



Tuesday, August 6, 2024

Commission/Court Room, City Hall 5:30 PM

Independence Planning Commission/Board of Zoning Appeals

To join by Conference Call dial:1-785-289-4727 Conference ID: 820 754 218#

- I. CALL TO ORDER
- II. MINUTES
 - a. Consider approving minutes of the April 16, 2024 and May 7, 2024 Planning Commission/Board of Zoning Appeals meeting.
- III. BOARD OF ZONING APPEALS (DOES NOT INCLUDE OUTSIDE CITY APPOINTMENTS)
 - a. Public Hearing to receive comments on variance requests to reduce the setback(s) and exceed the maximum lot coverage in an R-3, low density multi-family dwelling district at 200 South 2nd Street.
- IV. PLANNING COMMISSION
 - a. Public Hearing to consider a text amendment relating to “Shipping containers” in a residential district as a conditional use.
- V. DISCUSSION
- VI. ADJOURNMENT



**PLANNING COMMISSION ACTION / BOARD OF
ZONING APPEALS MINUTES
CITY OF INDEPENDENCE
August 6, 2024**

Department City Clerk

Prepared By David Schwenker

AGENDA ITEM Consider approving minutes of the April 16, 2024 and May 7, 2024 Planning Commission/Board of Zoning Appeals meetings.

SUMMARY RECOMMENDATION Approve Minutes of the April 16 and May 7, 2024 Planning Commission/Board of Zoning Appeals Meetings.

SUPPORTING DOCUMENTS

1. April 16 2024 - Special Meeting Minutes
2. May 7 2024 PZ minutes-draft

Minutes of the City Commission's April 16, 2024 Meeting

I. SPECIAL SESSION

Joint Meeting of the City Commission and Planning Commission

Commissioners Present: Vice-Mayor Scott Smith and Commissioner Dean Hayse

Commissioners Absent: Mayor Tim Emert

Planning Commissioners Present: Rachel Lyon, Chair; Lisa Richard, Vice Chair; Rita Ortolani, Gary Hogsett, Butch Holum, Tim Haynes, Mary Jo Dancer, and Michelle Avery

Planning Commissioners Absent: Kim Kays, Secretary

City Staff Present: Kelly Passauer, City Manager; David Cowan, Assistant City Manager; David Schwenker, City Clerk/City Treasurer; April Nutt, Director of Housing Authority and Brian McHugh, Memorial Hall Supervisor

Visitors Present: Larry McHugh, Abbey Hebbert, Chris Shires.

A. Call to Order

Vice Mayor Smith called the City Commission meeting to order.

Rachel Lyon called the Planning Commission meeting to order.

II. PRESENTATION AND DISCUSSION

A. Worksession with City Commission/Planning Commission to review the Community Development/Comprehensive Plan.

The draft Independence Community Development Plan identifies the community's goals, visions, and strategies for the next twenty-five to thirty years of progress. It was written by our consultant, Confluence, Inc., working collaboratively with the Steering Committee, City Staff, and the community. The final plan will need to be adopted by the Planning Commission and City Commission, scheduled for May 7th and 23rd, respectively. The purpose of this joint worksession facilitated by the consultant, is to finalize any modifications before final adoption.

The draft plan may be accessed at this link: <https://engage.thinkconfluence.com/independence-community-development-plan/independence-draft-community-development-plan>

Minutes of the City Commission's April 16, 2024 Meeting

Also, as required, the County has been notified of the City's intent to adopt the Comprehensive Plan per State Statute and to extend the planning area outside the City limits.

III. ADJOURNMENT

Motion:

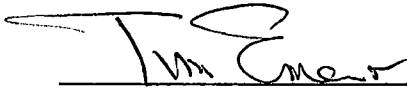
On the motion of Rachel Lyon, seconded by Tim Haynes, the Planning Commission adjourned the meeting.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Mary Jo Dancer, Lisa Richard, Gary Hogsett, Rita Ortolani, Butch Holum
Nay: None

Motion:

On the motion of Scott Smith, seconded by Dean Hayse, the Commission adjourned the meeting.

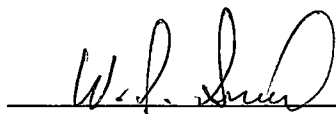
Aye: Dean Hayse, Scott Smith
Nay: None



Tim Emert, Mayor



Dean A. Hayse, Commissioner



Scott Smith, Commissioner

Attest:



City Clerk/Treasurer

Rachel Lyon, Chair

Kim Kays, Secretary

Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's May 7, 2024 Meeting

I. Call to Order

Rachel Lyon, Chairperson, called the meeting to order.

Present: Lisa Richard, Rita Ortolani, Butch Holum, Mary Jo Dancer, Tim Haynes, Rachel Lyon, Kym Kays, Michelle Anderson, Gary Hogsett

Absent:

Guests: Geneva Duke, Cody Cook, Twila Augustine, Jamie Clubine, Angie & Toshio Sharp, Mike Passauer, Curtis Belt, Fred Meier, Mike & Kim Dodson, Amber & Jason Kuehn, 3790 CR 4055 name illegible, Ron Wood, Steve & Penny Lumbley, Mike Cordday, Bruce & Mandi Hargis, Ken DeVore, name illegible, name illegible, Phil Loveless, Josh & Wynter Krisha, Andy G & Carol Gerstenkorn, Ryan York, Kevin & Elena Elias, Scott Smith, Phil Clubine, Joe Douglass, 5506 CR 6200 name illegible, 4032 CR 3985 name illegible, Greg Knisley, Jeff Clark, Cynthia Ross, Amy & David Bales, Keith Stone, Harold & Linda Groth, Greg & Lori Knisley, Shirley Knisley, Wayne Blaes, Kay Willard, Phil & Stephanie Groth, Ernie Loganbill, 5564 CR 6200 Rachelle last name illegible & name illegible, Rob & Stephanie Williams, Wayne Stephany, Paul Vaughn, name illegible & phone number, Jeques Brown.

II. Minutes

- a. Consider approving minutes of the April 2, 2024 meeting and the amended minutes of the March 5, 2024 meeting.

Motion:

On the motion of Tim Haynes, seconded by Rita Ortolani the Commission approved the minutes of the April 2, 2024 meeting and the amended minutes of the March 5, 2024 Planning Commission/Board of Zoning Appeals meeting.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Mary Jo Dancer, Lisa Richard, Gary Hogsett, Butch Holum, Kym Kays, Rita Ortolani

Nay: None

III. Planning Commission

- a. Public hearing to receive comments to consider rezoning a tract of land at 401 South 13th Street from R-2, single-family dwelling district to C-1, neighborhood business district; and to receive comments on a request for a conditional use permit for a "Restaurant" in a C-1, neighborhood business district, defined as Restaurant: A public eating establishment at which the primary function is the preparation and serving of food.

Rachel Lyon, Chairperson, opened the public hearing.

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's May 7, 2024
Meeting**

Tim Haynes asked if the water and electric service is adequate for the intended use or if it needs commercial electric.

David Cowan stated that it is adequate.

Butch Holum asked about where the access is, from the alley or were there curb cuts.

Kevin Elias said that they could put a parking place just off the alley off of Walnut.

Jim Padley, 413 S 13th, stated that the lot floods whenever it rains. He feels like there will be too much traffic and too much trash.

Carol Holt, 400 S. 13th, agreed with Jim Padley.

Kevin Esias said that the heavy rain has only caused minimal standing water.

Rachel Lyon asked what the ground clearance is on the structure.

Kevin Elias stated that it is no more than 8 inches.

Tim Haynes asked if it is on a concrete slab, on grade or a wood subfloor.

Kevin Elias stated that it is a wood subfloor and he could raise it if need be.

Gary Hogsett asked if there is a precedent for this.

Rachel Lyon stated that not that she is aware of.

The public hearing was closed.

Motion:

On the motion of Lisa Richard, seconded by Tim Haynes the Commission approved recommending the City Commission rezone 401 South 13th Street from R-2, single-family dwelling district to C-1, neighborhood business district; and to approve the request for a conditional use permit for a "Restaurant" in a C-1, neighborhood business district, adding a Section H to the conditional use criteria under Section 902.2 that reads: The owner shall comply with all local, state and federal rules and regulations and meeting all City codes including off-street parking unless a waiver has been approved by the City Commission.

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's May 7, 2024
Meeting**

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Mary Jo Dancer, Lisa Richard, Gary Hogsett, Butch Holum, Kym Kays, Rita Ortolani
Nay: None

- b. Public hearing to consider adopting a Community Development/ Comprehensive Plan.

Jeff Chubb reminded the audience of the rules of decorum.

Rachel Lyon, Chairperson, opened the public hearing.

54 people signed the sign-in sheet and 16 speakers got up to speak about the City not annexing their properties, not contacting them about meetings directly and encroaching on other water districts. There were more than 54 people in the audience.

The public hearing was closed.

The guests began to leave and the meeting had to be delayed by a few minutes because of the noise interrupting the meeting from proceeding.

After the public hearing was closed, Ken Devore stayed and began asking more questions, further interrupting the meeting.

Motion:

On the motion of Lisa Richard, seconded by Tim Haynes the Commission moved to authorize a resolution adopting the new Comprehensive Plan titled Independence Community Development Plan, as presented, and recommend that the Governing Body of the City of Independence, Kansas, adopt the same in accordance with K.S.A. 12-747.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Lisa Richard, Gary Hogsett, Butch Holum, Kym Kays, Rita Ortolani
Nay: Mary Jo Dancer

- c. Public Hearing for a text amendment relating to "Shipping containers" in the C-4, highway commercial district.

Rachel Lyon, Chairperson, opened the public hearing.

The public hearing was closed.

Motion:

On the motion of Rachel Lyon, seconded by Rita Ortolani the Commission moved to add C-4, highway commercial district to Section 607.4.e and 613.3, to the list of district regulations pertaining to "Shipping container".

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's May 7, 2024
Meeting**

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Mary Jo Dancer, Lisa Richard, Gary Hogsett, Butch Holum, Kym Kays, Rita Ortolani
Nay: None

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

- a. Public Hearing to receive comments on a variance request to reduce the setback(s) in an R-3, low density multi-family dwelling district at 301 North Park Blvd.

Rachel Lyon, Chairperson, opened the public hearing.

Lisa Richard asked if any of the neighbors have any concerns.

Mike Passauer said no, there is one neighbor on the other side so is not concerned.

The public hearing was closed.

Motion:

On the motion of Tim Haynes, seconded by Kym Kays the Commission approved a 15 foot variance, reducing the 25-foot setback to 10 feet from the property line along Laurel Street at 301 North Park Blvd.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Mary Jo Dancer, Lisa Richard, Kym Kays, Rita Ortolani
Nay: None

V. Discussion

- a. The next meeting has been rescheduled for Tuesday, June 11, 2024 at 5:30 PM.

Rachel Lyon reminded everyone that the next meeting has been rescheduled for Tuesday, June 11, 2024 at 5:30 p.m.

VI. Adjournment

Motion:

On the motion of Tim Haynes, seconded by Mary Jo Dancer the Commission adjourn.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Mary Jo Dancer, Lisa Richard, Gary Hogsett, Butch Holum, Kym Kays, Rita Ortolani
Nay: None

Rachel Lyon, Chairperson

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's May 7, 2024
Meeting**

Kym Kays, Secretary



**REQUEST FOR BOARD OF ZONING APPEALS ACTION
VARIANCE
CITY OF INDEPENDENCE
AUGUST 6, 2024**

Department Zoning Administration

Prepared By Maurice Garlet

AGENDA ITEM Public Hearing to receive comments on variance requests to reduce the setback(s) and exceed the maximum lot coverage in an R-3, low density multi-family dwelling district at 200 South 2nd Street.

SUMMARY RECOMMENDATION Approve a variance to reduce the south setback from 8 feet to 1 foot, and authorize exceeding the maximum lot coverage from 35% to 46%.

BACKGROUND Dana Jennings wishes to install a 220 square foot (20' X 11') carport on the south side of her property where the driveway and existing garage are located. She intends to use the carport as an extension of the existing garage (1 car). The existing garage is located within one to three feet of the property line, as is the driveway. She requests a variance to reduce her south side yard setback from eight to zero feet.

504.6. Yard regulations:

a. Minimum front yard:

1. The front yard shall be a minimum of 25 feet in depth measured from the front lot line.
2. Where lots have a double frontage, the required front yard shall be provided on both streets.

b. Minimum side yards:

1. Interior side yards: Eight feet.
2. Where the side yard fronts on a street, the minimum front yard setback shall be provided.

c. Minimum rear yard: Ten feet.

Exception: On lots of irregular rear property lines or when residence is located on the lot at an angle, rear yard dimensions shall be taken at each end of building parallel to the sides and a perpendicular measurement taken from the rear of building to the furthest point of the lot. The average of these three measurements shall be equal [to] at least 25 feet. However, in no case shall the building or structure be located less than eight feet perpendicular from any property line.

Intensity of Use				Maximum Height		Minimum Yard Requirements		
District	Minimum Lot Area	Minimum Lot Width	Maximum Lot Coverage	Feet	Stories	Front Yard	Side Yard	Rear Yard
R-3	1 fam., 7,200 sf/du 2 fam., 4,000 sf/du 3 fam., 3,000 sf/du	None	35%	35'	2.5	25'	8' Abutting street, 25'	10'

BOARD OF ZONING APPEALS CONSIDERATIONS The five considerations that must be considered when reviewing a variance include:

- a. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by any action or actions of the property owner or the applicant; *Lots in this area were developed prior to the zoning code with structures that do not meet the current setbacks and exceed the maximum lot coverage, and are nonconforming uses. The existing garage that the carport will align with is a nonconforming use.*
- b. That the granting of the permit for the variance will not adversely affect the rights of the adjacent property owners or residents; *As long as there is some separation between the property line and the proposed structure, this should not adversely affect the rights of the adjacent property.*
- c. That the strict application of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application; *The lot is 4,740 square feet, and is a nonconforming use as it does not meet the minimum lot size for the R-3 zone for one family which is 7,200'. Therefore, there is very little room to place accessory structures.*
- d. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; *It does not appear that the variance would affect the health, safety, morals, order, convenience, prosperity or general welfare.*
- e. That granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations. *Granting the variance would not be opposed to the general spirit and intent of the zoning regulations, as other lots in the area have similar characteristics.*

STAFF RECOMMENDATION Staff does not recommend approving a variance for a zero setback, particularly in a residential area, as this could create a future conflict with the neighboring property. A variance is recommended to be granted to reduce the south setback to one foot to allow the carport to better align with the existing garage. However, it is the property owner's responsibility to verify the property line location before the carport is constructed to ensure compliance, as the City does not locate property lines. Currently, the existing structures cover approximately 40 - 41% of the lot. The maximum lot coverage of 35% is recommended to be increased to 46% to allow for the current structures and the construction of this additional structure on this 4,740 square foot lot. The property owner must meet the 25' front yard setback, as no variance was requested to reduce this setback.

County	Sq. Ft.		Sq. Ft.
House	1,248.00	Lot Size (60' X 79')	4,740.00
Garage	240.00	35% Lot Coverage	1,659.00
Proposed Carport	220.00	36% Lot Coverage	1,706.40
Total	1,708.00	37% Lot Coverage	1,753.80
		38% Lot Coverage	1,801.20
		39% Lot Coverage	1,848.60
Pictometry	Sq. Ft.	40% Lot Coverage	1,896.00
House/Garage	1,927.00	41% Lot Coverage	1,943.40
Proposed Carport	220.00	42% Lot Coverage	1,990.80
Total	2,147.00	43% Lot Coverage	2,038.20
		44% Lot Coverage	2,085.60
		45% Lot Coverage	2,133.00
		46% Lot Coverage	2,180.40

SUGGESTED MOTION I move to approve the following variances for the property located at 200 South 2nd Street:

1. Reduce the south side yard setback 7', from 8' to 1'; and
2. Increase the maximum lot coverage from 35% to 46%.

SUPPORTING DOCUMENTS

1. 2024VAR05 Public Hearing Notice Setbacks
2. 200 South 2nd Application 6-26
3. Lot Coverage and Approximate South Property Line - Not Surveyed - 200 S 2nd

City of Independence, Kansas

NOTICE TO THE PUBLIC

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

Tuesday, August 6, 2024 at 5:30 p.m.

To receive comments on a variance request for setbacks in an R-3 low density multifamily dwelling district.

Common Address:

200 South 2nd Street

Legal Description:

W 79' LT 10 BLK 72 Original Plat to the City of Independence, Montgomery County, Kansas.

Applicant/Owners:

JENNINGS, DANA

Case Number:

2024/VAR/05

The hearing will be conducted in the Commission Room, City Hall, 120 North Sixth Street, Independence, Kansas, and will begin at 5:30 p.m. All interested persons should attend, and they will be heard. You may also participate via conference call: [+1 785-289-4727](tel:+17852894727) Conference ID: 820 754 218# Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

Kelly Passauer
Zoning Administrator
120 North Sixth Street
Independence, KS 67301
(620) 332-2506

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

Kelly Passauer, Zoning Administrator

APPLICATION TO BOARD OF ZONING APPEALS

CITY OF INDEPENDENCE, KANSAS

1. Date: 06-26-2024

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

DANA D JENNINGS
200 S. 2nd St
67301

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

Name:

Address:

Telephone:

4. Common Address of Land Involved:

200 S. 2nd St

5. Legal Description of Land Involved:

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

Install a carport on the South side of the property. It will be an extension to the existing garage & follow the drive way. However, it will be on the property line, so I am requesting a zero foot variance.

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

Drive way is close to the property line

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

Our drive ways are currently adjacent to one another.

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

We will not have the ability to properly project our property.

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

It's a carport.

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

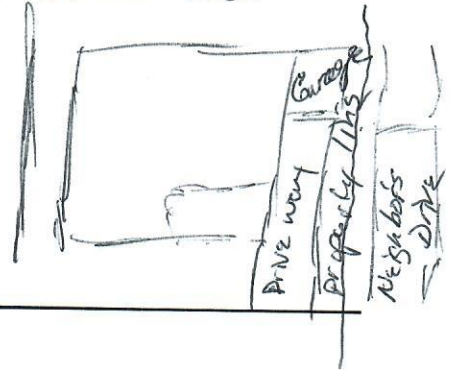
It will be in line with the beautification of the property.

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

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

Signature of Property Owner:

Sam D. Jennings



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

Residential Building Permit Application 1 & 2 Family Residences

Application Date: 6.26.2024

Applicant Name: Dana Penning

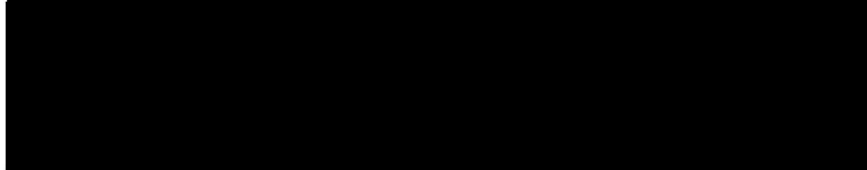
Project Site Address: 200 S. 2nd St 67301

Project Site Legal Description (Lot Numbers, Block & Sub-division):

Project Owner:

Name: Dana Penning

Address: 200 S. 2nd St



Project Construction Information:

- Construction Type:**
- ☐ New Construction
 - ☐ Addition
 - ☐ Accessory Building
 - ☐ Interior Renovation
 - ☐ Exterior Renovation
 - ☐ Duplex
 - ☐ Townhouse
 - ☐ Porch
 - ☒ Addition to Garage
 - ☐ Detach Garage
 - ☐ re-roof/roofing – see roofing section
 - ☐ Historical restoration
 - ☐ Other
- CARPORT*

*Please check all that apply. If historical please reference historical section at end of permit. Roofing/re-roof see roofing section.

Project Construction Value: \$ 1938.00

Total Square Footage of Project: 20' x 12' x 8' - changed the width from 12' to 11'

First Floor Square Footage: _____

Second Floor Square Footage: _____

Third Floor Square Footage: _____

Unfinished Basement Square Footage: _____



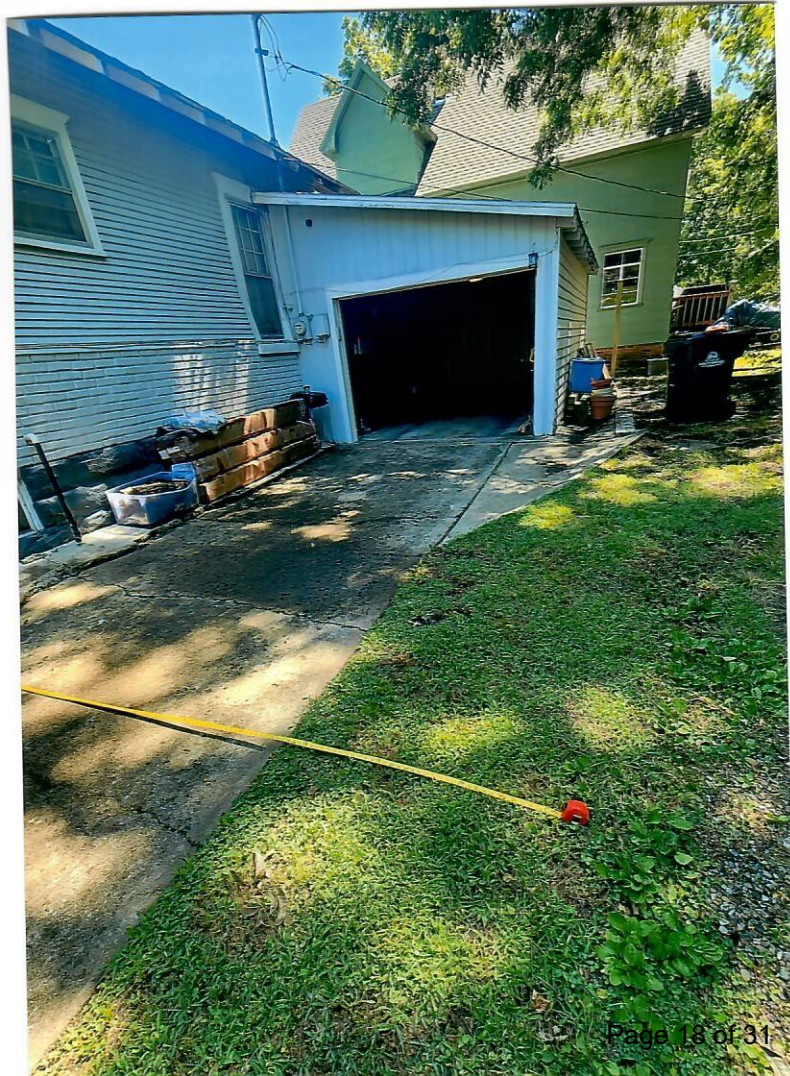
CITY OF INDEPENDENCE

REC#: 01282688 6/26/2024 2:44 PM
OPER: JESS TERM: 001
REF#:

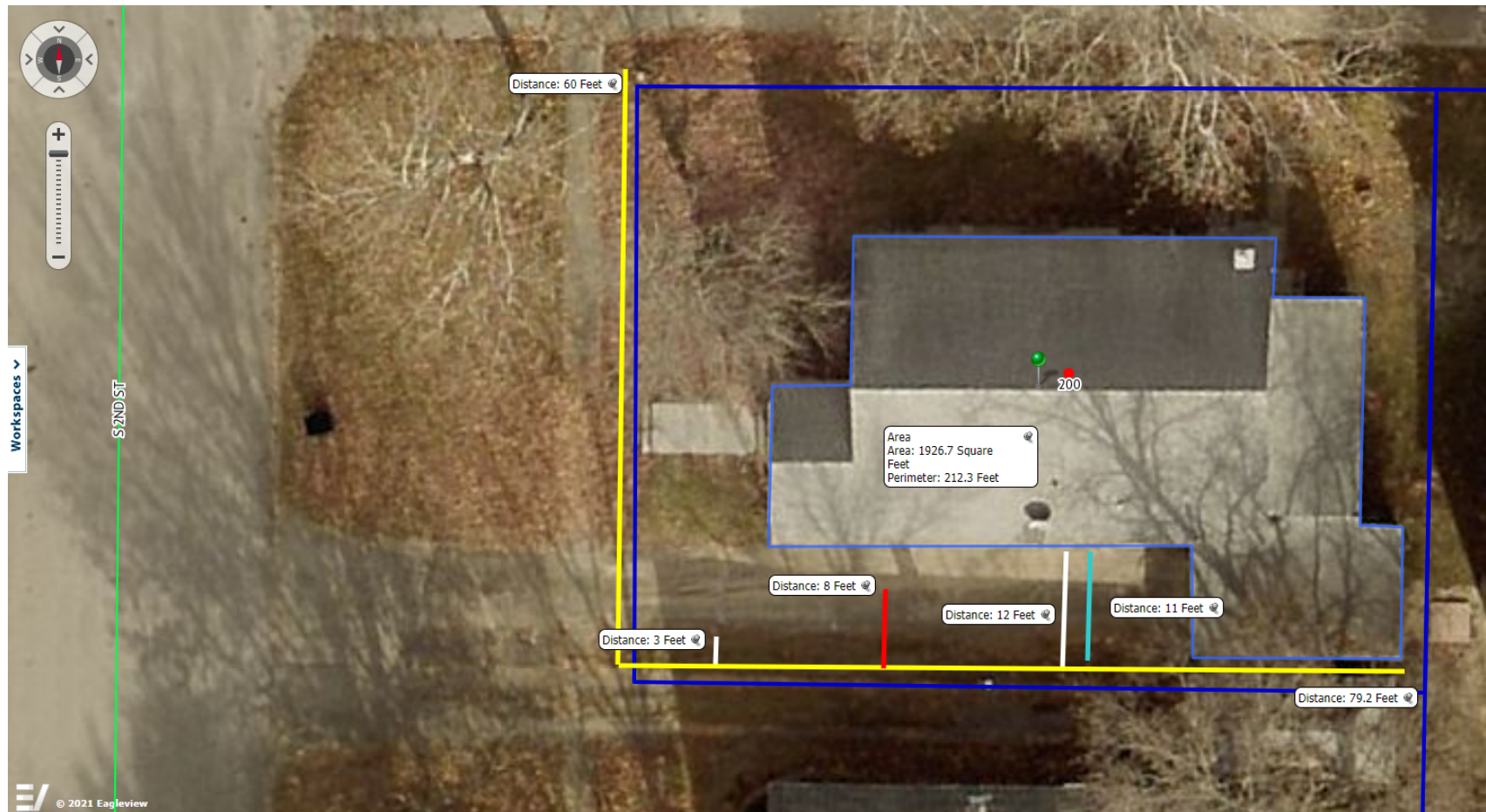
TRAN: 1.9000 PLANNING AND ZONING
200 S 2ND
VARIANCE 100.00CR

TENDERED: 100.00 CASH
APPLIED: 100.00-

CHANGE: 0.00



Approximate South Setback at 200 South 2nd



Note: Property Owner Should Have the Property Line Located by a Licensed Surveyor Before Construction



**REQUEST FOR PLANNING COMMISSION ACTION
TEXT AMENDMENT
CITY OF INDEPENDENCE
AUGUST 6, 2024**

Department Zoning Administration

Prepared By Maurice Garlet

AGENDA ITEM Public Hearing to consider a text amendment relating to “Shipping containers” in a residential district as a conditional use.

SUMMARY RECOMMENDATION Approve Text Amendment

BACKGROUND Phil Eastep has requested a text amendment to the Zoning Code as he wishes to use a shipping container as a garage at his rental home. This is currently not allowed, as when the Planning Commission initially considered the code regarding shipping containers, they were concerned about them popping up in residential areas and creating a blight on the neighborhood. He is requesting that the Planning Commission consider allowing a shipping container to be used as storage in a residential neighborhood with a conditional use permit. Shipping containers are currently permitted as storage in M-1 and M-2 industrial zones. Shipping containers are permitted as storage in C-1, C-2, C-3, C-4, O&P, and A-1 districts with a conditional use permit.

In discussing and passing Ordinance 4455, the board was concerned about allowing shipping containers to be used as an accessory use in a residential neighborhood because of concerns about how they would look. Shipping containers are allowed as dwellings in residential areas with a conditional use permit that requires specific conditions to protect the neighborhood, and they could be allowed as storage containers with a conditional use permit under the same conditions. They are allowed as an accessory use to a dwelling in an A-1 district with a conditional use permit.

Section 607.4 and 613.3 would need to be amended to:

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; shipping containers as storage in A-1 agricultural districts; **and shipping containers as storage in R-1, R-2, R-3, R-4, and R-5 residential districts.**

- f. Shipping containers for temporary storage/office on construction sites in all districts.

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 with a conditional use permit** in C-1, C-2, C-3, **C-4, O&P, A-1, R-1, R-2, R-3, R-4, and R-5** districts. Shipping containers can be used as permanent or temporary storage, **and the following conditions shall apply:**

- a. **All permanent shipping containers used as an accessory building to a dwelling in A-1, R-1, R-2, R-3, R-4, and R-5 districts shall comply with the following:**
 - 1. **Siding material shall be wood, masonry, composition board, or finish aluminum lap siding, or other material normally found on site-built homes.**
 - 2. **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.**
 - 3. **Roofing materials shall be wood shingles, asphalt shingles, composition shingles, fiberglass shingles, clay or concrete tile, slate, metal, or TPO or rolled roofing.**
 - 4. **The shipping container shall be permanently mounted on a foundation or basement that complies with the Independence Building Code.**
- b. Must be in compliance 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. All other interior *and* exterior conditions must be in compliance with storage requirements and the Independence Building Code.

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 a text amendment to allow shipping containers to be used as storage in a residential district with a conditional use permit and meeting conditions as included in the staff report and draft ordinance.

SUGGESTED MOTION I recommend that the City Commission approve a text amendment

to Ordinance 4455 to allow shipping containers to be used as storage in residential districts with a conditional use permit meeting the conditions as recommended in the staff report and attached draft ordinance. 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 the residential zones, which will allow shipping containers to be used as an accessory use if they meet certain conditions to ensure they blend into the character of the neighborhood and obtain a conditional use permit; and the proposed amendment is made necessary because of new planning concepts in the areas and zoning districts affected.

SUPPORTING DOCUMENTS

1. Public Hearing Notice Text Amendment Shipping Containers in Residential Districts
2. 4455 - Adding Shipping Containers to the C-4 District
3. Ordinance - Shipping Containers - Residential Storage

City of Independence, Kansas

NOTICE TO THE PUBLIC

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

Tuesday, August 6, 2024 at 5:30 p.m.

To consider a text amendment relating to “Shipping containers” as storage in a residential district with a conditional use permit.

Case Number:

2024/ZA/07

The hearing will be conducted in the Commission Room, City Hall, 120 North 6th Street, Independence, Kansas, and will begin at 5:30 p.m. All interested persons should attend, and they will be heard. You may also participate via conference call: [+1 785-289-4727](tel:+17852894727) Conference ID: 820 754 218# Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

Kelly Passauer
Zoning Administrator
120 N 6th 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

ORDINANCE NO. 4455

**AN ORDINANCE PERTAINING TO SHIPPING CONTAINERS AMENDING
ORDINANCE 4436 TO INCLUDE THE C-4 ZONING DISTRICT**

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

Section 1. Recently adopted ordinance 4436 is amended to read as follows in its entirety:

a) 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.

b) 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.

c) 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, and **C-4** 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.

d) 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, C-4 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 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 May, 2024.





Timothy R. Emert, Mayor

ATTEST:



David Schwenker, City Clerk

ORDINANCE NO. _____

**AN ORDINANCE AMENDING ORDINANCE 4455 TO ALLOW SHIPPING
CONTAINERS AS AN ACCESSORY USE IN RESIDENTIAL ZONING DISTRICTS
WITH CERTAIN CONDITIONS**

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

Section 1. Recently adopted ordinances 4436 and 4455 are amended to read as follows in their entirety:

a) 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.

b) 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.

c) 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, and **C-4** commercial and business districts; shipping containers as storage in O&P districts; shipping containers as dwellings in A-1 agricultural districts; shipping containers as storage in A-1 agricultural districts; **and shipping containers as storage in R-1, R-2, R-3, R-4, and R-5 residential districts.**
- f. Shipping containers for temporary storage/office on construction sites in all districts.

d) 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 with a conditional use permit** in C-1, C-2, C-3, **C-4, O&P, A-1, R-1, R-2, R-3, R-4, and R-5** districts. Shipping containers can be used as permanent *or* temporary storage, **and the following conditions shall apply:**

- a. **All permanent shipping containers used as an accessory building to a dwelling in A-1, R-1, R-2, R-3, R-4, and R-5 districts shall comply with the following:**
 - 1. **Siding material shall be wood, masonry, composition board, or finish aluminum lap siding, or other material normally found on site-built homes.**
 - 2. **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.**
 - 3. **Roofing materials shall be wood shingles, asphalt shingles, composition shingles, fiberglass shingles, clay or concrete tile, slate, metal, or TPO or rolled roofing.**
 - 4. **The shipping container shall be permanently mounted on a foundation or basement that complies with the Independence Building Code.**
- b. Must be in compliance 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 **GCI**, 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 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 22nd day of August, 2024.

Timothy R. Emert, Mayor

ATTEST:

David Schwenker, City Clerk