been awarded for the Indy Bookstore building so the project can move forward. Construction will hopefully begin September 1.

SHPO toured the buildings while they were in town for the convention in May. There were some issues with the Hair Plus building, as there was a historically open hallway. Bruening explained they may hold off on accepting bids until October 1, which could push construction back to January.

The Indy Bookstore building got a CDBG grant for blighted downtown areas, which equaled \$377,000. It will cover roof, floor, reframing, fire egress replacement and asbestos removal. She mentioned that the company is looking for some downtown rental space for construction storage.

Downtown Assessment:

Bruening informed the Commission that assessment will cost \$2500 for each downtown building. She is willing to work with the Commission on the price if necessary.

David Cowan informed the Commission that a complaint was received. The complaint asked if the Commission had received a permit for the new west side signs on Ane Mae's building (Jim Hayward signage). Banners are temporary and should not be there more than 30 days. Cowan stated that he would send a letter to the owners of the building.

Kelly Passauer suggested the Commission send out a letter stating permits are needed for signage in the downtown area.

The Commission discussed absent member John George. He has missed a number of meetings. The matter has to go to the Mayor and have him suggest that he be removed. Gary Hogsett said he would see what is going on with George.

Tim White motioned to end the meeting. Brea Sanford seconded the motion and the commission adjourned.