



Tuesday, June 3, 2025
Commission 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 8, 2025 meeting.
- III. BOARD OF ZONING APPEALS (DOES NOT INCLUDE OUTSIDE CITY APPOINTMENTS)
 - a. Public hearing to consider a request to allow encroachment of canopy columns into the required setback in a O & P Office and Professional District at 712 West Myrtle Street.
- IV. PLANNING COMMISSION
 - a. Worksession on Zoning Code Update.
- V. DISCUSSION
- VI. ADJOURNMENT



**PLANNING COMMISSION ACTION / BOARD OF
ZONING APPEALS MINUTES
CITY OF INDEPENDENCE
June 3, 2025**

Department City Clerk

Prepared By David Schwenker

AGENDA ITEM Consider approving minutes of the April 8, 2025 meeting.

SUMMARY RECOMMENDATION Approve the minutes

SUPPORTING DOCUMENTS

1. April 8 2025 PZ Minutes

Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's April 8, 2025 Meeting

I. Call to Order

Present: Michelle Avery, Tim Haynes, Rachel Lyon, Lisa Richard by phone, Gary Hogsett, Butch Holum, Rita Ortolani

Absent: Kym Kays, Brett Gilcrist

City Staff Present: Kelly Passauer, City Manager/Zoning Administrator; David Cowan, Assistant City Manager; David Schwenker, City Clerk; Maurice Garlet, Building Inspector; Seth Jones, City Attorney and Kayla Schabel, Executive Assistant

Guests: Larry McHugh, and Christopher Shires by phone

Chairperson Lyons called the meeting to order.

II. Minutes

- a. Consider approving the minutes of the March 4, 2025 Planning Commission meeting.

Motion:

On the motion of Gary Hogsett, seconded by Butch Holum the Commission approved the minutes as presented.

Aye: Rachel Lyon, Lisa Richard, Gary Hogsett, Michelle Avery, Kym Kays, Rita Ortolani, Butch Holum

Nay: None

III. Planning Commission

- a. Worksession on Zoning Code Update.

This is a continuation of the work session from December, January, February, and March, and no action was taken. The consultant was available virtually to review drafts with the Planning Commission.

IV. Discussion

The next meeting is scheduled for May 7, 2025 at 5:30 pm.

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's April 8, 2025
Meeting**

V. Adjournment

Motion:

**On the motion of Rita Ortolani, seconded by Kym Kays the Commission
adjourned the meeting.**

**Aye: Michelle Avery, Rachel Lyon, Lisa Richard, Gary Hogsett, Butch Holum,
Kym Kays, Rita Ortolani**

Nay: None

Rachel Lyon, Chairperson

Lisa Richard, Vice-Chair



**REQUEST FOR BOARD OF ZONING APPEALS ACTION
VARIANCE
CITY OF INDEPENDENCE
JUNE 3, 2025**

Department Admin

Prepared By Kayla Schabel

AGENDA ITEM Public hearing to consider a request to allow encroachment of canopy columns into the required setback in a O & P Office and Professional District at 712 West Myrtle Street.

SUMMARY RECOMMENDATION Approve variance.

BACKGROUND

K-State Research and Extension – Wildcat District is proposing to construct a new community center facility at 712 W. Myrtle Street. The location is a corner lot and applicant owns the entire block. This is in an O&P (Office and Professional) District, which requires a minimum front yard of 25 feet from the property line. While the main building structure meets this requirement, the design includes a canopy supported by two columns that would encroach into the front setback area. Applicant is requesting a variance to allow limited encroachment by canopy columns into the setback. A site plan has been submitted with the application.

SECTION 508.0- O&P, OFFICE AND PROFESSIONAL DISTRICT

508.1. Intent: District O&P is intended to provide areas for public, semipublic, institutional, professional and office types of uses. Land space and aesthetic requirements of these uses make desirable either a central location or a suburban location near residential neighborhoods. Residential development is permitted in this district.

508.2. Permitted uses: The listing of permitted uses is set out in appendix "A" of these regulations.

508.3. Conditional uses: The listing of conditional uses is set out in appendix "A" of these regulations.

508.4. Intensity of use regulations:

a. Minimum lot area:

Single-family dwelling—7,200 square feet per family.

Two-family dwelling—4,000 square feet per family.

Three-family dwelling—3,000 square feet per family.

Low-rise multifamily—2,000 square feet per family.

High-rise multifamily—900 square feet per family.

b. Maximum lot coverage: 40 percent.

508.5. Height regulations: 35 feet or 2½ stories.

508.6. Yard regulations:

*a. **Minimum front yard: 25 feet measured from property line.***

*b. **Minimum side yard:*** Eight feet except when abutting street or R zone—15 feet or 40 percent of height.

*c. **Minimum rear yard:*** Ten feet except when abutting R zone—25 feet.

508.7. Parking and loading regulations: See article VII.

508.8. Use limitations:

a. Residential development is permitted in the O&P district if it can be shown that such development will be compatible with surrounding uses.

b. Existing residential structures may be altered, remodeled or improved subject to any restrictions and regulations which would be applicable to residences located in the corresponding residential district.

c. No merchandise shall be handled or displayed and no equipment or vehicle, other than motor passenger cars, shall be stored outside a building in this district for more than 24 hours in a 30-day period.

d. 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 provided not less than five physicians occupy offices within the building.

e. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any property located in a residential district.

BOARD OF ZONING APPEALS CONSIDERATIONS

The five considerations that must be considered when reviewing a variance include:

1. *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;*

Due to the existence of a helipad already existing on the property, the placement of the canopy columns into the setback maximizes the usable space between the structure and helipad, which is planned to be used for additional community programming.

2. *That the granting of the permit for the variance will not adversely affect the rights of the adjacent property owners or residents.*

Applicant owns the entire block on which the property resides. Additionally, the encroachment involves only two canopy support columns and does not impact building mass or occupancy. The structure's openness maintains line-of-sight and poses no detriment to neighboring properties.

3. *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;*

Strict application of the setback rule would result in increased distance between the public and the facility entrance and would reduce usable programming space near the helipad area.

4. *That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.*

The requested variance relates only to minimal structural intrusion (columns) into the setback and does not pose any risk to public health, safety, or general welfare.

5. *Granting the variance will not be opposed to the general spirit and intent of the zoning regulations.*

The canopy is a compatible and minor design feature that supports the community-focused use of the site. Granting the variance aligns with the district's intent to accommodate public and institutional uses that integrate well within neighborhood environments.

STAFF RECOMMENDATION

Staff recommends approving the variance request to allow two canopy columns to encroach into the 25-foot front setback along W. Myrtle Street.

SUGGESTED MOTION

"I move to approve a variance to allow an 11-foot encroachment by canopy columns into the front yard setback at 712 W. Myrtle Street, reducing the required 25-foot front yard setback to 14 feet along Myrtle Street."

SUPPORTING DOCUMENTS

1. Public Hearing Notice
2. Variance Application Wildcat Extension
3. Site Plan
4. Payment Receipt

City of Independence, Kansas

NOTICE TO THE PUBLIC

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

Tuesday, June 3, 2025 at 5:30 p.m.

To receive comments on a variance request to allow encroachment of canopy columns into the required setback in an O&P, Office and Professional District.

Common Address:

712 West Myrtle Street

Legal Description:

Block 1, Lot 1-12, Concannons Addition to the City of Independence, Montgomery County, Kansas.

Applicant/Owners:

K-State Research and Extension, Wildcat District

Case Number:

2025/VAR/02

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:

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

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

Name:
Address:
Telephone:

4. Common Address of Land Involved:

5. Legal Description of Land Involved:

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

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:

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

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

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

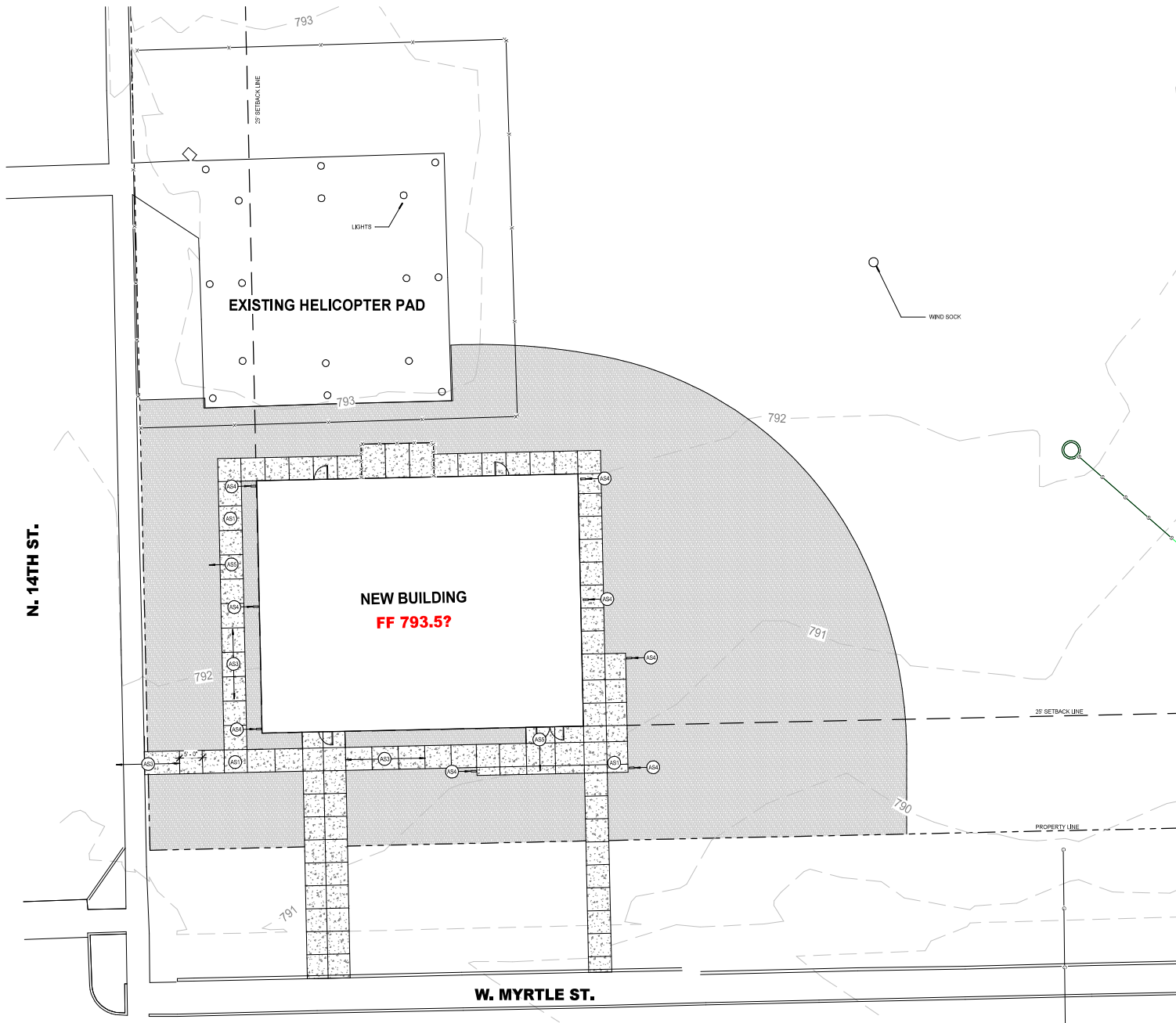
11: The proposed development will not be contrary to the general spirit and intent of the zoning ordinance because:

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: *Nicole Brum*

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



1 SITE PLAN
1" = 10'-0"

GENERAL SITE PLAN NOTES:

1. **FIELD VERIFICATION & COORDINATION:** CONTRACTOR SHALL FIELD VERIFY ALL SITE CONDITIONS, DIMENSIONS, PROPERTY LINES, UTILITIES, AND EXISTING SITE FEATURES BEFORE COMMENCING ANY WORK. ANY DISCREPANCIES, UNFORESEEN CONDITIONS, OR CONFLICTS SHALL BE REPORTED TO THE ARCHITECT IMMEDIATELY.
2. **CODE COMPLIANCE:** ALL SITE WORK SHALL CONFORM TO APPLICABLE LOCAL, STATE, AND FEDERAL CODES, ORDINANCES, AND REGULATIONS. ALL REQUIRED PERMITS, INSPECTIONS, AND APPROVALS SHALL BE OBTAINED BY THE CONTRACTOR PRIOR TO BEGINNING WORK.
3. **EXISTING SITE PROTECTION:** CONTRACTOR SHALL PROTECT ALL EXISTING PAVING, CURBS, SIDEWALKS, TREES, UTILITIES, AND OTHER SITE ELEMENTS SCHEDULED TO REMAIN. DAMAGES CAUSED TO EXISTING SITE ELEMENTS SHALL BE REPAIRED OR REPLACED AT THE CONTRACTOR'S EXPENSE.
4. **UTILITIES & EASEMENTS:** CONTRACTOR SHALL COORDINATE ALL UTILITY WORK WITH APPLICABLE UTILITY COMPANIES AND AUTHORITIES HAVING JURISDICTION. LOCATIONS OF EXISTING UNDERGROUND UTILITIES SHALL BE VERIFIED PRIOR TO EXCAVATION. CONTRACTOR SHALL BE RESPONSIBLE FOR ANY DAMAGES TO UTILITIES DUE TO NEGLIGENCE.
5. **SITE ACCESS & STAGING:** CONSTRUCTION ACCESS AND STAGING AREAS SHALL BE COORDINATED WITH THE OWNER AND SHALL NOT BLOCK PUBLIC RIGHTS-OF-WAY OR ADJACENT PROPERTIES. ALL CONSTRUCTION VEHICLES SHALL USE DESIGNATED ACCESS ROUTES TO AVOID DAMAGES TO EXISTING PAVEMENT AND LANDSCAPING.
6. **EROSION CONTROL & STORMWATER MANAGEMENT:** CONTRACTOR SHALL IMPLEMENT EROSION CONTROL MEASURES AS REQUIRED TO PREVENT RUNOFF, SEDIMENTATION, OR DAMAGE TO ADJACENT PROPERTIES. STORMWATER MANAGEMENT SHALL BE MAINTAINED THROUGHOUT THE PROJECT DURATION, WITH SILT FENCING OR OTHER APPROVED MEASURES INSTALLED WHERE REQUIRED.
7. **GRADING & DRAINAGE:** ALL FINAL GRADING SHALL PROMOTE POSITIVE DRAINAGE AWAY FROM BUILDINGS AND STRUCTURES. SITE GRADING SHALL MATCH EXISTING CONDITIONS AT PROPERTY LINES UNLESS OTHERWISE NOTED IN THE DRAWINGS. CONTRACTOR SHALL ENSURE THAT NO FLOODING OCCURS IN NEWLY CONSTRUCTED OR DISTURBED AREAS.
8. **SODDING, SEEDING, & LANDSCAPING RESTORATION:** ALL AREAS DISTURBED BY CONSTRUCTION SHALL BE RESTORED WITH SOIL OR SEED TO MATCH EXISTING SITE CONDITIONS. SEEDING SHALL BE PERFORMED AT A SEASONALLY APPROPRIATE TIME TO ENSURE SUCCESSFUL GERMINATION. RESEED AREAS SHALL BE WATERED WITHIN TWO DAYS OF INSTALLATION, EITHER BY NATURAL RAINFALL OR ARTIFICIAL IRRIGATION, TO PROMOTE GROWTH. CONTRACTOR SHALL MAINTAIN SEEDING AND SOODED AREAS UNTIL GRASS IS ESTABLISHED.
9. **PAVEMENT & CONCRETE WORK:**
 - ALL PAVEMENT, DRIVEWAYS, AND WALKWAYS SHALL MATCH EXISTING MATERIALS AND FINISHES UNLESS OTHERWISE SPECIFIED.
 - NEW CONCRETE SHALL BE PROPERLY CURED AND EXPANSION JOINTS SHALL BE PROVIDED AS REQUIRED.
 - ALL DAMAGED OR REMOVED PAVEMENT, CURBS, AND SIDEWALKS SHALL BE REPLACED TO MATCH EXISTING CONDITIONS.
10. **WIND LIGHTING & ELECTRICAL:** ALL SITE LIGHTING SHALL BE INSTALLED PER ELECTRICAL PLANS AND SHALL COMPLY WITH LOCAL LIGHT POLLUTION REGULATIONS. COORDINATE POLE BASES, CONDUITS, AND FUTURE INSTALLATION WITH FINAL GRADING AND PAVING PLANS.
11. **SIGNAGE & SITE FEATURES:** ALL SITE SIGNAGE SHALL BE INSTALLED PER DRAWINGS AND SHALL COMPLY WITH LOCAL ZONING AND SIGNAGE REGULATIONS. CONTRACTOR SHALL PROTECT OR RELOCATE EXISTING SITE FEATURES AS REQUIRED AND SHALL COORDINATE FINAL INSTALLATION LOCATIONS WITH THE OWNER.
12. **CONSTRUCTION SITE CLEANUP:** CONTRACTOR SHALL KEEP THE SITE CLEAN AND FREE FROM DEBRIS AT ALL TIMES. ALL CONSTRUCTION MATERIALS, TEMPORARY STRUCTURES, AND DEBRIS SHALL BE REMOVED UPON PROJECT COMPLETION.
13. **PHASING & TRAFFIC CONTROL:** IF WORK IS TO BE COMPLETED IN PHASES, CONTRACTOR SHALL REFER TO THE PHASING PLAN FOR SCHEDULE REQUIREMENTS. IF ROAD CLOSURES OR DETOURS ARE REQUIRED, CONTRACTOR SHALL COORDINATE WITH THE OWNER AND LOCAL AUTHORITIES TO ENSURE SAFE TRAFFIC FLOW.
14. **FENCING & SITE SECURITY:** CONSTRUCTION FENCING SHALL BE INSTALLED AS REQUIRED TO SECURE THE SITE DURING CONSTRUCTION. CONTRACTOR SHALL ENSURE THAT ALL TEMPORARY SECURITY MEASURES REMAIN FUNCTIONAL AND MAINTAINED THROUGHOUT THE DURATION OF THE PROJECT.
15. **SPECIAL INSPECTIONS & OWNER COORDINATION:** THE OWNER RESERVES THE RIGHT TO TEMPORARILY STOP CONSTRUCTION ACTIVITIES THAT POSE A SAFETY HAZARD OR INTERFERE WITH OPERATIONS. ALL SITE ELEMENTS REQUIRING FINAL OWNER APPROVAL SHALL BE COORDINATED AND REVIEWED PRIOR TO INSTALLATION.

TRASH ENCLOSURE NOTES:

1. THE FOLLOWING ARE COLOR SELECTIONS FOR ALL TRASH ENCLOSURE & RTU SCREEN. SELECTIONS TO BE USED:
 - MASONRY
M1 - CMU WAINSCOT, CAPTOL CONCRETE, WINTER WHEAT SPITFAUCE
 - STONE
SC1 - CAST STONE CAP - **MER-TRD, COLOR-TRD**
 - RTU SCREEN
VP1 - VINYL FENCE 10'-12" ABOVE GROUND, **BASE OF DESIGN, COLOR-TRD**

ARCH. SITE PLAN KEYNOTES:

- (AS) STANDARD REINFORCED CONCRETE SIDEWALK - **SE-CA-1**
- (AS2) 4" THICK REINFORCED CONCRETE EQUIPMENT PAD - **SE-CA-2**
- (AS3) CONTROL JOINT - **SHOWN FOR CONCRETE PAVING ONLY**
- (AS4) PREFINISHED METAL DOWNSPOUTS W/ SPLASH BLOCKS - **SE-EL-1**
- (AS5) SLOPE CONCRETE FOR DRAINAGE
- (AS6) 10" EXPANSION JOINT W/ TRAFFIC SEALANT & #4X1'-0" DOWELS @ 24" O.C. @ EXTERIOR DOOR LOCATIONS
- (AS7) 10" EXPANSION JOINT W/ TRAFFIC SEALANT & #4X1'-0" DOWELS @ 48" O.C. @ BUILDING EDGE

ECHOLON
ARCH + DESIGN
612 SE FRANK PHILLIPS BLVD.
BARTLESVILLE, OKLAHOMA 74003

620-577-9300
www.EchelonAD.com

PRELIMINARY
DOCUMENTS FOR
REVIEW ONLY -
NOT FOR
CONSTRUCTION

NEW CONSTRUCTION FOR K-STATE RESEARCH AND EXTENSION
WILDCAT DISTRICT OFFICE
712 W. MYRTLE, INDEPENDENCE, KS 67301

ARCHITECTURAL
SITE PLAN

DESIGNED BY	DATE
MOB	ASW
PROJECT NUMBER	
24-77	
DATE	
04/14/2025	
SHEET NUMBER	

AC101



Independence, KS

This is your payment receipt.

Confirmation Number
KG7KKPR5KV

Payer Contact Info



Payment Method



Variance

Name	K-State Research and Extension
Property Address	410 Peter Pan Rd
Phone Number	620-331-2690

Base Price	\$100.00
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Convenience Fee	\$1.25
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Municipal Online Payments Fee	\$1.25
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Total	\$102.50
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**REQUEST FOR PLANNING COMMISSION ACTION
ZONING CODE UPDATE WORKSESSION
CITY OF INDEPENDENCE
JUNE 3, 2025**

Department Admin

Prepared By Kelly Passauer

AGENDA ITEM Worksession on Zoning Code Update.

SUMMARY RECOMMENDATION No action.

BACKGROUND This is a continuation of the work session from December, January, February, March, and April, and no action is anticipated. Attached are the revised rough draft sections that will be the primary focus of discussion. The consultant will be available virtually to review these drafts with the Planning Commission.

SUPPORTING DOCUMENTS

1. Independence KS Code - Article IV - Rules and Definitions - Draft 2025-05-30
2. Independence KS Code - Article X - Special Provisions Applying to Misc Conditional Uses - Draft 2025-05-30
3. PermittedAndConditionalUseTable-CellTowers

ARTICLE IV. RULES AND DEFINITIONS

403.0. Definitions.

403.1. 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:

(Red text is to be added to the existing list of definitions, deletions are shown strikethrough)

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 principle 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.~~

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

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.

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.

After Hours Business: Any business open during any time between the hours of two o'clock (2:00) A.M. to six o'clock (6:00) A.M. any day of the week and where patrons are allowed to bring their own beer and wine onto the business premises.

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 as an alteration.

Apartment house or building: Any building or portion thereof, which is designed, built, rented, leased, let or hired out to be occupied, or which is occupied as the home or residence of three (3) or more families living independently of each other and doing their own cooking in the building. Said buildings have dwelling units that are both vertically and horizontally attached to one another. (See "Dwelling, multiple-family.")

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 nonproject 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 greater chance of flooding in any given year.

Asphalt double-sealed: A two-layer sprayed application of asphalt that's used to seal roads and driveways or as a paved surface for a new parking lot or driveway. It's also known as a double chip seal.

Assisted living residential facility: A building consisting of individual dwelling units where meals and assistance for daily living activities are provided to the residents, who are primarily elderly persons. Such facility must be licensed by the State of Kansas.

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 a 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.~~

Bar: Any establishment devoted primarily to the selling, serving or dispensing and drinking of malt, vinous, or other alcoholic beverage by 50% or more of total gross sales, and where such beverages are consumed on the premises. (This definition includes and may also be referred to as a "Cocktail Lounge," "Tavern," "Nightclub," or "Saloon.")

Base flood: Means the flood having one-percent chance 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.

Bed and Breakfast Inn: An owner-occupied dwelling unit that contains no more than five (5) guest rooms where lodging, with or without meals, is provided for compensation. For establishments to be considered a bed and breakfast inn, versus an extended stay hotel, apartment hotel, or apartment house or building, all rooms must be available for rent for as little as one (1) night and no more than 30 days, no rental contract or similar agreement is involved, and the establishment must be licensed as a hotel and collect and pay hotel/motel tax on all guest rooms and guest stays.

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

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.

Billboard: See *Sign*.

Boarding house or rooming house: A building other than a hotel or motel where, for compensation, lodging, or lodging and meals, are provided for three (3) or more persons.

Board of zoning appeals: That board which 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.

Body Piercing Studio: Any establishment or business wherein body piercing is practiced. Specifically excluded from this definition are retail jewelry businesses offering ear piercing as a complimentary service. (See "Tattoo Studio.")

Brewery, micro: A small business that brews beers, ales, and/or similar beverages on-site for distribution, retail or wholesale, on or off-premises. A microbrewery may include a tasting room for consumption on-premises.

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).

CBD (cannabidiol): A chemical found in the cannabis plant that's not intoxicating and used as a herbal or medicinal treatment in products including drinks, food, oils, and body lotions.

Child Care Center: A child care facility, licensed by the State of Kansas, in which care and educational activities are provided for 13 or more children two weeks to 16 years of age for more than three hours and less than 24 hours per day including day time, evening, and night-time care, or which provides before and after school care for school-age children. (See "Day care facility.")

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.

Cocktail Lounge: see definition for "bar."

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, communication 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 facility 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.~~

Guyed tower: ~~A communication tower that is supported, in whole or in part, by guy wires and ground anchors.~~

Lattice tower: ~~A guyed or self-supporting three or four sided, open, steel frame communication tower.~~

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.

Convenience store: Any retail establishment, generally less than 10,000 square feet in size, offering for sale food products, household items and other goods commonly found in grocery stores and may include automotive and truck fuel sales. Any such business with 50% or more

of its gross sales in alcohol and/or tobacco shall be considered a liquor store or a tobacco store.

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. Day care facility may include a Family Child Care Home, as defined herein. (See "Family Child Care Home.")

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.

Delayed Deposit Services Business: A person or individual, group of individuals, partnership, association, corporation, or any other business unit or legal entity who for a fee does either of the following:

- (1) Accepts a check, draft, share draft, or other instrument for the payment of money dated after the date it was written.
- (2) Accepts a check, draft, share draft, or other instrument for the payment of money dated on the date it was written and holds it for a period of time prior to deposit or presentment pursuant to an agreement with, or any representation made to, the maker of the check, draft, or other instrument whether express or implied.

The above are typically referred to as "Check Cashing," "Payday Lending," or "Car Title Loan" establishments.

District: A section or sections 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.

Distillery, micro: A small, often boutique-style distillery established to produce beverage grade spirit alcohol in relatively small quantities, usually done in single batches. A micro-distillery may include a tasting room for consumption on-premises.

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.

Drive-in or Drive-thru Facility: An establishment that provides or dispenses products or services, through an attendant or an automated machine, to persons remaining in their vehicle that are in designated drive-thru vehicle stacking lanes. A drive-thru facility may be in combination with other uses, such as financial institutions, restaurants, pharmacies, and service providers such as dry cleaners. For the purposes of the Zoning Regulations, automotive and truck washes and automotive and truck fuel sales facilities will not be categorized as drive-thru facilities.

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

Dwelling, accessory: A separate and smaller second dwelling that is located within the lot or building envelop of a single-family dwelling and is held under the same ownership of that single-family dwelling. This separate dwelling contains its own living, cooking, and housekeeping facilities, may or may not have its own entrance, and is contained within, attached to, or built separate from the principal single-family dwelling. Examples include: a dwelling over an attached or detached garage, a tiny house built on a separate foundation in the backyard, a dwelling within the basement of the principal building, or a dwelling attached to the principal building.

Dwelling, condominium: See *Condominium dwelling house*.

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

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

Dwelling, row: Three (3) or more horizontally attached dwelling units in a continuous row. (See "Dwelling, townhouse.")

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

Dwelling, single-family, detached: A detached dwelling erected on its own lot and designed for or occupied by one family only.

Dwelling, single-family, semi-detached: A dwelling designed for or occupied by one family only which is erected on a separate lot and is joined to another such dwelling on one side only by a wall located on the lot line and which has yards on the remaining sides (commonly referred to as a duplex).

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

Dwelling, townhouse: A dwelling unit attached horizontally to 2 or more other dwelling units by party walls, but no single unit shares party walls with more than two other units, and where

each unit maintains an individual entrance from the exterior of the building. (See “Dwelling, row.”)

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

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.

Factory-built home: Any structure, designed for residential use, which is wholly or in substantial part made, fabricated, formed, or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of the Zoning Regulations, factory-built homes include manufactured homes and modular homes.

~~**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: One (1) or more individuals occupying a dwelling unit and living together as a single, nonprofit housekeeping unit, and sharing common living, sleeping, cooking, and eating facilities. The definition of Family does not include any society, club, fraternity, sorority, association, lodge, combine, federation, coterie, or like organization; any group of individuals whose association is temporary or seasonal in nature; and, any group of individuals who are in a group living arrangement because of criminal offenses.

Family Child Care Home: A child care facility, licensed by the State of Kansas, in which care is provided for a maximum of 12 children under 16 years of age.

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 the 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 home owner 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.

Hookah Lounge: An establishment where patrons are provided shisha (flavored tobacco) in a hookah or nargile water smoking pipe or where customers use an electronic smoking or other apparatus to deliver an inhaled dose of nicotine or other substance within the establishment. These establishments may also be known or referred to as an E-Hookah Lounge or Bar.

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.~~

Hotel or motel: A building containing guest rooms in which lodging is provided and offered to the public on a temporary basis for compensation, and which is open to transient guests, in contrast to a bed and breakfast inn, boarding house, or rooming house. For establishments to be considered a hotel or motel, versus an extended stay hotel, apartment hotel, or apartment house or building, all rooms must be available for rent for as little as one (1) night and no more than 30 days, no rental contract or similar agreement is involved, and the establishment must be licensed as a hotel and collect and pay hotel/motel tax on all guest rooms and guest stays.

Hotel, extended stay or apartment hotel: A building containing furnished bedrooms with or without cooking facilities in which lodging is provided and offered to the public on a weekly or month basis for compensation.

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.

Liquor Store: A retail shop or establishment that primarily sells prepackaged alcoholic beverages, including wine, beer, and alcoholic liquors, intended to be consumed off the store's premises, and where 50% or more of total gross sales are derived from the sale of alcohol and tobacco.

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 platted 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

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.

Manufactured home: A factory-built, single-family dwelling unit that is substantially assembled in an off-site manufacturing facility for installation or assembly at the building site, bearing a label certifying that it was built in compliance with the National Manufactured Home Construction and Safety Standards (24 C.F.R. 320 et seq.), promulgated by the U.S. Department of Housing and Urban Development, and does not have a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have any permanently attached wheels or axles to its body or frame.

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.

Massage: Any method of treating the external parts of the human body by rubbing, stroking, kneading, tapping or vibrating with the hand, other parts of the body, or any instrument, for any form of consideration or gratuity.

Massage therapy establishment: Any establishment having a fixed place of business wherein any of the treatments, techniques, or methods of treatment referred to as “massage therapy” are administered, practiced, used, given, advertised or applied by persons licensed by the State of Kansas, when performing massage services as part of the profession for which licensed.

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.~~

Mini-storage or self-storage: A building or group of buildings, containing varying sizes of individualized, compartmentalized, and controlled stalls or lockers for the dead storage of customers' goods or wares, excluding junk, explosive, or flammable materials, and other noxious or dangerous materials. No business activities other than rental of storage units shall be conducted on the premises.

Mini-warehouse or self-storage facility: (See “Mini-storage or self-storage.”)

Mixed-use building: A multi-story commercial building that includes office and/or retail uses on the first floor or lower levels of the building and multiple family dwellings above the first floor or on the upper levels of the building.

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.~~ This definition does not include "manufactured homes" or "modular homes." 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 which provides the necessary utility services for water, sewerage, and electricity.

Modular home: A house that is built in sections (modular units) off-site and then assembled on a permanent foundation at the building site. Modular homes are also known as prefab homes.

~~**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 definition for "bar."

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.

Open space: An area that is intended to provide light and air, and is designed for either environmental, scenic, or recreational purposes. Open space may include, but is not limited to, lawns, decorative plantings, walkways, active and passive recreation areas, playgrounds, fountains, swimming pools, wooded areas, and water courses. Open space shall not be deemed to include buildings, driveways, parking lots, display areas for retail sales of merchandise, loading areas, outdoor storage areas, or other surfaces designed or intended for vehicular travel.

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), 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.)

Pawnshop: An establishment wherein the business of a pawnbroker is conducted. A pawnbroker shall be any person who lends or advances money or other things for profit on the pledge and possession of personal property, or other valuable things, other than securities or written or printed evidences of indebtedness; or, who deals in the purchasing of personal property or other valuable things on condition of selling the same back to the seller at a stipulated price. A pawnshop shall not be deemed a retail sales establishment except for the purposes of determining off-street parking.

Planning commission: The Independence, Kansas, planning commission.

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.

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.

Restaurants, drive-through: An establishment whose primary purpose is the sale, dispensing or serving of food, refreshments, ice, or beverages in automobiles, including those establishments where customers may serve themselves, except that this shall not include offering or selling food or beverages for consumption on the premises in parked motor vehicles.

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.

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

Rooming house: A rooming house 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.

Saloon: See definition for "bar."

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.~~

Sign: (See Article VIII – Sign Regulations for sign related definitions.)

Smoking Lounge: An establishment where patrons can purchase and consume tobacco products on site or where customers use an electronic smoking or other apparatus to deliver an inhaled dose of nicotine or other substance within the establishment. These establishments may also be known or referred to as an E-Cigarette, Vape, or Vapor Lounge or Bar.

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

Story: See *Height*.

Street: A right-of-way, dedicated to the 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.

Tattoo Studio: Any establishment in which tattooing is carried out professionally and may or may not include ear and body piercing. (See "Body Piercing Studio.")

Tavern: See definition for "bar."

THC (tetrahydrocannabinol): A psychoactive chemical found in the cannabis plant that produces a high.

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

Tobacco Store: A retail shop or establishment primarily engaged in the sale of tobacco and tobacco related products, including nicotine products and supplies such as electronic cigarettes, vape, and other devices capable of providing an inhalable dose of nicotine, for off premise consumption and where 50% or more of total gross sales are derived from the sale of tobacco and nicotine products or a combination of tobacco products and alcohol. These establishments may also be known or referred to as an E-Cigarette, E-Hookah, Vape or Vapor Store or Shop.

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.~~ A towable recreational vehicle (RV) that provides a place to sleep and live while traveling. Travel trailers are also known as conventional trailers, bumper-pulls, pull-behind trailers, or tow-behind trailers.

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.

Upper Story Dwelling: A dwelling unit located on the second floor story and above, but not including the ground floor or basement of any structure.

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 with 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 lot 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 are herein established.

Zoning administrator: The person or persons authorized and empowered by the city manager having jurisdiction 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.

ARTICLE X. - SPECIAL PROVISIONS APPLYING TO MISCELLANEOUS CONDITIONAL USES

1001.0. Purpose.

~~Churches.~~

1002.0. Day Care Facilities for more than Four Children.

1003.0. Drugs, Retail and Pharmacies.

1004.0. Farm Animals.

1005.0. Golf Driving Ranges.

1006.0. Hospitals.

1007.0. Kennels—Breeding and Boarding.

1008.0. Mobile homes and mobile home parks.

1009.0. Salvage Yards, Scrap and Waste Material Yards, Auto Wrecking and Junkyards.

1010.0. Theaters, Outdoor Motion Picture.

1011.0. Quarries and Sand and Gravel Pits.

1012.0. Supplementary Parking.

1013.0. Cell Towers: Communication/Broadband Antenna, Communication/Broadband Towers, or Communication/Broadband Rooftop Sites.

1014.0. Accessory Uses Not Located on the Same Lot or Contiguous Lot as the Principal Building or Principal Use Served per 607.1.d.

~~1015.0. Delayed Deposit Service Businesses and Pawnshops.~~

~~1016.0. Medical or Recreational Cannabidiol (CBD) and Tetrahydrocannabinol (THC) Dispensaries and Manufacturing Facilities.~~

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. Day Care Facilities for more than Four Children.

1002.1. 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.

1003.0. Drugs, Retail and Pharmacies.

- 1003.1. *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.

1004.0. Farm Animals.

- 1004.1 *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.

1005.0. Golf Driving Ranges.

- a.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.

1006.0. Hospitals.

1006.1. *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.

1007.0. Kennels—Breeding and Boarding.1007.1. *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 compiled with.

1008.0. Mobile homes and mobile home parks.

1008.1. *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. **of the Zoning Code regulations. See Chapter 66 of Part II of the Code of the City of Independence, Kansas, for additional provisions.**

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.

- 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 marshal 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.
 - 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 sheet metal, 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.*~~ *Compliance with Flood Plain Management Ordinance Required: All mobile*

home installations and mobile home parks shall comply with the City's adopted Flood Plain Management Ordinance (see Article VIII of Chapter 42 of the Code of the City of Independence, Kansas).

k. Storm Shelter Required: Every mobile home park constructed or expanded after the date of the adoption of this ordinance shall have within its confines a building serving as a shelter facility for the mobile home park residents in the event of inclement weather. The building shall be:

1. Designed and constructed to meet the standards of a FEMA-rated storm shelter or safe room.
2. Well-lit at all times of the day or night.
3. Well-ventilated with screened openings.
4. Constructed of such moisture-proof material as shall permit repeated cleaning and washing.
5. Constructed in compliance with all applicable codes to house residents in the event of threatening weather conditions and sized to adequately accommodate all residents of the manufactured home park with a minimum of thirty (30) square feet of floor area provided for each manufactured home planned.
6. The floors of the community building shall be of water impervious material and shall slope to a floor drain connected with the sewage system.
7. The building shall be maintained in a clean, sightly condition and kept free of any condition that will harm the health of any occupant or the public or constitute a menace.

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.

1009.0. Salvage Yards, Scrap and Waste Material Yards, Auto Wrecking and Junkyards.

1009.1. *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— Screening of junked, wrecked and abandoned vehicles, § 42-131; junk and secondhand dealers, § 62-141 et seq.

1010.0. Theaters, Outdoor Motion Picture.

1010.1. *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.

1011.0. Quarries and Sand and Gravel Pits.

1011.1. *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.

1012.0. Supplementary Parking.

1012.1. *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.

1012.2. *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.

1012.3. *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.
 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.

1013.0. Cell Towers: Communication/Broadband Antenna, Communication/Broadband Towers, or Communication/Broadband Rooftop Sites.

- 1013.1. *Purpose:* The general purpose of this section is to regulate the placement, construction and modification of rooftop communication/broadband towers, support structures and antennas (generally referred to as *Cell Towers*) in order to protect the health, safety, and welfare of the public, while at the same time not unreasonably interfering with the competitive communication and broadband marketplace in and around the City of Independence. Specifically, to the fullest extent allowed by applicable law, this section is intended to:
- a. Provide for the appropriate location and development of rooftop communication/broadband facilities and systems to serve the citizens and businesses of the City of Independence;
 - b. Minimize adverse visual impacts of rooftop communication/broadband antennas and support structures to be architecturally compatible and aesthetically nonobtrusive through careful design, siting, landscape screening and innovative camouflaging techniques;
 - c. Maximize the use of existing and new support structures to minimize the need to construct new or additional facilities or support structures;
 - d. Maximize when possible the co-location of facilities on new and existing support structures;
 - e. Ensure that any new rooftop communication/broadband tower or support structure is located in an area compatible with the neighborhood or surrounding community to the fullest extent possible; and

- f. Ensure that regulation of rooftop communication/broadband towers and support structures does not have the effect of prohibiting the provision of personal wireless services and does not unreasonably discriminate among functionally equivalent providers of such service.
- 1013.2. *Conditional Use Approval Required:* All cell towers, including rooftop communication/broadband towers, support structures and antennas, shall apply for and obtain approval of a Conditional Use permit, in accordance with the provisions of this article, prior to construction and installation.
- 1013.3. *Exceptions:* The following are except from the provisions of this section:
- a. Antennas for amateur radio communication (HAM radio antennas), that are sixty-five (65) feet or less in height, owned and operated solely for use by an amateur radio operator, and licensed by the FCC.
 - b. Small or Micro Wireless Facilities as defined herein this section.
- 1013.4. *Definitions:* As used in this section, the following terms shall have the meanings and usages indicated:
- a. **AGL (ABOVE GROUND LEVEL)** - Ground level shall be determined by the average elevation of the natural ground level within a radius of fifty (50) feet from the center location of measurement.
 - b. **ANTENNA** – Communication and broadband devices including equipment designed for the purpose of transmitting or receiving electromagnetic radiofrequency (RF) signals, to be operated and operating from a fixed location pursuant to FCC authorization, for the purpose of wireless service and any comingled information services. Antenna does not include an unintentional radio mobile station or device.”
 - c. **APPLICATION** - A written submission to the City requesting a permit for authorization of the deployment or collocation of an antenna, tower, small wireless facility or personal wireless facility at a specified location on a city building or structure.
 - d. **CABINET** - A structure for the protection and security of communication/broadband equipment associated with one (1) or more antennas where direct access to equipment is provided from the exterior and that has horizontal dimensions that do not exceed four (4) feet by six (6) feet and vertical height that does not exceed six (6) feet.
 - e. **CELL TOWER** – For the purposes of this section, cell tower means any Communication/Broadband Antenna, or Communication/Broadband Towers, or Communication/Broadband Rooftop Sites
 - f. **CITY DEVELOPMENT SERVICES DIVISION WITHIN THE COMMUNITY DEVELOPMENT DEPARTMENT (CITY DEPARTMENT)** – City Department where applications for

construction and colocation of rooftop communication/broadband antenna are submitted, and which is responsible for enforcement of the requirements of this Article.

- g. **DISGUISED SUPPORT STRUCTURE** – For purposes of this Article, a rooftop manmade structure designed for the support of antennas, the presence of which is camouflaged or concealed as an appropriately-placed architectural or natural feature. Depending on the location and type of disguise used, such concealment may require placement underground of the utilities leading to the structure.
- h. **FAA** - The Federal Aviation Administration.
- i. **FCC** - The Federal Communications Commission.
- j. **Ground Level** – Ground level shall be determined by the average elevation of the natural ground level within a radius of fifty (50) feet from the center location of measurement.
- k. **HEIGHT** - The vertical distance measured from the average grade of the base of the structure at ground level to its highest point and including the main structure and all attachments thereto.
- l. **HISTORIC STRUCTURE** - Any structure that is:
 - 1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - 2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - 3. Individually listed on a State Inventory of Historic Places in States with historic preservation programs which have been approved by the Secretary of the Interior; or,
 - 4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (a.) By an approved State program as determined by the Secretary of the Interior, or
 - (b.) Directly by the Secretary of the Interior in States without approved programs.
- m. **INCIDENTAL USE** - Any use authorized herein that exists in addition to the principal use of the property.

- n. **MICRO WIRELESS FACILITY** - A small wireless facility with dimensions no larger than twenty-four inches in length, fifteen inches in width, and twelve inches in height and that has an exterior antenna, if any, that is no more than eleven inches in length.
- o. **ROOFTOP OR ROOF-MOUNTED COMMUNICATION/BROADBAND EQUIPMENT** - Material installed on the roof or side of an existing building constituting a communication/broadband antenna including, but not limited to, the following: VHF and UHF television, FM or AM radio, two-way radio, cellular telephone, PCS or other wireless telephony, internet, VOIP, fixed point microwave, low power television or other wireless communication/broadband and common carriers.
- p. **SHELTER** - A building for the protection and security of communication/broadband equipment associated with one (1) or more antennas and where access to equipment is gained from the interior of the building. Human occupancy for office or other uses or the storage of other materials and equipment not in direct support of the connected antennas is prohibited.
- q. **SMALL WIRELESS FACILITY** – A wireless facility that meets the following requirements:
 - 1. Each antenna is no more than six cubic feet in volume.
 - 2. All other equipment associated with the small wireless facility is cumulatively no more than twenty-eight cubic feet in volume. For purposes of this subparagraph, volume shall be measured by the external displacement of the primary equipment enclosure, not the internal volume of such enclosure. An associated electric meter, concealment, telecommunications demarcation box, ground-based enclosures, battery backup power systems, grounding equipment, power transfer switch, cutoff switch, cable, conduit, and any equipment that is concealed from public view within or behind an existing structure or concealment may be located outside of the primary equipment enclosure and shall not be included in the calculation of the equipment volume.

Small wireless facility includes a micro wireless facility as defined herein this section. Small wireless facility does not include any structure that supports or houses equipment described in this section.

- r. **SUPPORT STRUCTURE** - A rooftop shelter, tower, or disguised support structure.
- s. **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.
 - 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.
- t. **WIRELESS FACILITY** - Equipment at a fixed location that enables the transmission of wireless communications or information of any kind between user equipment and a communications network, except that "wireless facility" does not include coaxial or fiberoptic cable that is not immediately adjacent to, or directly associated with, a particular antenna.

1013.5. *Conditional Use application-submission requirements:*

- a. 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.
 1. Legal description of the property that is covered by the application for a conditional use permit.
 2. Written authorization from the property owner of the **cell** tower site unless the site is owned by the applicant.
 3. A statement of the reasons why the conditional use permit is being requested.
 4. 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:~~
 - (a) 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.
 - (b) Location of access roads, fencing and type, parking area.
 - (c) Proposed lighting and exterior lighting specifications.
 - (d) Land elevation contours.
 - (e) Details of any proposed building, its elevations and proposed use of the building.

- (f) A detailed elevation of the proposed cell tower and antennas from ground level to the top of the highest antenna.

~~5. 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.~~

- ~~(a) 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.~~

- ~~(b) Topographic limitation of alternate sites.~~

- ~~(c) Impediments adjacent to existing or approved communication towers that would obstruct adequate communication tower transmission.~~

- ~~(d) Physical site constraints that would preclude the construction of a communication tower.~~

- ~~(e) Technical limitation of the communication transmission system.~~

- ~~(f) 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.~~

- ~~(g) 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.~~

- ~~(h) 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.~~

- ~~(i) That the applicant demonstrates that there are other limiting factors that render existing communication towers, facilities and structures unsuitable.~~

- ~~(j) The owner's facilities and transmission demands on structures.~~

~~6. Assurance of adequate public facilities.~~

- b. Each application for a conditional use permit for a cell tower shall be accompanied by the following information:

~~1. A preliminary development plan as required above in section 1.d.i.~~

2. A report from a licensed professional engineer that describes the cell tower's proposed capacity, including the number and type of antennas it can accommodate.
 3. For rooftop sites, a licensed professional engineer's structural analysis report on the proposed building rooftop demonstrating sufficiency to support the cell tower, including, but not limited to wind analysis, along with snow and ice analysis.
~~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.~~
 4. A photo simulation of the proposed facility of a type and quality as determined by the city to be appropriate.
 5. A map identifying the service area of the proposed cell tower ~~and an explanation of the need for the tower to maintain the integrity of the system.~~
 6. A signed statement from the applicant indicating its intention to share space on the cell tower with other providers at reasonable cost, **provided there is sufficient capacity**, 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 cell 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.
 7. 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.
- c. The following performance standards shall apply to all cell towers allowed by a conditional use permit:
1. The maximum cell 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.

2. The maximum height for all rooftop sites shall not exceed ninety (90) feet from ground level and shall not exceed fifteen (15) feet in height as measured from the roof of the building.
3. All cell towers, excluding rooftop sites, shall be monopole style and designed without guy wires and anchors. Lattice type and guyed-wire type towers shall be prohibited.
4. All cell tower antennas, cables, and other equipment shall be contained and concealed within the monopole and shall not project from the exterior surface of the pole.
5. For rooftop sites, all antennas shall be mounted behind a screen wall that matches the building design and colors or otherwise designed and mounted to blend into the building design and colors. All wiring and conduits connecting to the antenna from the rooftop shall be contained and concealed with the wall cavity. No exposed wire or conduits are permitted, other than the antenna wall brackets.
6. For rooftop sites, a durable sign shall be conspicuously posted near the main building electrical panel, on the side of the bulkhead or rooftop hatch, and on or near any equipment closet, roof base station or similar communication/broadband facility, identifying the owner of such communication/broadband facility, providing a 24-hour/7-day per week telephone number by which such owner can be contacted, and identifying the installation, including antennas and other powered equipment associated with the installation, by number or other unique designation.
7. Except as provided in paragraph 6 above, no signage, graphics, or lighting shall be permitted on the tower except as may be required by the Federal Aviation Administration or Federal Communications Commission, in which case a description of the required lighting scheme will be made as part of the application. Equipment cabinets and shelters may have lighting only as approved.
8. The placement of advertising on City structures regulated by this Article is prohibited.
9. All cell 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.
10. For rooftop sites all equipment shelters in non-residential districts shall be either be completely enclosed or fully screened from the rooftop elevation, All equipment shelters in residential districts must be located within the primary structure on which the antenna are mounted or below ground level so as to minimize the visibility from the outside.
11. All cell towers and facilities shall be sited to have the least practical adverse affect on the surrounding environment. In addition, cell towers should be designed to

avoid whenever possible, the application of the Federal Aviation Administration lighting and painting requirements.

12. 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.
13. The area covered by the application for a **cell** tower special use permit shall be sufficient to accommodate all **cell** facilities that can be accommodated on the proposed communication tower.
14. **Cell towers shall be setback from all property lines an amount equal to 1.5 times the total height of the tower to include the highest antenna. 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 of 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.~~**
15. All **cell** 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 **from all other towers:**
 - (a) Towers more than 100 feet in height: 1,500 feet of separation.
 - (b) Towers 100 feet or less in height: 750 feet of separation.
 - (c) **Rooftop sites; 100 feet from any other residential structure line, except with approval of adjacent property owners.**
16. 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.
17. All parking areas and drives associated with the communication/**broadband** facility shall comply with article VII of the zoning ordinance and shall meet all provisions of article VII of the zoning ordinance.

18. Mobile or immobile equipment not used in direct support of a communication/**broadband** facility shall not be stored or parked on the site unless repairs to the communication/**broadband** facility are being made.
19. 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 **cell** tower and shall be subject to site plan approval. The site plan requirements shall contain the information as required in this ordinance.
20. **Cell** 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 **cell** tower may be provided if the lighting is shielded so that no light is directed towards adjacent properties or rights-of-way.
21. All **cell** towers must meet or exceed current standards, **applicable safety codes**, and regulations of the Federal Aviation Administration, the Federal Communications Commission and any other agency of the federal **or state** government with the authority to regulate **cell** towers and antennas. As such standards, **applicable safety codes**, and regulations change the owners of such **cell** towers and antennas governed by this ordinance shall bring such **cell** towers and antennas into compliance with such revised standards, **applicable safety codes**, and regulations within six months of the effective date of such standards, **applicable safety codes**, and regulations unless a more stringent compliance schedule is mandated by the controlling **agency of the federal or state government**. Failure to bring such **cell** towers and antennas into compliance with such revised standards, **applicable safety codes**, and regulations shall constitute grounds for removal of such **cell** tower or antennas at the owner's expense.
22. 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/**broadband** facility underground.
23. The base of the **cell** tower shall be screened from view with a solid screening fence a minimum of six feet 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.
24. **For rooftop sites, all antennas and support structures shall be protected from unauthorized access by appropriate security measures. A description of proposed security measures shall be provided as part of any application to install, build or**

modify the antenna or support structures. Additional measures may be required as a condition of the conditional use permit as deemed necessary.

25. 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.
26. Any cell tower or antenna or that is not operated for a continuous period of 12 months shall be considered abandoned and the owner of such cell tower or antenna shall remove the same within 90 days of receipt of notice notifying the owner of such abandonment. If such cell tower or antenna 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 cell tower then this provision shall not become effective until all users cease using the cell tower.
27. To ensure the structural integrity of cell towers, the owners of the cell 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 and safety codes 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 cell 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 cell tower, the owner shall have 30 days to bring such communication tower into compliance with such standards. If the owner fails to bring such cell tower into compliance within the 30 days the city may cause removal of such cell tower at the owner's expense.
28. 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.
29. In the case of any disturbance to a street or other public property, caused by an applicant during the course of constructing or maintaining a 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.

~~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:~~

- ~~1. The general appearance of the communication tower has been adequately maintained. This shall include landscaping, fencing, surfacing, communication tower appearance, etc.~~
 - ~~2. 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.~~
 - ~~3. 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.~~
 - ~~4. 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.~~
- d. A tower permit may not be sold, transferred, leased nor assigned by any other person without the prior notification of the governing body.
- e. 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 cell tower, utilizing, but not limited to, the following factors as guidelines:
1. Whether approval of the conditional use would be consistent with the intent and purpose of, and meets the requirements of, these regulations.
 2. The aesthetic impact of the proposed communication tower on the surrounding neighborhood.
 3. Whether the relative gain to the public health, safety and general welfare outweighs the hardship imposed upon the applicant by not granting the permit.
 4. 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.
 5. Whether a Federal Communications Commission license has been granted to the applicant authorizing provision of services to the community and whether radio

frequency emissions will comply with Federal Communications Commission regulations.

6. 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.
 7. 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.
 8. The recommendation of professional planning staff.
 9. The expert testimony presented on behalf of and in opposition to the application.
 10. Such other factors as may be relevant to the facts and evidence presented in the application.
- f. Failure to adequately demonstrate adequate compliance on any one of these items **may result in a conditional use permit not being granted shall subject the holder of the permit to revocation of the conditional use permit.** The determination of whether or not to **deny 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.
- g. **Penalty:** Any person found in violation of any of the provisions of this article shall be subject to a fine not to exceed \$500.00 per day. A separate offense shall be deemed committed each day during or upon which a violation occurs or is permitted to continue.

1014.0. Accessory Uses Not Located on the Same Lot or Contiguous Lot as the Principal Building or Principal Use Served per 607.1.d.

1014.1. *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.

1014.2. *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.

1015.0. Delayed Deposit Service Businesses and Pawnshops.

1015.1. *Special Conditions:* The following regulations shall apply to all delayed deposit services businesses (commonly known as check cashing, payday lending, or car title loan businesses) and pawnshops.

- a. May only be located on a property that is zoned for such a business and for which a Conditional Use has been approved by the approval authority.
- b. Shall not be located within 1,000 feet of any public or private elementary, secondary or high schools, residential property, or residentially zoned property that is in place at the time of application. The distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the business is conducted to the property line of the protected use.
- c. Shall not be located within 1,000 feet of any other such business as measured in a straight line from the exterior walls of the building or portion thereof in which the business is conducted.
- d. The hours of operation shall be no earlier than 8:00 a.m. and no later than 8:00 p.m.

1016.0. Medical or Recreational Cannabidiol (CBD) and Tetrahydrocannabinol (THC) Dispensaries and Manufacturing Facilities.

1013.1. *Limitations:* The following regulations are in response to current and possible future state regulations that may permit these establishments. Nothing within these regulations herein or elsewhere within the City's zoning ordinance shall be construed as an official endorsement or recognition that medical and/or recreational CBD or THC dispensaries or manufacturing facilities are legal uses as it may pertain to state or federal law. The intent of these regulations is to address the negative secondary impacts these uses may create. No medical and/or recreational CBD or THC dispensary or manufacturing facility shall occupy a building, begin operation, or otherwise conduct business within the City until such time the proposed facility has received approval of a Conditional Use from the City.

1016.2. *Special Conditions for Dispensaries:* The following regulations shall apply to all medical and/or recreational CBD or THC dispensaries and similar businesses.

- a. Shall be licensed by the State of Kansas and comply with all State rules and regulations.
- b. Shall only be located on a property that is zoned for such a facility and for which a Conditional Use has been approved by approval authority.

- c. Shall not be located within 1,000 feet of any public or private elementary, secondary or high schools that is in place at the time of application. Shall not be located within 1,000 feet of residential property or residentially zoned property that is in place at the time of application. The distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the business is conducted to the property line of the protected use.
 - d. Shall not be located within 1,000 feet of any other such facility as measured in a straight line from the exterior walls of the building or portion thereof in which the business is conducted.
 - e. The hours of operation shall be no earlier than 8:00 a.m. and no later than 8:00 p.m.
 - f. All operations shall be contained within an enclosed building, and shall not be located within a trailer, tent, temporary structure, or motor vehicle.
 - g. Vehicle drive-up or drive-thru service is prohibited.
 - h. Off-site delivery is prohibited.
 - i. No outdoor display of merchandise is allowed, and no outdoor seating shall be permitted.
 - j. No facility shall permit any person to consume a CBD or THC containing product on the facility premises or property.
 - k. No facility shall permit any person not directly affiliated with the facility to loiter on the facility premises or property.
 - l. There shall be no emission of dust, fumes, vapors, or odors into the environment from the facility.
 - m. Signage shall comply with the City's sign code regulations. Temporary signage shall be prohibited.
 - n. Shall provide for adequate security including adequate site lighting, a monitored security alarm system with battery back-up power, and a video surveillance system that at all times records all interior areas and the exterior perimeter of the premises.
- 1016.3. *Special Conditions for Manufacturing Facilities:* The following regulations shall apply to all CBD or THC manufacturing facilities.
- a. All facilities shall be licensed by the State of Kansas and shall comply with all State rules and regulations.
 - b. Facilities may only be located on a property that is zoned for such a facility and for which a Conditional Use has been approved by the approval authority.

- c. No facility shall be located within 2,000 feet of any public or private elementary, secondary or high schools that is in place at the time of application. No facility shall be located within 2,000 feet of residential property or residentially zoned property that is in place at the time of application. The distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the business is conducted to the property line of the protected use.
- d. All operations shall be contained within an enclosed building, and may not be located within a trailer, tent, temporary structure, or motor vehicle.
- e. No facility shall permit any person to consume a CDB or THC containing product on the facility premises or property.
- f. There shall be no emission of dust, fumes, vapors, or odors into the environment from the facility.
- g. Signage for a manufacturing facility shall comply with the City's sign code regulations. Temporary signage shall be prohibited.
- h. All facilities shall provide for adequate security including adequate site lighting, a monitored security alarm system with battery back-up power, and a video surveillance system that at all times records all interior areas and the exterior perimeter of the premises.

PERMITTED AND CONDITIONAL USES TABLE

USE	ZONING DISTRICT												
	A-1	R-1	R-2	R-3	R-4	R-5	O&P	C-1	C-2	C-3	C-4	M-1	M-2
Mining operation, sand and gravel extraction or processing, gas or oil well, or similar mineral or earth resource extraction (no crushing of rock, ore)	C											C	C
Renewable Energy Power Generation													
Accessory Small Wind Energy Conversion System (utility scale is prohibited)	C	C	C	C	C	C	C	C	C	C	C	C	C
Accessory Solar Energy Conversion System – building-integrated (utility scale is prohibited)	P	P	P	P	P	P	P	P	P	P	P	P	P
Accessory Solar Energy Conversion System – ground mounted (utility scale is prohibited)	C	C	C	C	C	C	C	C	C	C	C	C	C
Communication Antennas and Communication Towers													
Cell Tower, Communication/Broadband Antenna, Communication/Broadband Towers, or Communication/Broadband Rooftop Sites	C	C	C	C	C	C	C	C	C	C	C	C	C