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Marilyn Calhoun, Register of Deeds

ORDINANCE NO. 4497

AN ORDINANCE REPEALING AND REPLACING ARTICLE IV, SECTION 403.0, AND ARTICLES V, VI, VII, VIII, AND X OF THE ZONING CODE, TO UPDATE AND MODERNIZE THE ZONING REGULATIONS OF THE CITY OF INDEPENDENCE, KANSAS.

WHEREAS, the City of Independence, Kansas, through its Planning Commission and Governing Body, has completed a comprehensive review and update of the City's Zoning Regulations; and

WHEREAS, the Planning Commission, after due notice and hearing, has recommended approval of said comprehensive update; and

WHEREAS, the Governing Body finds it necessary and appropriate to repeal and replace specific articles of the zoning regulations to promote the orderly development of land and to protect the public health, safety, and welfare of the community.

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

SECTION 1. Article IV, Section 403.0, Definitions, of the Zoning Code of the City of Independence, Kansas, is hereby repealed in its entirety and replaced as follows:

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:

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.

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.

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 is 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.

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.

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.

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 car 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.

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 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 (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.

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 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 of 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.

Mini-storage or self-storage: A building or group of buildings, containing varying sizes of individualized, compartmentalized, and controlled stalls or lockers for the 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. 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.

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, 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: (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 single family 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: 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.

SECTION 2. Article V of the Zoning Code of the City of Independence, Kansas, is hereby repealed in its entirety and replaced as follows:

ARTICLE V. DISTRICT REGULATIONS

501.0. A-1 Agricultural District.

- 501.1. Intent: The purpose of this district is to preserve and protect agricultural resources. The district is not intended to serve the homeowner who lives on a small suburban lot, but is designed to accommodate agricultural operations on substantial acreages. Uses that might have nuisance characteristics, if intermingled in developed residential areas, are permitted on the premise that they are no more offensive than normal agricultural uses.
- 501.2 Bulk Regulations. (See Section 517.0. - Residential Zoning Districts Bulk and Density Regulations Table, herein this article.)
- 501.3 Permitted and Conditional Uses. (See Section 519.0. - Permitted and Conditional Uses Table, herein this article.)
- 501.4 Off-Street Parking Regulations. (See Article VII. Off-Street Parking and Loading Regulations, herein Appendix B - Zoning.)

502.0. R-1, Large Lot Single-Family Dwelling District.

- 502.1. Intent: The purpose of this district is to provide for large lot single-family residential development of low population density and relatively spacious character together with such public buildings, schools, churches, public recreational facilities and accessory uses, as may be necessary or are normally compatible with residential surroundings.
- 502.2. Bulk Regulations. (See Section 517.0. - Residential Zoning Districts Bulk and Density Regulations Table, herein this article.)
- 502.3. Permitted and Conditional Uses. (See Section 519.0. - Permitted and Conditional Uses Table, herein this article.)

502.4. Off-Street Parking Regulations. (See Article VII. Off-Street Parking and Loading Regulations, herein Appendix B - Zoning.)

503.0. R-2, Single-Family Dwelling District.

503.1. Intent: The purpose of this district is to provide for single-family residential development of low population density together with such public buildings, schools, churches, public recreational facilities and accessory uses, as may be necessary or are normally compatible with residential surroundings.

503.2. Bulk Regulations. (See Section 517.0. - Residential Zoning Districts Bulk and Density Regulations Table, herein this article.)

503.3. Permitted and Conditional Uses. (See Section 519.0. - Permitted and Conditional Uses Table, herein this article.)

503.4. Off-Street Parking Regulations. (See Article VII. Off-Street Parking and Loading Regulations, herein Appendix B - Zoning.)

504.0. R-3, Low Density Multifamily Dwelling District.

504.1. Intent: The intent of this district is to provide for areas of moderate density residential development that would provide a transition between low density single-family and high density multifamily areas. The principal use of land is for two-family and three-family dwellings and related recreational, religious and educational facilities normally required to provide a balanced residential area.

504.2. Bulk Regulations. (See Section 517.0. - Residential Zoning Districts Bulk and Density Regulations Table, herein this article.)

504.3. Permitted and Conditional Uses. (See Section 519.0. - Permitted and Conditional Uses Table, herein this article.)

504.4. Off-Street Parking Regulations. (See Article VII. Off-Street Parking and Loading Regulations, herein Appendix B - Zoning.)

505.0. R-4, Medium Density Multifamily Dwelling District.

505.1. Intent: This district is intended primarily to accommodate nonelevator residential development at a medium density. The principal use of land is for townhouses and garden apartment buildings in convenient relation to outlying major thoroughfares and business centers. This district would also include recreational, religious and educational uses necessary to provide a balanced residential area.

505.2. Bulk Regulations. (See Section 517.0. - Residential Zoning Districts Bulk and Density Regulations Table, herein this article.)

505.3. Permitted and Conditional Uses. (See Section 519.0. - Permitted and Conditional Uses Table, herein this article.)

505.4. Off-Street Parking Regulations. (See Article VII. Off-Street Parking and Loading Regulations, herein Appendix B - Zoning.)

506.0. R-5, High Density Multifamily Dwelling District.

506.1. Intent: This is a residential district to provide for residential development at a high density. The principal use of the land is for medium to high-rise apartment buildings requiring elevators. This district should generally be located in or adjacent to the central area of the city in proximity to principal areas of commercial activity. Recreational and religious uses normally located to service residential areas are also permitted to provide the basic elements of convenient, balanced and attractive living areas.

506.2. Bulk Regulations. (See Section 517.0. - Residential Zoning Districts Bulk and Density Regulations Table, herein this article.)

506.3. Permitted and Conditional Uses. (See Section 519.0. - Permitted and Conditional Uses Table, herein this article.)

506.4. Off-Street Parking Regulations. (See Article VII. Off-Street Parking and Loading Regulations, herein Appendix B - Zoning.)

507.0. O&P, Office and Professional District.

507.1. Intent: This district 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.

507.0. Bulk Regulations. (See Section 518.0. - Non-Residential Zoning Districts Building Bulk and Density Regulations Table, herein this article.)

507.2. Permitted and Conditional Uses. (See Section 519.0. - Permitted and Conditional Uses Table, herein this article.)

507.3. Off-Street Parking Regulations. (See Article VII. Off-Street Parking and Loading Regulations, herein Appendix B - Zoning.)

508.0. C-1, Neighborhood Business District.

508.1. Intent: The intent of this district is to provide commercial locations for small areas of convenience shopping facilities in and near residential neighborhoods. Such convenience shopping facilities will often occupy a small area, frequently at an intersection or on a major street, in an area that is otherwise wholly residential.

- 508.2. Bulk Regulations. (See Section 518.0. - Non-Residential Zoning Districts Building Bulk and Density Regulations Table, herein this article.)
- 508.3. Permitted and Conditional Uses. (See Section 519.0. - Permitted and Conditional Uses Table, herein this article.)
- 508.4. Off-Street Parking Regulations. (See Article VII. Off-Street Parking and Loading Regulations, herein Appendix B - Zoning.)

509.0. C-2, Commercial Services District.

- 509.1. Intent: This District is intended primarily for general trades and commercial services located at specific points on major thoroughfares outside of central or neighborhood business districts. This district is particularly appropriate adjoining a major highway. Such an area draws highway trade uses such as restaurants, service stations, and motels which are not totally compatible with shopping center developments but which may be grouped together quite advantageously as highway service centers.
- 509.2. Bulk Regulations. (See Section 518.0. - Non-Residential Zoning Districts Building Bulk and Density Regulations Table, herein this article.)
- 509.3. Permitted and Conditional Uses. (See Section 519.0. - Permitted and Conditional Uses Table, herein this article.)
- 509.4. Off-Street Parking Regulations. (See Article VII. Off-Street Parking and Loading Regulations, herein Appendix B - Zoning.)

510.0. C-3, Central Business District.

- 510.1. Intent: District C-3 is intended primarily for major business services and retail business activity related to the core of the central business district serving the metropolitan trade area. Because this district is a major employment and shopping area within the community, relatively large building volumes and high residential density is permitted for transient and apartment accommodations. The high volume of pedestrian movement generated within this district will be facilitated as much as possible by the separation of pedestrian and vehicular traffic.
- 510.2. Bulk Regulations. (See Section 518.0. - Non-Residential Zoning Districts Building Bulk and Density Regulations Table, herein this article.)
- 510.3. Permitted and Conditional Uses. (See Section 519.0. - Permitted and Conditional Uses Table, herein this article.)
- 510.4. Off-Street Parking Regulations. (See Article VII. Off-Street Parking and Loading Regulations, herein Appendix B - Zoning.)

511.0. C-4, Highway Commercial District.

- 511.1. Intent: This district is intended primarily for large lot retail uses that cannot be accommodated in the central business district and for businesses catering to the motoring public including service stations, convenience stores, restaurants.
- 511.2. Bulk Regulations. (See Section 518.0. - Non-Residential Zoning Districts Building Bulk and Density Regulations Table, herein this article.)
- 511.3. Permitted and Conditional Uses. (See Section 519.0. - Permitted and Conditional Uses Table, herein this article.)
- 511.4. Off-Street Parking Regulations. (See Article VII. Off-Street Parking and Loading Regulations, herein Appendix B - Zoning.)

512.0. M-1, Light Industrial District.

- 512.1 Intent: This district is intended primarily for light manufacturing, warehousing and other limited industrial uses which create a minimum amount of nuisance outside the plant and are not noxious or offensive by reason of emission of smoke, dust, fumes, odors, noise, or vibrations beyond the confines of buildings. Light industrial uses generally require little or no outside material storage and the effect of the production process upon surrounding areas is normally that of the traffic generated by the receipt and delivery of goods and materials. Commercial uses in this district are generally those which serve the convenience of industrial establishments and their employees. Residential uses are not compatible with this environment and are not included in order that the district may be reserved for its intended light industrial purpose.
- 512.2 Bulk Regulations. (See Section 518.0. - Non-Residential Zoning Districts Building Bulk and Density Regulations Table, herein this article.)
- 512.3 Permitted and Conditional Uses. (See Section 519.0. - Permitted and Conditional Uses Table, herein this article.)
- 512.4 Off-Street Parking Regulations. (See Article VII. Off-Street Parking and Loading Regulations, herein Appendix B - Zoning.)

513.0. M-2, Heavy Industrial District.

- 513.1. Intent: This district is intended primarily for major basic manufacturing industries and related industrial activities. Heavy industrial uses characteristically create a large amount of noise, glare, odor, dust, vibration, air and water pollution and other harmful or obnoxious matter. Many of these industries characteristically store large quantities of raw or scrap material for processing operations. Commercial uses in this district are generally those which serve the convenience of industrial establishments and their employees. Residential uses are not compatible with this environment and are not included in order that the district may be reserved for its intended heavy industrial purpose.

- 513.2. Bulk Regulations. (See Section 517.0. - 518.0. - Non-Residential Zoning Districts Building Bulk and Density Regulations Table, herein this article.)
- 513.3. Permitted and Conditional Uses. (See Section 519.0. - Permitted and Conditional Uses Table, herein this article.)
- 513.4. Off-Street Parking Regulations. (See Article VII. Off-Street Parking and Loading Regulations, herein Appendix B - Zoning.)

514.0. PUD, Planned Unit Development.

- 514.1. Intent. The PUD is intended to provide for the development or redevelopment of land under the control and in accordance with an approved Master Plan. The development guidelines and standards in which land uses, transportation facilities, building densities, arrangements, and types are set out in a unified Master Plan in order to provide greater flexibility of land use, development densities, and building locations than other zoning districts may allow.

The PUD District is intended to maximize benefits from the use of open spaces, preserve natural areas and existing tree cover, protect steep slopes, maximize aesthetics, encourage certain architectural standards for buildings, and permit mixed uses and diversity of bulk regulations without endangering the general health, safety, welfare, and land value of surrounding and internal properties. A PUD may consist of a single use or a mix of residential, commercial, and limited industrial uses, provided such PUD is compatible with the Future Land Use Map and adopted Community Development/Comprehensive Plan of the City.

- 514.2. Procedures: (See Article XIV. - Processing Procedures For Planned Unit Developments.)

- a. **Application:** The owner or owners of a parcel of land within the zoning jurisdiction of the City may submit to the Zoning Administrator an application accompanied by a PUD Master Plan requesting a rezoning to the PUD Zoning District. The application form, Master Plan (including number of copies), proposed development rules and regulations, design guidelines, and other submittal details and requirements shall be as determined by the Zoning Administrator as necessary to review the request. The required application fee shall be as determined by resolution of the City Commission.
- b. **Review Process:** The PUD Application shall be reviewed by the Zoning Administrator for completeness. Applications deemed incomplete shall be returned to the applicant with a list of the missing or incomplete items. Applications deemed complete shall be distributed by the Zoning Administrator to other City departments and agencies as necessary for review and comment as to its compliance with all zoning regulations and other pertinent City codes, regulations, standards, and policies.
- c. Subsequent to review by the Zoning Administrator and other City departments and agencies, the Zoning Administrator shall submit to all members of the Planning and Zoning Commission a copy of the PUD Application along with a written recommendation

as to the request's conformity with the rules and regulations of the City and may include a recommendation for approval, approval with conditions, or denial of the application.

d. The Planning and Zoning Commission shall subsequently hold a public meeting for a rezoning as prescribed by their rules of procedures and the Zoning Ordinance and review the PUD Application for conformity with the zoning regulations and standards and may confer with the applicant on changes to their requested as may be deemed advisable. The Planning and Zoning Commission shall consider the following as part of their deliberation:

1. Compatibility with the Future Land Use Map and the Community Development/Comprehensive Plan.
2. Land uses, building sizes and densities, and number of dwelling units.
3. Building types, functions, architecture, and building placement and setbacks.
4. Provisions for open space, landscaping, buffers, pedestrian circulation, and storm water management.
5. Preservation and protection of natural features, drainageways, steep slopes, and existing tree cover.
6. Provisions for adequate public infrastructure including sanitary sewer and water service, storm water run-off, public parks, and public safety services.
7. Traffic circulation and congestions including access to and from the site.
8. General relationship to and impact on the surrounding area and neighboring properties.

After completion of its deliberation, the Planning and Zoning Commission may adopt a recommendation for approval or denial of the PUD Master Plan and associated development rules, regulations, and guidelines as submitted. The Planning and Zoning Commission may also request the developer agree to certain conditions or agree to make certain modifications, alterations, adjustments, or amendments to the proposed Master Plan and associated rules, regulations, and guidelines in order to secure a recommendation of approval from the Planning and Zoning Commission.

The Planning and Zoning Commission shall forward its recommendation to the City Commission within 60 days of the receipt of a PUD Application deemed complete by the Zoning Administrator. If the Planning and Zoning Commission does not act within the 60 days as prescribed above, the PUD Application shall be deemed to have received a recommendation of approval by the Planning and Zoning Commission unless the applicant agrees to an extension of time.

Within 60 days of receiving a recommendation from the Planning and Zoning Commission, the City Commission shall hold a public hearing for a rezoning as prescribed by their rules

of procedures and the Zoning Ordinance and review the PUD Application for conformity with the zoning regulations and standards. During this hearing, the City Commission may confer with the applicant on changes to their request as may be deemed advisable in order to secure the approval by the City Commission. The City Commission may approve, approve with conditions or modifications as agreed to by the applicant, or deny the application. If the City Commission fails to act within the herein prescribed 60-day period, the PUD Application shall be deemed to have been denied, unless both the applicant and the City Commission agree to an extension of time.

Whenever any PUD Application has been denied by the City Commission, no new application covering the same property, or the same property and additional property, shall be filed with or considered by the City Commission until one year has elapsed from the date of the filing of the first application.

- e. **Recording of the Master Plan and Associated Regulations and Guidelines:** The ordinance providing for the rezoning of the property to the PUD Zoning District and the associated Master Plan, Regulations, and Guidelines as approved by the City Commission shall be recorded at the Office of the County Register of Deeds and shall be binding on the property owners, their heirs, successors, or assigns. No phase of the PUD shall be started, and no building permits shall be issued until all documents have been recorded.
- f. **Modifications:** Any application by the property owner or owners for modification to an approved PUD shall first be reviewed by the Planning and Zoning Commission. Said proposed modification along with a report from the Planning and Zoning Commission shall then be forwarded to the City Commission with appropriate recommendations. The City Commission shall then take such appropriate action on the proposed modification and their decision shall be final.

No modification may be considered that is more than a ten percent (10%) increase in density or change of uses of the site without a public hearing by the Planning and Zoning Commission and City Commission as required for a rezoning. A public hearing may be held by the Planning and Zoning Commission or City Commission on any requested modification. All modifications and adjustments shall be recorded at the Office of the County Register of Deeds.

- g. **Platting and Development:** Prior to development within the PUD, applications for Preliminary and Final Plats, Site Plans, and Building Permits that are in conformance with the provisions of the PUD shall be submitted for review in accordance with the City's regulations. At the applicant's own risk, Preliminary Plats, Final Plats, and Site Plans may be submitted and reviewed concurrently with the PUD Application process.

515.0. Residential Zoning Districts Building Bulk And Density Regulations.

- 515.1. The following table details the minimum lot sizes, building setbacks, building size and height limitations, minimum open space, and maximum density requirements for each building type constructed within the residential zoning districts established herein.

RESIDENTIAL ZONING DISTRICTS BULK AND DENSITY REGULATIONS TABLE

BULK AND DENSITY REGULATION BY BUILDING TYPE	BUILDING TYPE						
	A-1 Zoned Single Family Dwelling	R-1 Zoned Single Family Dwelling	Single Family Dwelling (Detached and Semi-Detached)	Two Family Dwelling	Townhouse or Row Dwelling	Multiple-Family Dwelling (Apartment)	Non-Residential Structure in a Residential Zoning District
Min. Lot Size	3 acres	10,000 sq ft	7,000 sq ft	8,000 sq ft	n/a	n/a	20,000 sq ft
Min. Lot Width ¹	100 ft	80 ft	50 ft	75 ft	24 ft.	80ft	100 ft
Min. Lot Street Frontage ²	20 ft	20 ft	20 ft	20 ft	20 ft	20 ft	40 ft
Front Yard Setback ³	25 ft	25 ft	10 ft	10 ft	25 ft	25 ft.	30 ft.
Side Yard Setback ⁴	8 ft	8 ft	7 ft	7 ft ⁵	8 ft. ⁶	25 ft	25 ft
Rear Yard Setback ⁵	30 ft	10 ft	10 ft	10 ft	20 ft	25 ft	25 ft
Min. Separation Between Principal Buildings	n/a	n/a	n/a	n/a	16 ft side to side, 46 ft back to back or back to side	30 ft	20 ft
Min. Setback from Private Street or Common Private Roadway	n/a	n/a	n/a	20 ft from back of curb or street sidewalk whichever is closest	20 ft from back of curb or street sidewalk whichever is closest	n/a	n/a
Min. Setback from the Perimeter of the Development	n/a	n/a	n/a	10 ft	25 ft	25 ft	25 ft
Max. Building Height	3 stories	3 stories	3 stories	3 stories	3 stories	50 ft	35 ft
Min. Open Space	n/a	30%	30%	30%	20%	20%	20%
Max. Dwelling Units Per Acre	0.3		n/a	n/a	8	20	n/a

516.0. Non-Residential Zoning Districts Building Bulk and Density Regulations.

516.1. The following table details the minimum lot sizes, building setbacks, building size and height limitations, minimum open space, and maximum density requirements for each non-residential zoning district.

NON-RESIDENTIAL BULK AND DENSITY REGULATIONS TABLE							
BULK AND DENSITY REGULATION BY ZONING DISTRICT	ZONING DISTRICTS						
	O&P	C-1	C-2	C-3	C-4	M-1	M-2
Min. Lot Size	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Min. Lot Width	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Min. Lot Street Frontage ⁴	40 ft	40 ft	40 ft	40 ft	40 ft	40 ft	40 ft
Front Yard Setback	25 ft	25 ft	25 ft	0 ft	25 ft	25 ft	25 ft
Side Yard Setback ¹	10 ft	10 ft	10 ft	0 ft	10 ft	10 ft	10 ft
Rear Yard Setback ²	10 ft	10 ft	10 ft	0 ft	10 ft	10 ft	10 ft
Min. Separation Between Buildings Not Attached	20 ft	20 ft	20 ft	20 ft	20 ft	20 ft	20 ft
Max. Building Height	35 ft ³	35 ft ³	45 ft	n/a	35 ft ³	45 ft	60 ft
Min. Building Height	n/a	n/a	n/a	24 ft	n/a	n/a	n/a
Min. Open Space	10%	10%	10%	0%	10%	10%	10%
Max. Dwelling Units Per Acre	n/a	n/a	n/a	n/a	n/a	n/a	n/a

¹25 feet when said yard adjoins a residential zoning district or existing residential property

²25 feet when said yard adjoins a residential zoning district or existing single-family property

³An additional 10 ft of height is permitted for every 10 ft of additional building setback (on all sides) provided to a maximum height of 60 ft

⁴Postage Stamp Lots: Direct street frontage not required; All yard setbacks for postage stamp lots shall be 5 ft, excluding shared walls located along a common lot line

516.2. Minimum tenant space: Within the C-4 zoning district, the minimum tenant space shall be 5,000 square feet, which may be non-contiguous as long as it is within the same building. Each commercial space intended to be occupied by a single commercial user or each commercial space which has separate doorway access from the exterior of the building or from an interior corridor of an enclosed mall shall be considered to be a tenant space.

Exception: Businesses catering to the motoring public shall be exempt from the minimum tenant space requirement. Automobile service stations, convenience stores, restaurants, and financial institutions with drive-up or drive-through facilities shall be deemed to be "businesses catering to the motoring public." The determination whether any business constitutes a "business catering to the motoring public" shall be made by the city planner, whose determination shall be appealable to the board of zoning appeals.

517.0. Permitted Uses and Conditional Uses.

517.1. The following table identifies the allowable uses within each zoning district. A use identified with a "P" within a given zoning district column is a Permitted use. A use identified with a "C"

within a given zoning district column requires approval of a Conditional Use Permit in accordance with city code. A blank space indicated that use is not permitted within the given zoning district. Uses not listed shall be considered not permitted uses.

The definitions for each listed use shall coincide first with the definition contained within this article, second as may be defined elsewhere in the City Code, and finally the commonly understood definition as determined by the Zoning Administrator.

A proposed use may follow under more than one category; however, for the purposes of this article, the proposed use shall follow the closest, most similar or specific use as listed in the Use Matrix. It shall be the sole discretion of the Zoning Administrator to make the determine as to where a proposed use falls within the Uses Table, whether it fits within or is similar to a use listed within the Uses Table or is otherwise not listed and therefore not permitted.

Every permitted use may include accessory uses that are customary for that permitted, principal use. Accessory uses are not allowed without a permitted principal use located on the same lot. Accessory uses shall follow the same standards required for the principal except as specifically provided for in Article VI. Supplemental District Regulations. The determination if a proposed accessory use is appropriate and allowable for a given permitted use, shall be at the sole discretion of the Zoning Administrator.

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
AGRICULTURAL USES												
Commercial Farm Operation												
Farming (row crop, vegetables, greenhouse, vineyards, orchards)	P	C	C	C	C	C						
Animal Husbandry, subject to the provisions of Articles III and IV of Chapter 10 of the City Code (feedlots and animal feeding operations are prohibited)	P	C	C									
Registered purebred miniature Vietnamese pot-bellied pigs and other similar registered purebred miniature pigs, subject to the provisions of Article III of Chapter 10 of the City Code.	C	C	C	C								
Truck gardening and nurseries	P										C	C
Farm Support Housing	C											
Horse boarding and riding stables	P											
RESIDENTIAL USES												
Household Living												
Single-family dwelling, detached	P	P	P	P	P		C	C				
Single-family dwelling, semi-detached (traditional duplex on two lots)			P	P	P	P	C	C				
Two-family dwelling on one lot (duplex on one lot) does not include the conversion of an existing single-family home into 2 dwelling units)			P	P	P	P	C					
Townhouse dwelling (3+ units)				P	P	P	C					
Multiple family dwelling (3+ apartment or condo units)				P	P		C		C			

USE		PERMITTED AND CONDITIONAL USES TABLE											
		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	
Manufactured Home Park or Mobile Home Park (subject to the provisions of Article X of the Zoning Code)						C							
Accessory dwelling (includes the conversion of an existing single family detached dwelling into 2 units such as converting a basement or attached garage space into a separate dwelling unit)	C	C	C	C	C								
Dwelling, upper-story multifamily units located above the ground floor only (mixed use building)							C	C	C	P	C		
Tiny Home Developments (see Article X of the Zoning Code for special provisions)	C	C	C	C	C	C							
Group Residential													
Group home as defined by K.S.A. 12-736	P	P	P	P	P	P							
Assisted living residential facility		P	P	P	P	P	P	P	P				
Nursing or convalescent home		P	P	P	P	P	P	P	P	P			
Supervised group residence or halfway house, not including group home as defined by K.S.A. 12-736					C								
PUBLIC AND CIVIC USES													
College, university, vocational and trades schools		P	P	P	P	P	P	P	P	P	C	C	
Cultural exhibit, museum, or library	C	C	C	C	C	C	P	P	P	P			
Membership or religious organization, social club or lodge, and other place of public assembly		P	P	P	P	P	P	P	P	P			
Public or private elementary, middle, or high school		P	P	P	P	P	P	P	P	P			
Public or private parks, golf courses, country clubs, swimming pools, playgrounds, and indoor or outdoor recreational facilities and ball fields	P	P	P	P	P	P	P	P	P	P			
Golf driving ranges	C							C	C		C		
Public Utilities (not including gas and electrical power distribution stations, storage or maintenance yards or buildings)	P	P	P	P	P	P	P	P	P	P	P	P	
Government buildings and properties	P	P	P	P	P	P	P	P	P	P	P	P	
Hospital							C	C	C	C			
Airports, public or private, and ancillary uses	C										C	C	
COMMERCIAL USES													
After hours business													
Agricultural equipment sales and services							P	P	P	P	P	P	
Animal services													
Kennel (see Article X of the Zoning Code for special provisions)	C	C				C		C		C	C	C	
Veterinary services (without overnight kenneling)						P	P	P	P	P	P	P	
Art gallery						P	P	P	P	P			
Banks and financial services													
Banks, not including delayed deposit service business						P	P	P	P	P			
Delayed deposit service business (including check cashing, payday lending, car title loan business)										C			
Pawnshop										C			
Freestanding automated teller machine (ATM)						P	P	P	P	P			

USE		PERMITTED AND CONDITIONAL USES TABLE											
		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	
Body piercing studio or tattoo studio							P	P	P	P	P		
Day care facilities, child care center, and/or family child care home (state license required)	C	C	C	C	C	P	P	P	C	P			
Construction sales and service, contractor office, office for plumber, electrician, HVAC service or similar use													
No outdoor storage						P	P	P	C	P	P	P	
With outdoor storage											P	P	
Drive-in or drive-thru facilities						C	C	P	C	P			
Eating and drinking establishment													
Restaurant	C					P	P	P	P	P			
Micro-brewery, micro-distillery, or winery with on-site tasting/sampling and sales	C					P	P	P	P	P			
Tavern / Bar						P	P	P	P				
Entertainment													
Movie theater, performance hall, performing arts studio						P	P	P	P	P			
Indoor: waterpark, miniature golf, bowling, video game arcades, commercial driving ranges, go-carts, trampoline park, playground play space or similar use						P	P		P				
Outdoor: waterpark, miniature golf, commercial driving ranges, go-carts, trampoline park, playground play space or similar use	P					P	P		P				
Outdoor motion picture theaters (drive-in theater)	C					C	C		C	C			
Funeral and interment services													
Cemetery, mausoleum, columbarium	P	P	P	P	P	P	P	P		P	P	P	
Cremation services											P	P	
Funeral Home including funeral services and retail sales with no outdoor display or storage		P	P	P	P	P	P	P	P	P	P	P	
Retail sales with outdoor displays and storage						P	P	P	P	P	P	P	
Lodging													
Bed & breakfast inn	C	C	C	P	P	C		P	P	P			
Boarding or rooming house	C					C							
Extended stay or apartment hotel								P		P			
Hotel or motel								P	P	P			
Campground	C												
Short-term rental of permitted dwelling	C	C	C	C	C	C		P	P	P			
Medical or dental clinic, pediatrician's office, outpatient surgery center, medical testing center, or similar use						P	P	P	P	P			
Mini warehouse or self-storage facility													
In-door only						C		P		P	P	P	
Out-door storage including vehicle, boat, camper, recreational vehicle										P	P		

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
Motor vehicle and motor equipment-oriented businesses													
Automobile service center (auto parts sales)								P		P	P	P	
Automotive washing, car wash (auto, manual, or attended), does not include truck or trailer washing or trailer washout								P		P	P	P	
Gas station or service station with minor repair and services (brakes, batteries, tires, oil changes), including the dispensing of liquified propane								P		P	P	P	
Electric vehicle charging stations (not ancillary to a principal use)							P	P		P	P	P	
Major motor vehicle repair (painting, body, fender, frame, transmission, engine overhaul)							P		P	P	P	P	
Automobile sales, rental, storage lot, and off-street parking							P		P	P	P	P	
Automobile, truck and equipment auction facilities										P			
Recreational vehicle, camper, boat, motorcycle, snowmobile, golf car, and similar sales, lease, and rental and ancillary repair and maintenance							P		P	P	P		
Light equipment sales, rental, or repair service							P		P	P	P	P	
Heavy equipment sales, rental or repair service							P		P	P	P	P	
Truck Stop, not including trailer washout										P	P		
Supplementary parking (parking lots and parking structures that are on a parcel or lot that is separate from the principal use)	C	C	C	C	C	C	C	C	C	C	C	C	
Personal and consumer service													
Beauty salon, barbershop							P	P	P	P	P		
Dry cleaner and laundry service							P	P	P	P	P	P	
Dry cleaner and laundry service (pick-up/drop-off service only)							P	P	P	P	P		
Laundry (self-serve laundromat)							P	P	P	P	P		
Massage therapy establishment, state licensed								C	C	C			
Fitness center, gym, health spa							P	P	P	P	P		
Tailor							P	P	P	P	P		
Print shop, copy center, retail shipping store							P	P	P	P	P		
Professional Office (corporate, law, engineering, architecture, real estate, insurance, accounting, bookkeeping or similar use)							P	P	P	P	P		
Television and radio broadcast studio, offices, and production facilities							P	P	P	P	P		
Retail sales (grocery store, pharmacy/drug store, office supplies store, bakery, clothing or department store, and similar retail use)							P	P	P	P	P		
Retail sale - intensive													
Convenience store with fuel sales								P		P	P	P	
Fireworks retail sales facility								P		P	P	P	

PERMITTED AND CONDITIONAL USES TABLE

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
Junk or garbage processing, recycling, storage, or transfer station (indoor only)													C
Petroleum products, chemicals, fuel, and gasses refining, manufacture, distribution, or bulk storage													
Rubber goods manufacture													C
Sand or gravel pits, mining, and crushing													C
Smelting and processing or ore, metal and scrap metal													
Repair service													
Electronics, appliance, household goods, furniture or similar							P	P	P	P	P	P	P
Small engine								P		P	P	P	P
Research laboratory and testing										P	P	P	P
Storage of equipment, data and records, electronic data center, furniture and similar							P	P	P	P	P	P	P
Trucking/freight terminal												P	P
Wholesale fuel storage, sales, or distribution													C
Grain storage and distribution												C	C
Warehousing and wholesaling (outdoor storage limited to licensed and operable trailers, trucks, power equipment, and shipping containers)											P	P	
Agricultural chemicals and fertilizers wholesale or retail sales												C	C
Waste related use													
Junkyard including auto, truck and machinery wrecking and recycling													C
Recycling facility													C
Sanitary landfill													
OTHER USES													
Gas and electrical power distribution station	C											C	C
Battery Energy Storage Systems	C											C	C
Quarries and sand and gravel pits and other mining operations, gas or oil wells, or similar mineral or earth resource extraction (no crushing of rock or 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
Radio and television transmitting towers and equipment	C							C	C	C	C	C	C

SECTION 3. Article VI of the Zoning Code of the City of Independence, Kansas, is hereby repealed in its entirety and replaced as follows:

ARTICLE VI. SUPPLEMENTARY DISTRICT REGULATIONS

600.0. - Application.

Unless otherwise stated, the regulations hereafter established shall apply within all districts established by this ordinance. These general regulations supplement in this ordinance.

601.0. Height Regulations.

601.1. Structural projections: Chimneys, cooling towers, elevator headhouses, fire towers, grain elevators, monuments, stacks, stage towers, or scenery lofts, tanks, water towers, ornamental towers, and spires, church steeples, radio and television towers or necessary mechanical appurtenances, usually required to be placed above the roof level and not intended for human occupancy, are not subject to the height limitations contained in the district regulations, except that such structural projections shall not exceed the height regulations of the district in which the structure is situated by more than 15 percent, except as indicated below.

- a. Structural projections exceeding the above height limitations shall be considered as conditional uses and shall be processed in accordance with article IX of this ordinance, except in no event shall a radio aerial or television antenna support extend more than 25 feet above the ridge of a roof in any residential district.

601.2. Accessory buildings: In a residential district, any accessory building shall not exceed more than 24 feet or one story in height unless said accessory building is located within the main building setback area permitted under this ordinance. (See also section 602.7.)

602.0. Yard and setback regulations.

602.1. Determination of building setback line: The building setback line shall be determined by measuring the horizontal distance between the property line and the nearest exterior structural wall of the existing or proposed structure.

602.2. Corner lots for R-2, R-3, and R-4 zoned single family residential lots: For single family residential uses located on corner lots within the R-2 and R-3 zoning districts, the front yard setback regulation shall generally apply to the yard that has the least street frontage and the second street frontage shall be considered a side yard. The rear yard of a lot shall be that portion of yard opposite the designated front yard. The Zoning Administrator may otherwise make a determination as to which street frontage shall be considered as the front yard.

602.3 Architectural projections:

- a. In any district, the ordinary projection of skylights, parapets, window sills, belt courses, chimneys, foundations, buttresses, eaves and other architectural or ornamental features

may extend not more than three feet into any required yard provided that a minimum setback of five feet shall be maintained between such extension and the property line.

- b. Fire escapes may extend into such required yard by no more than 30 percent of the required yard dimensions provided that a minimum of eight feet shall be maintained between such extension and the property line.
- c. Steps, walks, fences, walls (including wing walls), balustrades, landscape or garden ornaments shall be permitted to project into the required yards subject to any other controls affecting such features.

602.4. Industrial rear yards: No rear yard shall be required in industrial districts on any lot, where the rear lot line adjoins a railway right-of-way or which has a rear railway track connection as long as sufficient access for firefighting equipment is available. Access to be approved by the fire chief prior to issuance of any permit.

602.5. Sight triangle: On a corner lot in any district, development shall conform to the requirements of the sight triangle in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two feet and eight feet above the grades at the back of the curb of the intersecting streets, within the triangular area formed by the right-of-way lines and a line connecting them at points ten feet from their point of intersection or at equivalent points on private streets, except that the sight triangle shall be increased to 25 feet for certain uses when deemed necessary for traffic safety by the building inspector.

602.6. Exceptions to yard requirements: The following exception to the front yard requirement for a dwelling is authorized for a lot in any district. If there are dwellings on both abutting lots with front yards of less than the required depth for the district, the front yard for the lot need not exceed a depth one-half way between the depth of the abutting lots and the required front yard depth.

602.7. Accessory structures: No accessory structures shall be erected in any required front or side yard, and no detached accessory structure shall be erected closer than ten feet to any other structure. Accessory structures may be located in the rear yard, but shall not be closer than five feet to the rear lot line and the side lot line except that if the structure is a parking garage with a vehicular alley entrance, the setback of the structure shall not be less than 10 feet, or If the structure is a parking garage facing a street, the setback shall not be less than 20 ft.

602.8. Conflicting requirements: Yard and setback requirements are subject to the provisions of any setback building lines adopted by the governing body, before or after the adoption of this ordinance, and in the event of conflict, the setback adopted by the governing body shall control.

603.0. Area regulations.

603.1. Maximum lot coverage calculations: In computing the amount of lot coverage, the amount of 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 maximum lot coverage requirements.

- 603.2. Business and dwelling joint use: For any building used jointly for business and dwelling purposes, the number of dwelling units permitted (by the lot area requirements per dwelling unit) shall be reduced in the same proportion as the floor area devoted to business bears to the entire floor area of the building, provided that floor area below the first floor of such building shall not be included in any calculation under this provision.
- 603.3. Hotel and apartment joint use: For any building providing jointly for hotel and apartment house uses, the number of dwelling units permitted in apartments by the lot area requirements per dwelling unit shall be reduced in the same proportion as the total floor area devoted to hotel or nonhousekeeping rooms bears to the total area devoted to both uses.
- 603.4. Number of structures and uses on a zoning lot: Where a lot or tract is used or zoned for other than a single-family dwelling, more than one principal use may be located upon the lot or tract. However, a zoning lot shall not contain more than one principal building or structure except as provided under the planned unit development sections of this ordinance.

604.0. Access regulations.

- 604.1. Access to business and industrial districts: No land which is located in a residential district shall be used for a major access route to any land which is located in any business or industrial district; provided, however, that this section shall not prohibit pedestrian walks and driveway connections between residential districts and neighborhood shops when incorporated as a part of a planned district development.
- 604.2. Street access: All lots shall abut a street other than an alley for a width of at least 35 feet.

605.0. Home occupations.

- 605.1. Restrictions and limitations: Home occupations shall be permitted as an accessory use to a residential use in any district subject to the requirements of this section.
 - a. A permit for a home occupation is required which shall be issued for the calendar year and may be renewed every 12 months thereafter, provided that at the end of each period, the planning commission finds the home occupation not in conflict with any ordinance and, in the opinion of the planning commission, is not jeopardizing the health, safety and welfare of the citizens in the area.
 - b. The home occupation shall be located in the main residential building, shall be incidental and subordinate to the principal use of the premises and shall not occupy more than 15 percent of the total floor area of the main residential building. Exception: Homes where child care is provided shall be excluded from the 15-percent requirement.

- c. No alteration of the exterior of the principal residential building shall be made which changes the character thereof as a residence.
- d. No outdoor storage of materials or equipment used in the home occupation shall be permitted.
- e. There shall be no visible evidence of the operation, except for one sign not larger than 18 inches by 36 inches and placed not less than 15 feet from the property line.
- f. No person shall be engaged in such home occupation other than a person occupying such dwelling unit as his residence.
- g. No equipment shall be utilized that creates a nuisance due to odor, vibration, noise, dust or electrical interference.
- h. Parking generated by the conduct of a home occupation shall be provided off street.
- i. No commodities shall be displayed or sold outside of the main residential building.
- j. A home occupation permit shall be issued only to the owner or authorized tenant who occupy a dwelling as their residence. As such, home occupation permits shall not be transferrable and shall terminate upon sale or transfer of the property to a new owner, or when the authorized tenant no longer occupies the property as a residence.
- k. Home occupation permits prior to the adoption of this ordinance may be continued by the current holder of the permit, under the provisions under which it was originally issued.

606.0. Recreational vehicles.

- 606.1 Storage of recreational vehicles: Major recreational equipment such as boats, boat trailers, travel trailers, pickup campers or coaches, camping buses or converted trucks and tent trailers shall be stored at the rear of the premises on a paved or gravel surface (rear yard only), then such recreational vehicles may be stored at the side of the residence on a paved surface so long as they do not protrude beyond the front of the residence. Temporary storage not to exceed 72 hours is permitted in a paved private driveway located anywhere on private property. In no event, however, shall such recreational vehicles be parked on public property, streets, or thoroughfares for longer than 72 hours. For purposes of this section, the 72 hour permissible temporary storage or parking shall be calculated as consisting of 72 hours over a 30-day period.
- 606.2. Location of occupied recreational vehicles: Recreational vehicles with electric, water, and sanitary sewer hookups that consist of a vehicular-type unit built on, or for use on, a chassis and designated as living quarters, both permanent and temporary, for recreational, camping or travel use, and which have their own motive power or are 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 shall be permitted in a licensed mobile home park or licensed and permitted campground. Such mobile home parks and

campgrounds shall have appropriate hookups for water, sewer and electric which must be connected to the recreational vehicle. For any recreational vehicle location within a mobile home park which is located in a flood zone, the utility hookups must meet FEMA requirements. In addition, such recreational vehicles and their locations within a mobile home park shall be in compliance with Section 1009.4 which sets forth the minimum standards for recreational vehicles located within a mobile home park.

(Cross Reference: Off-street parking requirements for certain mobile homes, § 66-4.)

607.0. Accessory uses.

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

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

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

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

- a. Private garages or carports
- b. A structure for storage incidental to a permitted use, provided no such structure that is accessory to a residential building shall exceed 300 square feet in gross floor area.
- c. A child's playhouse.
- d. A private swimming pool and bathhouse.
- e. A guesthouse or rooms for guests in accessory building, provided such facilities are used for the occasional housing of guests of the occupants of the principal building and not as rental units for permanent occupancy as housekeeping units.

- f. Statuary, arbors, trellises, barbecue stoves, wood piles for home use, flagpoles, fences, walls, hedges and radio and television antennas.
- g. Fallout shelters, provided that they shall not be used for any principal or accessory use not permitted in the zoning district.
- h. Off-street parking and loading spaces as regulated by article VII of these regulations.
- i. Storage of major recreational equipment.
- j. Restaurants, drugstores, gift shops, swimming pools, tennis courts, clubs and lounges and newsstands when located in a permitted hotel, motel or office building.
- k. Employee restaurants and cafeterias when located in a permitted business or manufacturing or industrial building.
- l. Offices for permitted business and industrial uses when said office is located on the same site as the business or industry to which it is an accessory.
- m. Retail sales for permitted industrial uses when located on the same site as the industrial use.
- n. The storage of retail merchandise when located within the same building as the principal retail business.
- o. Any wholesale or retail sales activity may also include accessory service or repair activity for goods which are sold on the premises.
- p. A hobby shop may be operated as an accessory use by the occupant of the premises for personal equipment, amusement or recreation; provided that articles produced or constructed are not sold on the premises.
- q. Accessory uses for any agriculturally oriented activity, which is subordinate and incidental to the principal permitted agricultural activity, shall be permitted in the A-1 district.
- r. A tiny house for use by the property owner's family.
- s. Shipping containers for use as storage in M-1 and M-2 industrial districts. In these districts, shipping containers are not authorized to be used as dwellings.
- t. Industrial shipping containers for use as storage in M-1 and M-2 industrial districts. Industrial shipping containers are not authorized to be used as dwellings.

607.3. Storage of trucks, trailers or buses: Outdoor storage or overnight parking on any public streets in any residential district of trucks, trailers or buses having a hauling capacity of more than one ton is prohibited. Trucks, trailers or buses having a hauling capacity of more than one ton

shall only be permitted to be parked on a paved surface on private property in residential districts when there is adequate space on such private property and if the vehicle, truck or trailer does not contain volatile, noxious or hazardous materials and when such vehicle is parked so as not to create a nuisance to adjoining property owners.

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

- a. Television receiving tower exceeding district height limitations (see section 601.1).
- b. Amateur radio tower exceeding district height limitations (see section 601.1).
- c. Salvage storage yards, scrap and waste material storage yards when provided as an accessory use for any manufacturing or wholesale use (see additional requirements in section 1010.0).
- d. A tiny house for short term rentals not elsewhere listed.
- e. Accessory use that is not on the same lot or contiguous lot as the principal building or principal use served.
- f. Shipping containers as dwellings in R-1, R-2, R-3, R-4, and R-5 residential districts; shipping containers as storage in C-1, C-2, C-3, and C-4 commercial and business districts; shipping containers as storage in O&P districts; shipping containers as dwellings in A-1 agricultural districts; and shipping containers as storage in A-1 agricultural districts; and shipping containers as storage in R-1, R-2, R-3, R-4, and R-5 residential districts.
- g. Shipping containers for temporary storage/office on construction sites in all districts.

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

608.0. Screening and buffering and landscaping regulations.

608.1. Restrictions and limitations: In all commercial and industrial districts, the following restrictions and limitations shall apply:

- a. All business, service, repair, processing, storage, or merchandise display on property abutting or facing a lot in a residential district shall be conducted wholly within an enclosed building unless screened from the residential zone by a sight-obscuring fence permanently maintained at least six feet in height.
- b. Openings to structures on sides adjacent to or across a street from a residential district shall be prohibited if such access or openings will cause glare, excessive noise, or other adverse effects on residential properties.

c. Yards abutting or across a street from a residential district shall be continuously maintained in lawn or other landscaping unless screened from the residential district as provided in section 608.1.a.

d. Parking lot screening requirements: (See off-street parking and loading regulations, section 705.2.)

(Cross Reference: Screening of junked, wrecked and abandoned vehicles, § 42-131; tree trimmer licensing requirements and regulations, § 62-306 et seq.; landscaping in rights-of-way, § 94-61 et seq.)

608.2. Landscaping required: All sites developed or redeveloped after the adoption of these regulations shall be landscaped as provided in Article XIX of the Zoning regulations.

609.0. Zoning performance standards.

609.1. General: No parcel, lot, building, or structure in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious, or otherwise objectionable element or condition so as to adversely affect the surrounding area or adjoining premises, provided that any use permitted by this ordinance may be undertaken and maintained if acceptable measures and safeguards are employed to limit dangerous and objectionable elements to acceptable limits as established by the following performance requirements.

609.2. Fire hazard: Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate firefighting and fire suppression equipment and by such safety devices as are normally used in the handling of any such material. Such activities shall comply with all city-approved fire prevention.

a. Location: Such fire hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger involved.

609.3. Vibration: No vibration shall be permitted which is discernible without instruments on any adjoining lot or property.

609.4. Noise: Noise which is objectionable due to volume, frequency, or beat shall be muffled or otherwise controlled so that there is no production of sound discernible at lot lines in excess of the average intensity of street and traffic noise at the lot lines.

a. Exception: Tornado sirens and related apparatus used solely for public purposes shall be exempt from this requirement.

609.5. Air pollution: All uses shall be so operated that no smoke, odor, dust or other form of particulate matter shall be emitted that exceeds the regulations established by the State of Kansas department of health and environment.

a. Location: Such uses shall be located in such a manner that prevailing winds will carry such air pollution away from areas of greatest concentration of persons. Also, such uses shall

be kept removed from adjacent activities to a distance which is compatible with the potential nuisance or hazard involved.

610.0. Family day care homes.

610.1. Definition: A "family day care home" shall be defined as any facility for the care of four or more children, but no more than ten children, including the homeowner's or resident's children, on a professional basis, and subject to state licensing, which is operated out of the residence in which the owner resides.

610.2. Home occupation license: Each family day care home must obtain a home occupation license and comply with the restrictions, limitations and requirements contained in 605.0 except as modified herein:

- a. Said facility shall be allowed one sign, not to exceed 18 inches by 36 inches in dimension, which shall be attached to the house.
- b. Outdoor storage of materials shall be permitted insofar as such materials or equipment are utilized as part of the day care operation.
- c. The primary resident of the dwelling must operate the facility, who need not be an owner of the dwelling.
- d. Said facility shall be exempt from all off-street parking requirements included in 701.0.
- e. Children at play on the exterior of the house shall not be considered visible evidence of the business as provided by section 605.1 f.

610.3. Special conditions:

- a. No day care home may operate in an apartment or duplex.
- b. Each applicant for a home occupation license under this section shall be licensed or registered by the State of Kansas prior to receiving such home occupation license.
- c. Any family day care home or facility shall be operated in a manner that will not adversely affect other properties and uses in the area.

611.0. Manufactured homes.

A Manufactured Home, as defined in Article IV, shall be permitted anywhere a site-built, single-family detached dwelling is permitted subject to the provisions herein this section. For the purposes of this article a Mobile Home, also defined in Article IV, is not a Manufactured Home.

Any Manufactured Home, Modular Home, including prefabricated homes, or Tiny Home shall comply with the provision herein and shall be set upon and anchored to a perimeter foundation, sided with typical residential siding materials, and have a minimum 4-12 pitched residential style roof consisting of residential roofing materials.

Any Manufactured Home, Modular Home, prefabricated home, or Tiny Home proposed to be placed on any lot or property within the City, as provided herein, must bear 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, or otherwise must be constructed in compliance International Residential Code as is currently adopted by the City of Independence and related technical codes and comply with the City's building inspection procedures.

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

- a. A minimum roof pitch of 4-inches in height to 12 running inches.
- b. Siding material shall be wood, masonry, composition board or finished aluminum lap siding, or other materials normally found on site-built homes.
- c. Roofing materials shall be wood shingles, asphalt shingles, composition shingles, fiberglass shingles, clay or concrete tile or slate.
- d. The home shall be permanently mounted on a foundation or basement that complies with the Independence Building Code.

611.2. R-1 Large lot single-family dwelling districts lying within the city limits of the City of Independence: All manufactured homes shall have:

- a. A minimum roof pitch of 4-inches in height to 12 running inches.
- b. Siding material shall be wood, masonry, composition board, finished aluminum lap siding or other material normally found on site-built homes. Not less than 40 percent of the front facade of the home shall be faced with brick or stone.

- c. Roofing materials shall be wood shingles, asphalt shingles, composition shingles, fiberglass shingles, clay or concrete tile or slate.
- d. The home shall be permanently mounted on a foundation or basement that complies with the Independence Building Code.
- e. On level sites the main floor shall be no greater than 20 inches above finished grade at the foundation. On sloping or irregular sites the side nearest the grade level shall not be greater than 20 inches above finished grade at the foundation.
- f. A garage constructed in compliance with the Independence Building Code shall [be] attached to the residential design manufactured home.

612.0. Tiny houses.

Tiny houses, whether a permitted or conditional use under these regulations, must be constructed and installed in accordance with the then-current version of all applicable codes as adopted by the City.

613.0. Shipping containers.

- 613.1. Context: A "shipping container" (also, "cargo container," "MOD," "POD," "Conex box," etc.) is a movable and enclosed structure typically made of durable materials like metal. These containers have become a more common addition to cities as homeowners and businesses acquire those containers as accessory buildings and dwellings. These containers have a useful and valid purpose when properly used and situated. The improper use and location of these containers is dangerous and inappropriate.
- 613.2. Shipping containers as dwellings: Shipping containers may be permitted as dwellings in the R-1, R-2, R-3, R-4, R-5, and A-1 districts with a conditional use permit. All shipping container dwellings shall have:
 - a. Minimum area of 400 square feet (if this qualification is not met, see Section 612.0 on tiny homes). Multiple units may be combined to form a larger dwelling.
 - b. Siding material shall be wood, masonry, composition board, or finish aluminum lap siding, or other material normally found on site-built homes.
 - c. Roof may be a flat or pitch roof design meeting IRC design requirements. A minimum roof pitch of 4-inches in height to 12 running inches for a pitched roof.
 - d. Roofing materials shall be wood shingles, asphalt shingles, composition shingles, fiberglass shingles, clay or concrete tile, slate, metal, or TPO or rolled roofing.
 - e. The dwelling shall be permanently mounted on a foundation or basement that complies with the Independence Building Code.

- f. All other interior and exterior conditions must be in compliance with dwelling requirements and the Independence Building Code.
- g. In a construction site, shipping containers may be used as temporary offices, but they must be removed within 30 days after a certificate of occupancy is issued.
- h. Industrial shipping containers are not permitted as dwellings in any district.

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

- a. All permanent shipping containers used as an accessory building to a dwelling in A-1, R-1, R-2, R-3, R-4, and R-5 districts shall comply with the following:
 1. Siding material shall be wood, masonry, composition board, or finish aluminum lap siding, or other material normally found on site-built homes.
 2. Roof may be a flat or pitch roof design meeting IRC design requirements. A minimum roof pitch of 4-inches in height to 12 running inches for a pitched roof.
 3. Roofing materials shall be wood shingles, asphalt shingles, composition shingles, fiberglass shingles, clay or concrete tile, slate, metal, or TPO or rolled roofing.
 4. The shipping container shall be permanently mounted on a foundation or basement that complies with the Independence Building Code.
- b. Must be in compliance with Section 607.0 regarding accessory buildings.
- c. Must be in compliance with all of Independence City Code regarding storage and storage structures, both permanent and temporary.
- d. In a construction site, shipping containers may be used as temporary storage, but they must be removed within 30 days after a certificate of occupancy is issued.
- e. In a construction site, industrial shipping containers may be used as temporary storage, but they must be removed within 30 days after a certificate of occupancy is issued.

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

614.0. Accessory Dwelling Units

614.1 Standards: All accessory dwellings, when permitted, shall comply with the following:

- a. No more than a total of two (2) dwelling units (principal and accessory) are allowed on a single lot or parcel.
- b. An accessory dwelling may be contained within, attached to, or detached and separate from the principal dwelling and must be located wholly within the same lot or parcel of the principal dwelling.
- c. The lot or parcel, principal dwelling, and accessory dwelling shall all be under the same ownership and the owner must live on the property either in the principal dwelling or the accessory dwelling as their principal place of residency.
- d. The total gross floor area of the accessory dwelling cannot exceed the lesser of eight hundred square feet (800 sq. ft.) or eighty-percent (80%) of the total gross floor area of the principal dwelling.
- e. The accessory dwelling shall have its own bathroom and kitchen space.
- f. The accessory dwelling shall comply with the building setback and bulk regulations for a principal building as applicable for the zoning district in which its lot or parcel is located.
- g. The exterior design and appearance of the accessory dwelling, attached or detached, must compliment the design, features, exterior building materials, and level of finish of the principal dwelling building and shall otherwise comply with the requirements of the architectural design standards found in the City's zoning code regulations.
- h. The accessory dwelling may have its own entrance or share an entrance with the principal dwelling but cannot have its own separate entrance on the same façade as the front or street-facing entrance of the principal dwelling.
- i. The principal dwelling shall have no less than two (2) off-street parking spaces and one (1) additional off-street parking space shall be provided for the accessory dwelling. Tandem style parking spaces (where access to a given space may be blocked by the designated parking space of another vehicle) shall not count towards meeting the parking requirements of this section. Unless specifically approved by the approval authority, accessory dwelling units shall not have a driveway separate from that of the principal dwelling.

614.2 Conditional Use Permit required:

- a. All accessory dwellings require approval of a Conditional Use Permit from the Planning and Zoning Commission and Governing Body in accordance with the procedures outlined within Article IX – Processing Procedures for Conditional Uses, Appendix B - Zoning.

- b. To approve a request for a Conditional Use Permit, after a public hearing, the approval authority shall consider and make favorable findings regarding the following requirements. Failure to make favorable findings for any or all of these requirements shall be cause to deny the request.
 - 1. The size, location, layout, and appearance of the principal dwelling and the proposed accessory dwelling do not negatively impact the adjoining properties and surrounding neighborhood.
 - 2. Adequate provisions for parking have been made for both the accessory dwelling and the principal dwelling.
 - 3. The property is appropriately zoned for an accessory dwelling and all city code requirements have been satisfied.

615.0. Flood Plain Management Regulations

All development within the City of Independence, Kansas, 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).

616.0. Renewable Energy Power Generation

616.1. Small Wind Energy Conversion Systems.

- a. *Intent.* The intent of this section is to establish provisions for using an alternate source of energy apart from the prevailing energy sources of natural gas and electricity, namely wind energy, and to provide standards for the construction and use of small wind energy conversion systems. The City finds these regulations are necessary to ensure that small wind energy conversion systems are appropriately designed, sited and installed.
- b. *Definitions.* The following terms are defined for this section:
 - 1. "Accessory Wind Energy Conversion System (AWECS)" means a wind energy conversion system that is incidental and subordinate to a principal use on the same parcel and intended to primarily provide power for use on the site in which the system is located.
 - 2. "Height, total system" means the height above grade of the system, including the generating unit and the highest vertical extension of any blades or rotors.
 - 3. "Lot" (or parcel) means any legally established lot or parcel which contains or could contain a permitted or special use as provided by Chapter 165 of this Code of Ordinances.

4. "Off grid" means an electrical system that is not connected to utility distribution and transmission facilities or to any building or structure that is connected.
5. "Shadow flicker" means changing light intensity caused by sunlight through the moving blades of a wind energy conversion system.
6. "Small Wind Energy Conversion System (SWECS)" means an accessory wind energy system which has a nameplate rated capacity of up to 15 kilowatts for residential uses and districts and up to 100 kilowatts for commercial and industrial districts and which is incidental and subordinate to a principal use on the same parcel. A system is considered a SWECS only if it supplies electrical power solely for use by the owner on the site, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed by the owner for on-site use may be used by the utility company.
7. "Small Wind Energy Conversion System, free-standing" means a SWECS which is elevated by means of a monopole tower only and is not located on another supporting structure except that the tower shall have an appropriately constructed concrete base. Guyed, lattice, or other non-monopole style towers shall not meet this definition.
8. "Small Wind Energy Conversion System, horizontal axis" means a small wind energy conversion system that has blades which rotate through a horizontal plane.
9. "Small Wind Energy Conversion System, building mounted" means a SWECS which is securely fastened to any portion of a principal building in order to achieve desired elevation, whether attached directly to the principal building or attached to a tower structure which is in turn fastened to the principal building. These systems are prohibited by this chapter.
10. "Small Wind Energy Conversion System, vertical axis" means a small wind energy conversion system that has blades which rotate through a vertical plane.
11. "Tower" means the vertical component of a wind energy conversion system that elevates the wind turbine generator and attached blades above the ground.
12. "Utility Scale Wind Energy Conversion System (USWECS)" means one or more wind energy conversion systems located together and used for production of electric power to be interconnected into the local utility electrical grid and primarily for consumption by on-grid utility customers located off the property. USWECS are typically the principal use of the parcel on which located but may include a dual use such as vegetable farming. Commonly referred to as a "wind farm."
13. "Wind Energy Conversion System (WECS)" means an aggregation of parts including the foundation, base, tower, generator, rotor, blades, supports, guy wires and accessory equipment such as utility interconnect and battery banks, etc., in such configuration as necessary to convert the power of wind into mechanical or electrical energy, e.g., wind charger, windmill or wind turbine.

14. "Wind turbine generator" means the component of a wind energy conversion system that transforms mechanical energy from the wind into electrical energy.

c. *General Regulations.*

1. Zoning. SWECS may be allowed in any zoning district subject to the provisions contained herein and elsewhere within this Code. All SWECS shall be an accessory use and free-standing. Utility Scale Wind Energy Conversion System (USWECS) are prohibited in all zoning districts.
2. Conditional Use Permit Required. A Small Wind Energy Conversion System (SWECS) shall be allowed only as an accessory use to a permitted principal use and with approval of a conditional use permit from the approval authority.
3. Permit Required. It shall be unlawful to construct, erect, install, alter or locate any SWECS within the City, unless a conditional use permit has been obtained from the City. The conditional use permit may be revoked by the approval authority any time the approved system does not comply with the rules set forth in this chapter and the conditions imposed by the approval authority. The owner/operator of the SWECS must also obtain any other permits required by other federal, state and local agencies/departments prior to constructing the system.
4. Application. Application for SWECS shall be made on forms provided by the City. No action may be taken regarding requests for SWECS until completed applications have been filed and fees paid.
5. Number of Systems per Zoning Lot. No more than one free-standing SWECS may be placed on any parcel or lot. Additional free-standing SWECS are prohibited.
6. Tower. Only monopole towers shall be permitted for free-standing SWECS. Lattice, guyed or towers of any other type shall not be considered to be in compliance with this chapter.
7. Color. Free-standing SWECS shall be a neutral color such as white, sky blue or light gray. Other colors may be allowed at the discretion of the approval authority. The surface shall be non-reflective.
8. Lighting. No lights shall be installed on the tower, unless required to meet FAA regulations.
9. Signage. No signage or advertising of any kind shall be permitted on the tower or any associated structures.
10. Climbing Apparatus. The tower must be designed to prevent climbing within the first 10 feet.

11. Maintenance. Facilities shall be well maintained in accordance with manufacturer's specifications and shall remain in an operational condition that poses no potential safety hazard nor is in violation of any provisions contained within this chapter or elsewhere within this City Code.
12. Utility Notification. The City shall notify the utility of receipt of an application to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this notification requirement.
13. Interconnection. The SWECS, if not off-grid, shall meet the requirements for interconnection and operation as set forth by the utility. No permit of any kind shall be issued until the City has been provided with a copy of an executed interconnection agreement. Off-grid systems shall be exempt from this requirement.
14. Restriction on Use of Electricity Generated. A SWECS shall be used exclusively to supply electrical power to the owner for on-site consumption, except that excess electrical power generated by the SWECS and not presently needed for use by the owner may be used by the utility company.
15. Noise. A SWECS shall be designed, installed and operated so that the noise generated does not cause a public nuisance.
16. Shadow Flicker. No SWECS shall be installed and operated so to cause a shadow flicker to fall on or in any existing residential structure.
17. Safety Controls. Each SWECS shall be equipped with both an automatic and manual braking, governing, or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower structure, rotor blades, or turbine components. Said automatic braking system shall also be capable of stopping turbine rotation in the event of a power outage so as to prevent back feeding of the grid.
18. Shut Off. A clearly marked and easily accessible shut off for the wind turbine will be required as determined by the Building Official.
19. Electromagnetic Interference. All SWECS shall be designed and constructed so as not to cause radio and television interference. If it is determined that the SWECS is causing electromagnetic interference, the owner/operator shall take the necessary corrective action to eliminate this interference including relocation or removal of the facilities, subject to the approval of the appropriate City authority. A permit granting a SWECS may be revoked if electromagnetic interference from the SWECS becomes evident.
20. Wind Access Easements. The enactment of this chapter does not constitute the granting of an easement by the City. The SWECS owner/operator shall have the sole responsibility to acquire any covenants, easements, or similar documentation to assure and/or protect access to sufficient wind as may or may not be necessary to operate the SWECS.

21. Engineer Certification. Applications for any SWECS shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. An engineering analysis of all components of the SWECS showing compliance with the applicable regulations and certified by a Kansas licensed professional engineer shall also be submitted.
22. Installation. Installation must be done according to the manufacturer's recommendations. All wiring and electrical work must be completed according to the applicable building and electric codes. All electrical components must meet code recognized test standards.
23. Removal. If the SWECS remains nonfunctional or inoperative for a continuous period of six months, the system shall be deemed to be abandoned. The SWECS owner/operator shall remove the abandoned system at their expense. Removal of the system includes the entire structure, transmission equipment and fencing from the property excluding foundations. Non-function or lack of operation may be proven by reports from the interconnected utility. For off-grid systems the City shall have the right to enter the property at its sole discretion to determine if the off-grid system is generating power. Such generation may be proven by use of an amp meter. The SWECS owner/operator and successors shall make available to the Zoning Administrator all reports to and from the purchaser of energy from the SWECS if requested. If removal of towers and appurtenant facilities is required, the Zoning Administrator shall notify the SWECS owner/operator. Removal shall be completed within six months of written notice to remove being provided to the owner/operator by the City.
24. Right of Entrance. As a condition of approval of a special use permit an applicant seeking to install SWECS shall be required to sign a petition and waiver agreement which shall be recorded and run with the land granting permission to the City to enter the property to remove the SWECS pursuant to the terms of approval and to assure compliance with the other conditions set forth in the permit. Removal shall be at the expense of the owner/operator and the cost may be assessed against the property.

d. *Bulk Regulations.*

1. Setbacks. The minimum distance between any free-standing SWECS and any property line shall be a distance that is equivalent to 150 percent of the total system height. The setback shall be measured from the property line to the point of the SWECS closest to the property line.
2. Maximum Height. Height shall be measured from the ground to the top of the tower, including the wind turbine generator and blades.
3. For lots of more than one and fewer than three acres, the maximum height shall be 65 feet.

4. For lots of more than three and fewer than five acres, the maximum height shall be 80 feet.
5. For lots more than five acres, the maximum height shall be 100 feet.
6. Minimum Lot Size. The minimum lot size for a free-standing SWECS shall be one acre.
7. Clearance of Blade. No portion of a horizontal axis SWECS blade shall extend within 30 feet of the ground. No portion of a vertical axis SWECS shall extend within 10 feet of the ground. No blades may extend over parking areas, driveways or sidewalks. No blade may extend within 20 feet of the nearest tree, structure, or above ground utility facilities.

e. *Location.*

1. No part of a SWECS shall be located within or over drainage, utility or other established easements.
2. A SWECS shall be located entirely in the rear yard.
3. A SWECS shall be located in compliance with the guidelines of applicable Federal Aviation Administration (FAA) regulations as amended from time to time.
4. No SWECS shall be constructed so that any part thereof can extend within 20 feet laterally of an overhead electrical power line (excluding secondary electrical service lines or service drops). The setback from underground electric distribution lines shall be at least five feet.
5. Building mounted SWECS shall be prohibited.

616.2. Solar Energy Systems.

- a. *Intent.* The intent of this section is to establish provisions for using an alternate source of energy apart from the prevailing energy sources of natural gas and electricity, namely solar energy, and to provide standards for the construction and use of solar energy systems. The City finds these regulations are necessary to ensure that Solar Energy Systems are appropriately designed, sited and installed.
- b. *Definitions.* The following terms are defined for this section:
 1. "Accessory Solar Energy Conversion System (ASECS)" means a solar energy conversion system which is incidental and subordinate to a principal use on the same parcel and intended to primarily provide electrical power for use on the site in which the system is located. ASECS do not include concentrating solar power systems (CSPS).
 2. "Building-integrated Solar Energy Systems" means a solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical

device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include but are not limited to photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings.

3. "Concentrating Solar Power System (CSPS)" means a power generation system that uses mirrors to concentrate the sun's energy to drive traditional steam turbines or engines that create electricity. The thermal energy concentrated in a CSPS plant is sometimes stored and later used to produce electricity.
4. "Ground-mounted" means a solar energy system mounted on a rack or pole that rests or is attached to the ground. Ground-mounted systems are accessory to the principal use.
5. "Roof-mount" means a solar energy system mounted on a rack that is fastened to or ballasted on a structure roof. Roof-mount systems are accessory to the principal use.
6. "Solar Access" means unobstructed access to direct sunlight on a lot or building through the entire year, including access across adjacent parcel air rights, for the purpose of capturing direct sunlight to operate a solar energy system.
7. "Solar Carport" means a solar energy system of any size that is installed on a carport structure that is accessory to a parking area, and which may include electric vehicle supply equipment or energy storage facilities.
8. "Solar Mounting Devices" means racking, frames, or other devices that allow the mounting of a solar collector onto a roof surface or the ground.
9. "Utility Scale Solar Energy Conversion System (USSECS)" means a solar energy conversion system that is used to produce electrical power for the primary purpose of off-site use through the electrical grid or export to the wholesale market. USSECS do not include concentrating solar power systems (CSPS).

- c. *Restrictions.* Except as provided in this article, no solar energy system or solar collection device shall be erected, constructed, altered or maintained on any lot within the city, without first receiving a permit to do so and complying with the regulations herein this chapter.
- d. *General Regulations.*
 1. Zoning. ASECS may be allowed in any zoning district subject to the provisions contained herein and elsewhere within this City Code. Utility Scale Solar Energy Conversion Systems (USSECS) and Concentrating Solar Power Systems (CSPS) are prohibited in all zoning districts.
 2. Building-integrated solar energy systems and roof-mounted and building-mounted solar energy systems are a permitted accessory use in all zoning districts where

structures of any sort are allowed, subject to certain requirements as set forth below. Solar carports and associated electric vehicle charging equipment are a permitted accessory use on surface parking lots in all districts regardless of the existence of another building.

3. Ground-mounted solar energy systems shall require approval of a Conditional Use Permit from the approval authority.
- e. *Standards.* All solar energy systems or solar collection devices shall meet the following standards and conditions:
 1. Height – Solar energy systems must meet the following height requirements:
 - (a) Building-mounted or roof-mounted solar energy systems shall not exceed the maximum allowed height in any zoning district. For purposes for height measurement, solar energy systems other than building-integrated systems shall be given an equivalent exception to height standards as building-mounted mechanical devices or equipment.
 - (b) Ground-mounted or pole-mounted solar energy systems shall not exceed 15 feet in height when oriented at maximum tilt.
 - (c) Solar carports shall not exceed 20 feet in height.
 2. Setback - Solar energy systems must meet the accessory structure setback for the zoning district and principal land use associated with the lot on which the system is located, except as allowed below.
 - (a) Roof-mounted or Building-mounted Solar Energy Systems - The collector surface and mounting devices for roof-mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built, unless the collector and mounting system has been explicitly engineered to safely extend beyond the edge, and setback standards are not violated. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side-yard exposure. Solar collectors mounted on the sides of buildings and serving as awnings are considered to be building-integrated systems and are regulated as awnings.
 - (b) Ground-mounted Solar Energy Systems - Ground-mounted solar energy systems may not extend into the side-yard or rear setback when oriented at minimum design tilt, except as otherwise allowed for building mechanical systems.
 3. Visibility – Solar energy systems shall be designed to minimize visual impacts from the public street right-of-way.
 - (a) Building Integrated Photovoltaic Systems - Building integrated photovoltaic solar energy systems shall be allowed regardless of whether the system is visible from

the public right-of-way, provided the building component in which the system is integrated meets all required setback, land use or performance standards for the district in which the building is located.

- (b) Roof-mounted systems on pitched roofs that are visible from the nearest edge of the front right-of-way shall have the same finished pitch as the roof and be no more than ten inches above the roof.
- (c) Roof-mount systems on flat roofs that are visible from the nearest edge of the front right-of-way shall not be more than five feet above the finished roof and are exempt from any rooftop equipment or mechanical system screening.
- (d) Reflectors - All solar energy systems using a reflector to enhance solar production shall minimize glare from the reflector affecting adjacent or nearby properties.
- 4. Lot Coverage - Ground-mounted systems total collector area shall not exceed half the building footprint of the principal structure. Ground-mounted systems shall be exempt from lot coverage or impervious surface standards if the soil under the collector is maintained in vegetation and not compacted.
- 5. All solar energy system components shall be located as to be accessible for required routine maintenance without trespassing on adjoining property or disassembling any major portion of the structure or building.
- 6. All solar energy system components must be obtained from manufacturers who regularly engage in production of solar energy apparatus. The design and drawings of any system or apparatus shall be completed and sealed by a licensed design professional.
- f. *Building Permit Required.* No solar energy system or solar collection device shall be constructed, erected, added to, or materially altered, structurally or otherwise changed, or improved nor any other work commenced upon any lot or parcel of land unless the owner, contractor or agent of either shall first have applied for and received from the Building Official a permit therefore as provided for in this section.
- g. *Application for Permit.* Any application for the building permit required hereunder shall show that the proposed construction meets the requirements set forth in this section. Should any submittal in the opinion of the Building Official contain design elements that are substantially unique and outside the normal configuration of typical solar array components, design or system requirements, the application for permit shall be forwarded to the City Council for action.
- h. *Issuance of Permit.* Any building permit issued pursuant to the provisions of this article for the construction, erection or modification of a solar energy system or solar collection device shall only be issued after the Building Official has determined the proposed construction meets the requirements of this section, the building code regulations, and

that the design of the solar system or solar collection device is in general conformity with the style and design of surrounding structures.

- i. *Solar Access Easements.* Refer to Article XV of the Zoning Code regarding the provisions for the creation of solar access easements.
- j. *Removal.* If the solar energy system remains nonfunctional or inoperative for a continuous period of six months, the system shall be deemed to be abandoned. The solar energy system owner/operator shall remove the abandoned system at their expense. Removal of the system includes all panels, mounting devices, and appurtenant equipment and structures from the property. Non-function or lack of operation may be proven by reports from the interconnected utility. For off-grid systems the City shall have the right to enter the property at its sole discretion to determine if the off-grid system is generating power. Such generation may be proven by use of an amp meter for photovoltaic systems or a thermometer for a solar collector system. The solar energy system owner/operator and successors shall make available to the Zoning Administrator all reports to and from the purchaser of energy from the solar energy system if requested. If removal of structures and appurtenant facilities is required, the Zoning Administrator shall notify the solar energy system owner/operator. Removal shall be completed within six months of written notice to remove being provided to the owner/operator by the City.
- k. *Right of Entrance.* As a condition of approval of a special use permit for a ground-mounted solar energy system, the applicant seeking to install the solar energy system shall be required to sign a petition and waiver agreement which shall be recorded and run with the land granting permission to the City to enter the property to remove the solar energy system pursuant to the terms of approval and to assure compliance with the other conditions set forth in the permit. Removal shall be at the expense of the owner/operator and the cost may be assessed against the property.

617.0. Battery Energy Storage Systems.

501.1. Intent. The intent of this section is to establish provisions for the installation of Battery Energy Storage Systems (BESS). The City finds these regulations are necessary to ensure that BESS are appropriately sited and installed.

501.2. Definitions. The following terms are defined for this section:

- a. *Battery Energy Storage Systems (BESS).* A bank of batteries or capacitors used to store electricity for later use primarily off-site through the electrical grid or export to the wholesale market – sometimes called a battery storage power station. This definition does not include a battery storage system which is incidental and subordinate to a principal use on the same parcel and intended to primarily provide electrical power for use on the site in which the system is located.

501.3. General Regulations.

- a. *Zoning Required.* A BESS may be allowed within the A-1 – Agricultural, M-1 – Light Industrial, and M-2 - Heavy Industrial Zoning Districts, subject to approval of a Conditional Use Permit from the approval authority.
- b. *Exceptions.* The provisions of this chapter do not apply to a battery energy storage system that is incidental and subordinate to a principal use on the same parcel and intended to primarily provide electrical power for use on the site in which the system is located.
- c. *Height.* BESS equipment, buildings, and related structures shall not exceed 25 feet in height.
- d. *Setbacks.* BESS equipment, including all accessory structures, shall be setback a minimum of 100 feet from all property lines and road right-of-way lines. No setback is required between participating lots.
- e. *Landscape Buffering.* All BESS equipment shall comply with the zoning buffers for the zoning district in which located. At the discretion of the approval authority, a landscaped buffer may be required along any of the project boundaries of the BESS to buffer adjoining residential land use and public views.
- f. *Ground Cover and Landscaping.* All area not hard surfaced shall be planted and maintained with a perennial ground cover.
- g. *Lot Coverage.* The total amount of impervious surfacing shall not exceed 25% of the site area. For the purpose of this chapter, impervious surfacing includes paved or gravel roads, parking areas, equipment pads, building footprints, and other similar non-vegetated areas.
- h. *Emergency Access.* Paved, all-weather access for emergency service equipment shall be provided and maintained to all BESS equipment and related structures.
- i. *Emergency Response Plan.* A plan for local emergency services on the procedures to respond to a fire or other event on site, the process of clean-up and recovery, and the development of regular training to be provided by the owner/operator of the facility shall be provided prior to installation of any BESS. The approval authority may require the owner/operator of any BESS to provide specialized equipment and training as may be deemed by the Fire Chief as necessary to safely respond to any emergencies at such facility.
- j. *Noise Levels.* The noise level measured at the property line of the property on which the BESS has been installed shall not cause a noise disturbance to an adjoining residential dwelling.

SECTION 4. Article VII of the Zoning Code of the City of Independence, Kansas, is hereby repealed in its entirety and replaced as follows:

ARTICLE VII. OFF-STREET PARKING AND LOADING REGULATIONS

701.0. Applicability.

At the time of erection of a new structure, or at the time of enlargement to the extent of 25 percent or more, or change in use of an existing structure within any district in the city, off-street parking spaces shall be provided as in this section, unless the city commission deems it in the public interest to waive or modify this requirement. Parking shall be adequate to meet the demand in all cases. The following guidelines are offered but may be adjusted if sufficient evidence is presented to justify a change.

(Cross reference(s): Variances granted by the board of zoning appeals, § 2-116; off-street parking requirements for certain mobile homes, § 66-4.)

702.0. Off-street parking spaces required.

All parking and storage of vehicles, trailers, recreational vehicles, campers, boats and similar recreation equipment shall occur only within a parking or storage area that is surfaced in accordance with Section 705.1 of this Article and otherwise is in conformance with the regulations contained herein this Article. Unlicensed or inoperable vehicles and equipment shall not be stored outside unless part of an approved storage area on a property located within the M-1 or M-2 zoning districts. In all zoning districts space for parking and storage of vehicles and trailers shall be provided in accordance with the Off-Street Parking Required Table and the standards contained herein this Article. Required off-street parking facilities shall be primarily for the parking of private passenger automobiles of occupants, patrons, or employees of the principal use served.

702.1. Off-Street Parking Required Table: The following table identifies the minimum number of parking spaces required for the specified use. The intent of these standards is to provide the appropriate number of parking spaces on site for the given use and to accommodate changes in uses over time. No off-street parking shall be required in the C-3 zoning district. The City Council may reduce or increase the amount of parking required for a site be based on the use or based upon parking study.

OFF-STREET PARKING SPACES REQUIRED	
USE	NUMBER OF PARKING SPACES REQUIRED
RESIDENTIAL USES	
Household Living	
Single family dwelling, detached	2 per dwelling unit
Single family dwelling, semi-detached	2 per dwelling unit
Two family dwelling	2 per dwelling unit
Townhouse dwelling (3+ units)	2 per dwelling unit
Multiple family dwelling	1 per bedroom
Manufactured home and mobile home park	2 per dwelling unit
Accessory dwelling	1 per dwelling unit

OFF-STREET PARKING SPACES REQUIRED	
USE	NUMBER OF PARKING SPACES REQUIRED
Dwelling units located above the ground floor (mixed use building)	1 per bedroom
Group Living	1 per 4 residents plus 1 per employee at max shift
Family home / Group care facility	"
Elder group home	"
Assisted living residential facility	"
Nursing or convalescent home	"
Supervised group residence	"
PUBLIC AND CIVIC USES	
College, university, or vocational school	1 per 4 student desks or seats at max capacity plus 1 per employee at max shift, additional parking required for stadium/theater type facilities and dorms/student housing
Cultural exhibit, museum, or library	1 per 300 sq. ft. GFA, additional parking required for classroom, meeting space, and theater type facilities
Membership or religions organization, social club or lodge, and other place of public assembly	1 per 4 seats at max capacity in the main assembly area
Public or private elementary, middle, or high school	1 per 4 student desks or seats at max capacity plus 1 per max number of employees concurrently on site
Public or private golf course, golf driving range, country club, swimming pool, and indoor or outdoor recreational facilities and fields	4 spaces per hole or driving range tee, parking required for restaurant and meeting spaces
Public Utilities (not including gas and electrical power distribution stations, storage or maintenance yards or buildings)	1 per employee at max shift
Government buildings and properties	1 per 200 sq. ft. GFA
Hospital	3 per bed
COMMERCIAL USES	
Animal services	
Kennel (including day kenneling)	1 per 400 sq. ft. GFA
Veterinary services (without overnight kenneling)	1 per 200 sq. ft. GFA
Art gallery	1 per 250 sq. ft. GFA
Banks and financial services	1 per 250 sq. ft. GFA plus 3 vehicle queuing spaces per drive-up or ATM lane
Body piercing studio or tattoo studio	1 per 250 sq. ft. GFA
Child Care Center	1 per employee at max shift plus 1 per 10 children
Construction sales and service, contractor office, office for plumber, electrician, HVAC service or similar use	1 per 250 sq. ft. GFA
Eating and drinking establishment	
Restaurant (including fast food restaurants, coffee shops, and ice cream shops)	1 per 150 sq. ft. GFA plus 10 vehicle queuing spaces per drive-up lane
Micro-brewery, micro-distillery, or winery with on-site tasting/sampling and sales	1 per employee at max shift plus 1 per 150 sq. ft. of patron space

OFF-STREET PARKING SPACES REQUIRED	
USE	NUMBER OF PARKING SPACES REQUIRED
Tavern / Bar	1 per 100 sq. ft. GFA
Entertainment	
Movie theater, performance hall, performing arts studio	1 per 4 seats
Indoor: waterpark, miniature golf, bowling, video game arcades, commercial driving range, go-carts, trampoline park, playground play space or similar use	1 per 4 persons at max capacity
Outdoor: drive-in theater, waterpark, miniature golf, commercial driving range, go-carts, trampoline park, playground play space or similar use	1 per 4 persons at max capacity
Funeral and interment services	1 per 250 sq. ft. of office space plus 1 per 4 seats at max capacity
Lodging	1 per bedroom
Bed and breakfast inn	1 per bedroom
Boarding or rooming house	1 per bedroom
Extended stay or apartment hotel	1 per bedroom
Hotel or motel	1 per bedroom
Short-term rental	1 per bedroom
Medical or dental clinic, pediatrician's office, outpatient surgery center, medical testing center, or similar use	1 per 250 sq. ft. GFA
Mini warehouse or self-storage facility	1 per 20 storage units or spaces plus 1 per employee at max shift
Motor vehicle and motor equipment-oriented businesses	
Automobile service center (auto parts sales)	2 per service bay plus 1 per employee at max shift
Automotive washing, car wash (auto, manual, or attended), does not include truck or trailer washing or trailer washout	1 per employee at max shift plus 5 vehicle queuing spaces per wash bay or wash bay lane
Gas station or service station with minor repair and services (brakes, batteries, tires, oil changes), including the dispensing of liquified propane	1 per 250 sq. ft. GFA of retail space plus 2 per service bay plus 1 per employee at max shift
Major motor vehicle repair (painting, body, fender, frame, transmission, engine overhaul)	2 per service bay plus 1 per employee at max shift
Automobile sales, rental, storage lot, and off-street parking	1 per 250 sq. ft. GFA plus 1 per 2,000 sq. ft. of outdoor display area, plus 1 per employee at max shift
Automobile, truck and equipment auction facilities	1 per 250 sq. ft. GFA plus 1 per 2,000 sq. ft. of outdoor display area, plus 1 per employee at max shift
Recreational vehicle, camper, boat, motorcycle, snowmobile, golf car, and similar sales, lease, and rental and ancillary repair and maintenance	1 per 250 sq. ft. GFA plus 1 per 2,000 sq. ft. of outdoor display area, plus 1 per employee at max shift
Light equipment sales, rental, or repair service	1 per 250 sq. ft. GFA plus 1 per 2,000 sq. ft. of outdoor display area, plus 1 per employee at max shift
Heavy equipment sales, rental or repair service	1 per 250 sq. ft. GFA plus 1 per 2,000 sq. ft. of outdoor display area, plus 1 per employee at max shift
Truck Stop, not including trailer washout	1 per 250 sq. ft. GFA plus 1 per 5,000 sq. ft. of lot area
Personal and consumer service	

OFF-STREET PARKING SPACES REQUIRED	
USE	NUMBER OF PARKING SPACES REQUIRED
Beauty salon, barbershop	1 per 250 sq. ft. GFA
Dry cleaner and laundry service	4 plus 1 per employee at max shift plus
Laundry (self-serve laundromat)	1 per 250 sq. ft. GFA
Fitness center, gym, health spa	1 per 150 sq. ft. GFA
Tailor	1 per 250 sq. ft. GFA
Print shop, copy center, retail shipping store	1 per 250 sq. ft. GFA
Professional Office (corporate, law, engineering, architecture, real estate, insurance, accounting, bookkeeping or similar use)	1 per 250 sq. ft GFA
Television and radio broadcast studio, offices, and production facilities	1 per 250 sq. ft GFA
Retail sales (grocery store, pharmacy/drug store, office supplies store, bakery, clothing or department store, and similar retail use)	1 per 250 sq. ft. GFA
Retail sale - intensive uses including multi-tenant commercial centers	1 per 250 sq. ft. GFA
Convenience store with fuel sales	1 per 250 sq. ft. GFA
Sexually oriented business	1 per 250 sq. ft. GFA
Spectator sports	1 per 4 seats at max capacity
Sports and recreation, participant	1 per 4 seats at max capacity
INDUSTRIAL USES	
Animal feedlots, processing of animals or animal by-products	1 per employee at max shift
Electrical power generation (utility scale for off-site use, distribution, or sale)	1 per employee at max shift
Manufacturing, production and industrial services	1 per 1,000 sq. ft. GFA
Repair service	1 per 250 sq. ft. GFA
Research laboratory and testing	1 per 1,000 sq. ft. GFA
Storage of equipment, data and records, electronic data center, furniture and similar	1 per 10,000 sq. ft. GFA or 1 per employee at max shift, whichever is greater
Trucking/freight terminal	"
Wholesale fuel storage, sales, or distribution	"
Warehousing and wholesaling (outdoor storage limited to licensed and operable trailers, trucks, power equipment, and shipping containers)	"
Waste related use	1 per employee at max shift
OTHER USES	
Agricultural uses	1 per employee at max shift
Boarding stables and riding schools	1 per employee at max shift
Gas and electrical power distribution station	1 per employee at max shift
Mining operation, sand and gravel extraction or processing, gas or oil well, or similar mineral or earth resource extraction	1 per employee at max shift
Wireless facility	1 per employee at max shift

703.0. Off-street loading regulations.

- 703.1. Schools: A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of any school having a capacity greater than 25 students.
- 703.2. Merchandise, materials, or supplies: Buildings or structures to be built or substantially altered which receive and distribute material or merchandise by truck shall provide and maintain off-street loading berths in sufficient numbers and size to adequately handle the needs of the particular use. If loading space has been provided in connection with an existing use or is added to an existing use, the loading space shall not be eliminated if elimination would result in less space than is required to adequately handle the needs of the particular use. Off-street parking areas used to fulfill the requirements of this ordinance shall not be used for loading and unloading operations except during periods of the day when not required to take care of parking needs.

704.0. General provisions.

704.1. Determination of required number of spaces:

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

- f. Employees: Employees, when used as a measurement for determining the number of parking spaces for a new or established expanding business, shall be estimated in a manner approved by the governing body.
- g. Unlisted uses: Requirements for types of buildings and uses not specifically listed herein shall be determined by the governing body, after a report and recommendation from the planning commission, based upon the requirements of comparable uses listed.

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

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

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

704.5. Location of parking and loading spaces:

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

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

- b. Parking in conventional residential areas shall not be permitted on unimproved areas of the front yard, and will only be permitted when meeting the requirements of this ordinance.
- c. Parking space provided in an enclosure or semi-enclosed structure shall not project beyond any required building line, except as provided in section 602.6, "Accessory Buildings."

704.6. Setbacks:

(1) Parking is prohibited within the required parking lot setback areas. However, parking is permitted upon the individual driveway of a Single Family, Two-Family, or Townhouse or Row Dwelling, provided no vehicle or trailer overhangs, crosses, or encroaches upon a sidewalk or street right-of-way.

(2) Parking Setback Table. The following table identifies the setback requirements for all parking and loading areas. All setbacks are measured from edge of paving.

OFF-STREET PARKING AND LOADING AREA SETBACK TABLE													
REQUIRED SETBACKS	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
Front Yard Setback	25 ft	25 ft	25 ft	25 ft	25 ft	25 ft	25 ft	15 ft	15 ft	5 ft	15 ft	15 ft	15 ft
Side Yard Setback ¹	10 ft ²	10 ft ²	10 ft ²	10 ft ²	10 ft	5 ft	10 ft	10 ft	10 ft				
Rear Yard Setback ³	10 ft	10 ft	10 ft	10 ft	10 ft	10 ft	10 ft	10 ft	10 ft	5 ft	10 ft	10 ft	10 ft

¹No side yard setback required between adjoining parcels that share a driveway or have interconnected parking lots. A 30 ft setback is required for all commercial and industrial uses that adjoin a residential use or residential zoning district.

²Side yard setback is 1 ft for individual driveways of Single Family, Two-Family, and Townhouse or Row Dwellings.

³A 10 ft setback is required for garages that face an alley. A 30 ft setback is required for all commercial and industrial uses that adjoin a residential use or residential zoning district.

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

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

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

705.0. Design requirements.

705.1 Surface material: All driveways, access drives, and off-street parking and loading areas shall be paved with hot mix asphalt (HMA), Portland cement concrete (PCC), or pavers (including permeable pavement and paver systems), or asphalt double-sealed paving (also known as double chip seal). The design and construction of said pavement or pavers shall be of sufficient thickness, reinforcement, and sub-base necessary to provide a durable, dustless surface designed and rated for the traffic it is anticipated to carry. All paved areas shall be so graded and drained as to dispose of all surface water accumulation within the area and shall be so arranged and marked as to provide for orderly and safe loading or unloading and parking and storage of self-propelled vehicles.

No vehicles, trailers, equipment, and materials shall be parked or storage upon an unpaved surface except as may be permitted within a designated and approved outdoor storage area. An unpaved outdoor storage area may be approved by the governing body provided the surface is properly maintained to prevent the growth of weeds, the ponding of water, and dust, silt, dirt, and gravel from leaving the site.

Exceptions:

Open parking spaces in the rear yard and accessed by an alley way for one- and two-family dwelling units may be gravel surfaced.

As an alternative to the surface material requirements in 705.1, open parking spaces in the front, side, or rear yard off a street for one- and two-family dwelling units may utilize a solid or ribbon driveway consisting of concrete, asphalt, mortar-set stone or brick, or solid or turf driveway pavers. If using turf pavers, they must be rated for driveway and parking lot use and installed and maintained per the manufacturer's specifications. If installing a ribbon driveway, the strips must be at least two feet wide and located so they are separated five feet on center (see schematic below). The space between the ribbons may be planted with grass or another ground cover, or filled with landscaping rocks or gravel.



705.2. Screening and buffer setback required:

- a. Except for parking to serve one- or two-family residential uses, parking and loading areas adjacent to or within residential districts or adjacent to residential uses shall be designed to minimize disturbance of residents by the erection between the uses of a sight-obscuring fence of not less than five feet nor more than six feet in height, except where vision clearance is required.
- b. No off-street parking will be permitted within less than four feet of a property line under separate ownership.

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

705.4. Service drives:

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

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

- b. Service drives shall have a minimum vision clearance area formed by the intersection of the driveway centerline, the street right-of-way line, and a straight line joining said lines through points 30 feet from their intersection.
- c. Service drives shall be from the street to the parking and shall have concrete, asphalt concrete, or asphalt double-seal surfaces, maintained adequately for all-weather use, and so drained as to avoid flow of water across sidewalks.

705.5. Minimum parking space dimensions:

- a. If 90-degree parking space,
stall depth—19' 0"
stall width—9' 0"
aisle width—25' 0"
- b. If 60-degree parking space,
stall depth—19' 0"
stall width—9' 0"
aisle width—18' 6"
- c. If 45-degree parking space,
stall depth—19' 6"
stall width—9' 0"
aisle width—13' 6"
- d. If 30-degree parking space,
stall depth—19' 0"
stall width—9' 0"
aisle width—11' 0"
- e. If parallel parking space,
stall depth—8' 0"
curb length—23' 0"
aisle width—12' 0", or if adjacent to angle parking, use largest width
- f. If 90-degree ADA car accessible space,
stall depth—19' 0"
stall width—9' 0" with 5' 0" access aisle
aisle width—25' 0"
- g. If 90-degree ADA van accessible parking space,
stall depth—19' 0"
stall width—11' 0" with 5' 0" access aisle

Vertical clearance—8' 2"
aisle width—25' 0"

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

Exceptions:

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

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

705.7. ADA Accessibility:

- a. All off-street parking lots or garages shall meet the minimum number of accessible parking spaces as required by the ADA.
- b. Accessible parking spaces must be located on the shortest accessible route of travel to an accessible facility entrance.
- c. Accessible parking spaces shall have markings and identifying signage as required by the ADA.

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

SECTION 5. Article VIII of the Zoning Code of the City of Independence, Kansas, is hereby repealed in its entirety and replaced as follows:

ARTICLE VIII. SIGN REGULATIONS

801.0. Title.

The article shall be known as the "Sign Regulations" for the City of Independence, Kansas, and is adopted as part of the City's Zoning Ordinance. Hereafter no sign shall be erected, constructed, altered, or modified except as regulated by the provisions of this article.

802.0. Intent.

This article is established to protect and promote health, safety, general welfare and order within the City of Independence through the establishment of comprehensive and uniform standards, regulations and procedures governing the type, number, size, structure, location, height, lighting, erection, use or display of devices, signs, or symbols serving as a visual communications media to persons situated within or upon public rights-of-way or private properties. The provisions of this article are intended to encourage opportunity for effective, aesthetically compatible, and orderly communications by reducing confusion and hazards

resulting from unnecessary or indiscriminate use of communications facilities. It is the further intent of this article is to regulate signs by their physical characteristics and not by their message.

803.0. Severability.

If one or more provisions of this article is found by a court of jurisdiction to be unlawful, invalid, unenforceable, or preempted by applicable state or federal law or regulations, such provisions are deemed to be severed from this article. The remaining provisions of this article remain in full force and effect.

804.0. Definitions.

As used in this article, unless the context otherwise indicates, the following terms have the meanings ascribed herein:

1. "A-Frame sign" means a small, free-standing and portable sign that is typically designed as either A or T framed and to be used on daily basis and only during business hours. These signs are also referred to as a "sandwich board" sign or a "sidewalk" sign.
2. "Animated sign" means any sign with actual motion, the appearance or illusion of motion, or light or color changes by mechanical or electrical means.
3. "Air-Activated Graphics" means a sign, all or any part of, which is designed to be moved by action of forced air so as to make the sign appear to be animated or otherwise have motion.
4. "Awning" means any structure made of cloth type materials or metal with a metal frame attached to a building and projecting over a thoroughfare.
5. "Bag sign" is a sign made out of fabric, canvas or other flexible substrate, and designed to temporarily cover an existing, permanent sign of any kind, as to convey a different message for a short period of time of no more than 30 days.
6. "Balloon sign" is a sign that is an air-inflated or gas-inflated object, which may be of various shapes, made of flexible material meant to be inflated. Ballon signs can be resting on the ground or a structure and equipped with a portable blower, or inflated with a gas lighter than air and meant to float or hover at an altitude of no more than 25 feet while securely attached to the ground. See also the definition for air-activated graphics.
7. "Banner sign" is a sign composed of fabric or other flexible substrate that is fastened to the exterior of a building, exterior structure, wall, post, or similar upright structure and secured by all four corners so as to limit movement of the sign caused by movement of the atmosphere.
8. "Billboard" means a flat surface on which outdoor messages are conveyed and which size is equal or greater than four by six feet or 24 sq ft in any configuration. Such flat surface

can be a self-supported structure or a wall part of a building or other structures. Murals are not considered billboards as long as the message they convey is not self-serving or have a conspicuous commercial purpose. Lettering without a solid background will be counted as 60% of the surface calculated using the Formula A 811.0.1.

9. "Blade sign" means a rigid projecting or suspended sign that is perpendicular to the building facade, that is mounted below the awning, canopy, or other first floor overhangs and/or over the building or store entryway and for which the primary audience is pedestrians.
10. "Building sign" means a sign which is wholly supported by the building wall, parallel to the plane thereof, and which does not extend beyond the surface of said building wall more than twelve (12) inches. This definition includes walls signs, awning signs, canopy signs, fascia signs, parapet signs, painted signs, and window signs as may be defined herein this Article. Internally illuminated color panels, strips, or bands and neon lighting shall be considered building signs.
11. "Business" means a place where different types of trade, commerce, etc., is carried on, usually under the ownership of one person, company or partnership.
12. "Canopy" means any structure, other than an awning, made of cloth type materials or metal with metal frames attached to a building, projecting over a thoroughfare, and carried by a frame supported by the ground or sidewalk.
13. "Canopy sign" is a building sign attached to or in any way incorporated with the face or underside of a canopy, marquee, or any other similar building projection, and which does not extend beyond the projection more than six inches.
14. "Changeable message sign" means a sign that has the capability of sign copy being changed manually or mechanically.
15. "Commercial sign" means any sign not defined herein as a "non-commercial sign."
16. "Corporate flag" means a flag, other than a government flag, that contains a logo, corporate name, or other identification.
17. "Internal sign" means any sign oriented internally intended to convey messages to internal users of a site and not design, located, or otherwise intended to convey messages to persons off-site. Examples include directional or wayfinding signs, traffic directions and signs that provide parking instructions, security warning signs, business directories, or similar communications that are accessory to the use of the site and any building located thereon.
18. "Directory sign" means a permanent diagrammed representation located near the entrance of a complex which shows the location and address of the unit designations within a complex.
19. "Electronic message center" means a sign that is electronically or electrically controlled

that displays a message center or reader board composed of a series of lights that may be changed through electronic means including LED or LCD displays.

20. "Feather sign" is a temporary sign constructed of cloth, canvas, plastic fabric, or similar lightweight, non-rigid material and supported by a single vertical pole mounted into the ground or on a portable structure.
21. "Flag" means any fabric, banner or bunting containing words, numbers, colors, patterns or symbols, or logos.
22. "Free standing signs," means any sign which is self-supported by one or more uprights or braces in or upon the ground and not attached to any building or wall.
23. "Facing or surface" means the surface of the sign upon, against or through which the message is displayed or illustrated on the sign. The square footage of a sign, wherever the same is required to be computed for the purposes of this Article, shall be determined by computing the square footage of the facing or surface of such sign.
24. "Government flag" means any fabric, banner or bunting containing words, numbers, colors, patterns or symbols, used as a symbol of a government or political subdivision, including flags of the United States, the State, the City, foreign nations having diplomatic relations with the United States, and other flags adopted or sanctioned by an elected legislative body of competent jurisdiction.
25. "Government sign" means any type of sign that is constructed, placed or maintained by or at the direction of the federal, state, county, or local government. Examples include traffic control and safety signs and devices, public notices and informational signs, all public parks and public facilities signs, and directional and identification signs such as tourist oriented directional signs approved and placed by the Kansas Department of Transportation, memorial plaques, signs of historical interest, signs designating hospitals, libraries, public parks, schools, colleges, airports, and other institutions or places of public interest or concern.
26. "Ground sign," see "free-standing sign."
27. "Illuminated sign" means any sign which has characters, letters, figures, designs or outlines illuminated by electric lights or luminous tubes as a part of the sign proper.
28. "Logo" means a stylized group of letters, words, symbols, or combination thereof used to identify and represent a business, organization, group, team, or product and to differentiate it from others.
29. "Marquee" means any hood or awning of permanent construction projecting from the wall of a building above an entrance and extending over a thoroughfare.
30. "Mobile sign" means a sign affixed, painted, or in any other way embedded to an automobile, truck, trailer, other vehicle, or wheeled structure of any kind including casters.
31. "Monument ground sign" means a free-standing sign which is anchored to the ground by

means of a solid structure (normally masonry) with a low profile, which has a monolithic or columnar line and which maintains essentially the same contour from grade to top with the base of the sign being a minimum of 80% of the width of the widest component of the sign. Said signs may be doubled-sided, perpendicular or parallel to the adjoining roadway but in no case shall consist of more than 2 sign faces. The sign face shall cover no more than 80% of the total surface of the structure.

32. "Non-commercial sign" means any sign containing an ideological, political issue, religious or other message not related to the promotion of a commercial or business activity. All signs not defined as a "non-commercial sign" shall be defined as a "commercial signs."
33. "Off-premises sign" means a commercial sign installed, erected, constructed, or hung on a site or property that is not appurtenant to the use of, products or services being sold on, work being performed on, or the sale, lease, or rental of the land or buildings on which the sign is located, sometimes referred to as a billboard. This definition does not include non-commercial signs.
34. "On-premises sign" means a sign installed, erected, constructed, or hung on a site or property that is appurtenant to the use of, products or services being sold on, work being performed on, or the sale, lease, or rental of the land or buildings on which the sign is located.
35. "Other advertising structure" means any kind of surface area supported or not in which a message of any kind is displayed to the public by any means and for any period of time.
36. "Panel sign" means a sign consisting of a frame covered by a translucent material which may be internally illuminated. The entire sign structure is one unit and the copy is not intended to include three-dimensional individual letters.
37. "Permanent sign" means a sign constructed of durable materials and attached, painted, erected, or affixed to a wall or imbedded in or constructed on a foundation in the ground, that does not allow removal without special tools or equipment and which is intended to exist on more than a temporary basis for more than six (6) months.
38. "Pole sign" means a free-standing sign that is supported by one or more uprights not attached to, or braced by, any other structure. Pole signs shall have a clear open space of not less than ten (10) feet between the base line of said sign and the ground level.
39. "Political issue sign" means a sign announcing, promoting (for or against), or drawing attention to any personal or political issue or candidate(s) seeking public political office.
40. "Portable sign" means a free-standing sign not permanently anchored or secured to the ground or any building or wall, which may be moved from place to place, including, but not limited to, signs design to be transported by means of wheels, and is not expressly permitted under this Article as a temporary sign.
41. "Projected-image sign" means a sign which involves an image projected on the face of a wall, structure, sidewalk, or other surface, from a distant electronic device, such that the

image does not originate from the plane of the wall, structure, sidewalk, or other surface.

42. "Projecting sign" means any sign which is attached to a building or other structure and extends more than 12 inches beyond the building.
43. "Public school district sign" means any type of sign that is constructed or placed by a public school district on property owned or leased by that public school district.
44. "Raceway" means an enclosed channel designed expressly for holding wires, cables, or bus bars on which a sign is mounted.
45. "Raceway, pan style" is a sign raceway that is shaped and contoured to follow the outline of the sign to which is mounted to the raceway.
46. "Roof sign" means any sign erected, constructed and maintained wholly upon or over the roof of any building with the principal support on the roof structure.
47. "Sandwich sign" see "A-Frame sign."
48. "Sidewalk sign" see "A-Frame sign."
49. "Sight triangle" means the clear vision zone required for corner lots as defined in City Code section 602.4 of Article VI.
50. "Sign" means any kind of surface, object, structure or lettering in which a message is conveyed, or attention is gained by any means, static or dynamic, permanent or temporary, by any length of time to advertise or promote the interests of any person when the same is placed out-of-doors in view of the general public.
51. "Sign area" means that area of a sign's exposed facing, determined by the Zoning Administrator using actual dimensions where practical, or approximate dimensions when irregularity of a sign shape warrants. Such area shall be measured using one of the formulas in subsection (k) of this article.
52. "Sign copy" means words, letters, logos figures, symbols, illustrations, or patterns that form a message or otherwise call attention to a business, product, service, or activity, or to the sign itself.
53. "Temporary sign" means any yard sign, portable sign, inflatable signs, bag or banner covering a permanent sign, or other sign, banner, pennant, valance or advertising display constructed of vinyl, cloth, canvass, light fabric, cardboard, wallboard or other light materials, with or without frames, intended to be displayed for a short period of time only.
54. "Trailer sign" see "mobile sign."
55. "Vehicle sign" see "mobile sign."
56. "Wall sign" means any flat sign of solid face construction which is placed against a building or other structure and attached to the exterior front, rear or side wall of any building or

other structure.

57. "Window sign" means a sign posted, painted, placed, adhered, or affixed on the outside surface a window or door.
58. "Work of art" means any mural painting or decoration, inscription, mosaic, painted glass, base-relief, or other similar art form of a permanent character that is intended for decoration, ornament, or commemoration and that is applied to, placed upon, or erected on any lot or parcel or wall of any building or structure. A work of art shall not incorporate logos, advertisements, or other commercial speech nor shall a work of art contain images, letters, symbols or other representations designed to identify or market any commercial activities contained upon the site on which it is located.
59. "Yard sign" means a temporary, free-standing sign made of rigid materials that is supported by a frame, one or more poles or posts, or other support structure placed directly in the ground without foundation or other anchor. These signs may be single or double-sided (back-to-back).

805.0. General Requirements.

1. No sign shall be allowed except as permitted by this article.
2. Any permanent sign proposed within the jurisdiction of the Independence Historic Preservation and Resource Commission must receive approval from said Commission prior to installation.
3. No sign shall be located within the sight triangle, clear vision area of a driveway or street intersection as defined in City Code, section 602.4 of Article VI. No sign shall be located so that the safety of a moving vehicle or pedestrian will be impaired by obscuring a driver's or pedestrian's vision.
4. No person shall install, erect, construct, hang, or alter any sign within the City without first obtaining from the City a Sign Permit, unless such sign is otherwise exempt under this article.
5. No person shall replace the sign copy or sign face without first obtaining from the City a Sign Permit, unless such sign is otherwise exempt under this article.
6. Signs shall be properly erected or attached to a structure and kept in good repair. Any lettering, logo, design, and other markings placed upon the sign shall be clear, distinct, and readable and maintained in that condition.
7. Any permanent or temporary commercial sign allowed in this article may be utilized as a non-commercial or political issue sign subject to the regulations contained herein.
8. All signs and other advertising structures shall be designed and constructed to withstand a wind load and dead load as required in the Building Code or other ordinances of the City.

9. Sign Maintenance: All signs and sign structures shall be properly maintained and kept in a safe, orderly condition. In addition, all parts and supports shall be properly painted. Any sign or sign structure which is rotted, unsafe, deteriorated, defaced, or otherwise altered, shall be repainted, repaired, or replaced by the property owner or agent of the owner of the property upon which the sign is located, within thirty (30) days after written notice by the City.
10. Interference: No sign or attachment thereto shall be erected, placed or maintained by any person in such a manner as to interfere with the effective use of firefighting equipment or personnel, or any overhead electrical power, telephone, fiber optic, or cable wires or supports thereof.
11. Placement: No sign shall be erected, painted, attached or in any other way displayed on rocks, fences, trees, or any other public or private property not specifically meant to advertise.
12. Safe Ingress and Egress: No sign or part thereof shall be erected or maintained to prevent or deter free ingress and egress from any door, window, or fire escape. No sign or sign structure shall be attached to a standpipe or fire escape.
13. Illumination: All externally illuminated signs shall be constructed to direct the source of light away from adjacent properties or public streets.
14. Free-Standing Sign Height Computation: The height of free-standing signs (including all temporary and permanent signs) shall be computed to be the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to mean the newly established grade after construction, exclusive of any filling, berming, mounding or excavating solely for the purpose of locating the sign.
15. Free-Standing Sign Setback Measurement: The sign setback for free-standing signs (including all temporary and permanent signs) shall be measured from the nearest edge of the sign.

806.0. Prohibited Signs.

The following signs shall not be permitted, erected or maintained on any property within the City, unless located within the confines of a building, or not visible from outside the premises of the lot in which the sign is located.

1. Off-Premises Signs and Billboards. Commercial signs installed, erected, constructed, or hung on a site or property that is not appurtenant to the use of, products or services being sold on, work being performed on, or the sale, lease, or rental of the land or buildings on which the sign is located, sometimes referred to as a billboard. This does not include non-commercial signs and temporary signs, where permitted by the code.
2. Flashing or Glaring Lights. Flashing lights, strobe lights, or rotating beams shall be prohibited outside of a building or visible from the outside of a building in all zoning

districts except when otherwise legally displayed as emergency lights or warning lights. Illumination of signs shall be designed in such a way as to reflect light away from residential properties and motorists' vision.

3. Moving Lights. Signs which incorporate in any manner any flashing, pulsating, rotating, beacons, or moving lights. Except for a special event approved by the City Council per the City's special event procedures.
4. Hazardous Sign. Any sign or sign structure which:
 - a. Is structurally unsafe;
 - b. Constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation or abandonment;
 - c. constitute an obstruction so as to prevent free ingress or egress through any door, window or fire escape;
 - d. Is not kept in good repair; or,
 - e. Is capable of causing electrical shocks to persons likely to come in contact with it.
5. Obscene Matter. Signs that display obscene matters in violation of any State or Federal statute.
6. Signs Projecting over Public Right-of-Way. It is unlawful to erect or maintain any sign on, over, or above any land or right-of-way belonging to City or other governmental entity unless specifically permitted by said entity and as provided herein this Article, except as allowed by K.S.A. 25-2711 for political signs during the 45-day period prior to any election and the two-day period following any such election.
7. Temporary Signs. All temporary signs except those that are specifically allowed by this Article.
8. Interference with Traffic. No sign or other advertising structure as regulated by this Article shall be erected at the intersection of any street or alley in such a manner as to obstruct free and clear vision, or at any location, where, by reason of the position, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device or which makes use of the words STOP, LOOK, DRIVE-IN, DANGER or any other word, phrase, symbol or character in such a manner as to interfere with, mislead or confuse traffic.
9. Unlawful Signs. Any sign unlawfully installed, erected or maintained in violation of this Article.

807.0. Exemptions to Sign Permit Requirement.

The following signs shall not require a sign permit:

1. Government signs and government flags and signs for public school districts, as defined herein this Article, are exempt from the Sign Regulations, the Sign Design Standards, and the Sign Permits and Fees requirement.
2. Signs located within the confines of a building, except those that are defined as window signs.
3. Building street addresses on buildings and signs as required by the City are exempt from the Sign Regulations, the Sign Design Standards, and the Sign Permits and Fees requirement.
4. Directory signs as required by the Fire Department for emergency identification are exempt from the Sign Regulations, the Sign Design Standards, and the Sign Permits and Fees requirement.
5. Works of art that meet the definition as provided herein this article.
6. Temporary Signs, to the extent that they meet the standards herein this article, are exempt from the Sign Permits and Fees requirement.

808.0. Sign Types.

For the purposes of this article, the following sign types as defined herein are placed into the following categories.

1. Permanent Signs. Permanent signs may be commercial or non-commercial signs as defined herein this article, not including off-premise signs with a commercial message. Permanent signs are limited to the following permanent sign types as defined and further regulated herein this Article:
 - a. Building Signs
 - b. Projecting Signs
 - c. Blade Signs
 - d. Free-Standing Signs
 - e. Internal Signs
 - f. Drive-Thru Facility Signs
 - g. Signs on ATMS
 - h. Home Occupation Signs

- i. Corporate Flags
2. Temporary Signs. Temporary signs may be commercial or non-commercial signs as defined herein this Article, and may include off-premise signs. Temporary signs are limited to the following temporary sign types as defined and further regulated herein this Article:
 - a. Free-standing signs
 - b. A-Frame signs
 - c. Feather signs and flags
 - d. Banner signs attached to a building wall or exterior window or covering and affixed to an existing building sign
 - e. Bag signs covering and affixed to an existing free-standing sign
3. Temporary Sign Time Limit. No temporary sign shall be in place for a period greater than six (6) months unless removed and replaced with a new sign.

809.0. Sign Regulations.

Permanent signs permitted by zoning district.

PERMANENT SIGNS				
BUILDING SIGNS	ZONING DISTRICT			
	A-1	RESIDENTIAL	COMMERCIAL	INDUSTRIAL
Number of Signs Permitted		1 sign per principal building facing a public street for all permitted multi-family residential developments with 12 or more units and non-residential uses.	Building signs may be located on any side of a building so long as the total sign area does not exceed the total allowed for the building. The area of all wall, awning, blade, and window signs shall be included in the total building signage area calculation.	
Maximum Sign Area		32 sq. ft.	10% of the total sq. ft. of the wall area of a principal building facing a public street. No more than two sides of a building facing a street shall be used to calculate the allowable signage. The sign area of all building signs (including wall, awning, blade, and window signs) shall be calculated using sign area Formula A as defined herein this article.	
Projecting Signs		Not Permitted	1 per main building entrance or storefront. Maximum of 48 sq. ft. (See Section 810.0 of this Article for design standards.)	
Blade Signs		Not permitted.	Limited to the C-3, Central Business District: 1 per main building entrance or storefront. Maximum 12 sq. ft. per sign face. (See Section 811.0 of this Article for design standards.)	Not permitted.
FREE-STANDING SIGNS				
FREE-STANDING SIGNS	ZONING DISTRICT			
	A-1	RESIDENTIAL	COMMERCIAL	INDUSTRIAL
Number of Signs Permitted		2 signs per public or private street entrance for single family residential subdivisions. 1 per public street frontage for each lot of record for all permitted multi-family residential developments with 12 or more units and non-residential uses.	1 per public street frontage for each lot of record. For lots with 500 ft or more of frontage, 1 sign shall be allowed for each 250 ft of frontage.	
Maximum Sign Height		6 ft.	30 ft.	
Maximum Sign Width		6 ft.	25 ft.	
Maximum Sign Area		20 sq. ft. calculated using sign area Formula B as defined herein this article.	150 sq. ft. calculated using sign area Formula B as defined herein this article.	
Minimum Sign Setback Requirements		10 ft. from all property lines.	Minimum setback from all property lines is 10 ft, and 200 ft. from any free-standing sign located on the same lot.	

INTERNAL SIGNS	ZONING DISTRICT					
	A-1	RESIDENTIAL	COMMERCIAL	INDUSTRIAL		
Number of Signs Permitted	5 per each lot of record for all permitted multi-family residential developments with 12 or more units and non-residential uses.		5 per each lot or record.			
Maximum Sign Height	8 ft.					
Maximum Sign Area	18 sq. ft. per sign calculated using sign area Formula B as defined herein this article.					
Sign Setback Requirements	10 ft. from all property lines.					
DRIVE-THRU FACILITY SIGNS	ZONING DISTRICT					
	A-1	RESIDENTIAL	COMMERCIAL	INDUSTRIAL		
Number of Signs Permitted	For sites with a permitted drive-thru facility, 2 drive-thru facility signs, as provided herein, shall be permitted for each drive-thru lane. Signs may be free-standing (one-sided only) or building/wall mounted.					
Maximum Sign Height	8 ft.					
Maximum Sign Area	Each sign shall be no greater than 36 sq. ft. using sign area Formula B as defined herein this article.					
SIGNS ON ATMS	ZONING DISTRICT					
	A-1	RESIDENTIAL	COMMERCIAL	INDUSTRIAL		
Maximum Sign Area			Sign copy may be adhered or placed upon any surface of a permitted ATM or ATM kiosk; however, the total area of all signage shall not exceed 48 sq. ft.			
HOME OCCUPATION SIGNS	ZONING DISTRICT					
	A-1	RESIDENTIAL	COMMERCIAL	INDUSTRIAL		
Sign Permitted	Any approved home occupation shall be permitted 1 sign no greater than 8 sq. ft. calculated using sign area Formula B as defined herein this article. Said sign may be a building sign or a free-standing sign. Free standing signs may be double sided, max 6 ft tall and setback no less than 5 ft from all property lines.					
CORPORATE FLAGS	ZONING DISTRICT					
	A-1	RESIDENTIAL	COMMERCIAL	INDUSTRIAL		
Number Permitted	Not Permitted.		1 per lot of record or 1 per principal building.			
Maximum Height			35 ft.			
Minimum Pole Setback			10 ft.			
Other Requirements			May only be displayed concurrent with the display of 1 or more government flag(s) attached either on a shared pole or separate pole located in close proximity to the pole(s) displaying the government flag(s).			

TEMPORARY SIGNS				
COMMERCIAL SIGNS	ZONING DISTRICT			
	A-1	RESIDENTIAL	COMMERCIAL	INDUSTRIAL
Number of Signs Permitted		1 sign per public street frontage for each lot of record.	1 sign per public street frontage for each lot of record plus 1 per building or individual business. In addition, each building or individual business may also display 1 "A-frame" or 1 "feather sign" during the hours in which the business is open. Said "A-frame" or feather sign must be placed within 20 ft of the main entrance and be located within that building's street frontage. No sign may be located within a street right-of-way with the exception that businesses within the C-3 zoning district may place 1 "A-frame" sign within the public sidewalk within the frontage of said business provided the sign does not create a hazard or otherwise conflict with any Americans with Disabilities Act (ADA) clearance standards.	
Maximum Sign Area	32 sq. ft. for permitted multi-family residential developments with 12 or more units and non-residential uses and 8 sq. ft. for all other uses. Sign area shall be calculated by using sign area Formula B as defined herein this article.		32 sq. ft. using sign area Formula B as defined herein this article.	
Maximum Free-Standing Sign Height		6 ft.		8 ft.
Maximum Free-Standing Sign Setback Requirement	1 ft from the front property line/street right-of-way line and 5 ft. from all other property lines. No sign may be located within the sight triangle, clear vision zone as defined in City Code section 602.4 of Article VI, or otherwise cause a visual impairment by obscuring a driver's or pedestrian's vision			
NON-COMMERCIAL SIGNS	ZONING DISTRICT			
	A-1	RESIDENTIAL	COMMERCIAL	INDUSTRIAL
Number of Signs Permitted	3 per lot of record, except as allowed by K.S.A. 25-2711 for political signs during the 45-day period prior to any election and the two-day period following any such election.			
Maximum Sign Area	32 sq. ft. for permitted multi-family residential developments with 12 or more units and non-residential uses and 8 sq. ft. for all other uses. Sign area shall be calculated by using sign area Formula B as defined herein this article.		32 sq. ft. using sign area Formula B as defined herein this article.	
Maximum Free-Standing Sign Setback Requirement	1 ft from the front property line/street right-of-way line and 5 ft. from all other property lines, except as allowed by K.S.A. 25-2711 for political signs during the 45-day period prior to any election and the two-day period following any such election. No sign may be located within the sight triangle, clear vision zone as defined in City Code section 602.4 of Article VI, or otherwise cause a visual impairment by obscuring a driver's or pedestrian's vision			

810.0. Projecting Signs.

Projecting signs permitted by this Article shall comply with the following design regulations:

1. Placement: The projecting sign shall provide a minimum 10 ft of clearance above any sidewalk and a minimum of 15 ft of clearance above any driveway or street over which the sign is located. The projecting sign shall not extend above the top of the parapet of the wall on which it is located nor above the roof line of the building.
2. Design: Signs shall be double-sided and shall project no further than 96 inches from the surface of the building façade on which it is mounted or attached.
3. Obstructions and Traffic Hazards. Every projecting sign shall be erected in a manner which does not constitute an obstruction or traffic hazard regulated by this Article.
4. Right-of-Way Encroachment: Any projecting sign proposing to encroach into a public street right-of-way shall first obtain approval from the City of Independence for said encroachment.

811.0. Blade Signs.

Blade signs permitted by this Article shall comply with the following design regulations:

1. Placement: The projecting sign shall provide a minimum 7ft of clearance above the sidewalk or ground over which the sign is located and shall be no higher than 10 ft above this sidewalk or ground.
2. Design: Signs shall be double-sided and shall project no farther than 48 inches from the surface of the building façade on which it is mounted or attached.
3. Right-of-Way Encroachment: Any blade sign proposing to encroach into a public street right-of-way shall first obtain approval from the City of Independence for said encroachment.

812.0. Electronic Message Center Signs.

Permitted free-standing signs may include an electronic message center sign that is double-sided (back-to-back), subject to the following design regulations:

1. The maximum electronic message center sign size within any non-residential zoning district is 96 sq. ft., per sign face, for a double-sided (back-to-back) sign.
2. The maximum electronic message center sign size within any residential zoning district is 48 sq. ft., per sign face, for a double-sided (back-to-back) sign.

3. Electronic message center messages and images may not include video, animation, scroll, or flash and shall not display full-motion graphics in a series of frames to give the illusion of motion or video.
4. The images and messages displayed on an electronic message center must have a minimum dwell time of at least 8-seconds before changing to the next static image or message. The transition or change from one image or message to another may include up to 1-second of animation or special effects.
5. Electronic message centers shall be integral to and a part of an approved monument sign.
6. An approved monument sign may have more than one individual electronic display provided the total area of all such displays does not exceed the total allowable EMC sign area.
7. The brightness of any electronic message center shall not exceed 0.3 foot candles above the ambient light level measured at a distance of 60 feet from the face of the sign. Electronic message centers must be equipped with a light detector or photocell that automatically adjusts the display's brightness according to natural ambient light conditions.

813.0. Sign Area Calculation.

The area of a sign shall be as determined by the Zoning Administrator using actual dimensions where practical or approximate dimensions when irregularity of a sign shape warrants. The area of each sign type is to be measured with either Formula A or Formula B as noted below. The application of either Formula A or Formula B is established by sign type as defined elsewhere in this article.

1. **Formula A.** The sign area is the sum of the area of two (2) contiguous rectangles, squares or circles that enclose the extreme points or edges of all copy, logos and symbols of said sign.

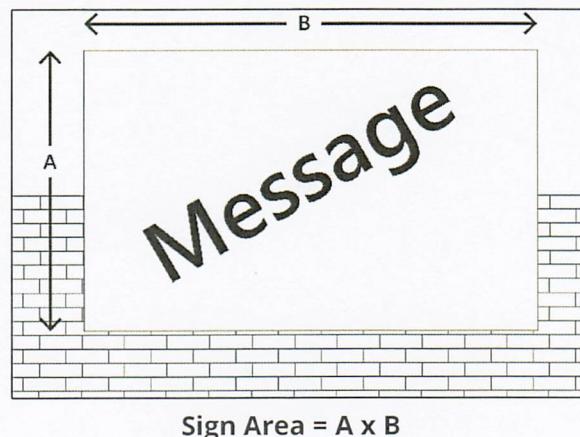
Figure 5



$$\text{Sign Area} = (A1 \times A2) + (B1 \times B2)$$

2. **Formula B.** The sign area is the area of one rectangle, square or circle that encloses the extreme points or edges of all areas where copy may be placed on a sign. This area does not include structural or architectural features of the sign where copy will not be located.

Figure 6



814.0. Enforcement Authority.

The Zoning Administrator is hereby authorized and directed to enforce all the provisions of this article.

815.0. Permit Required.

Except those signs as expressly exempted herein this article, it is unlawful for any person to erect, alter, or relocate any sign or other advertising structure as defined in this article, without first obtaining a sign permit from the Zoning Administrator, and making payment of the sign permit fee as established by resolution of the City Council. Application for sign permits shall be made upon forms as determined by the Zoning Administrator and shall contain or have attached thereto information deemed necessary by the Zoning Administrator to determine compliance with this article. A permit is not required to maintain or repair an existing, legally permitted sign.

816.0. Nonconforming Signs.

Existing legal, nonconforming signs may continue to be maintained and used until they are removed under the terms of this article. Every sign or other advertising structure lawfully in existence on the date of the adoption of this ordinance, but which is prohibited by the terms and conditions of this article, shall not be altered or moved except in compliance with this article.

1. Modification: A legal nonconforming sign or sign structure shall be brought into conformity with this article if it is altered, reconstructed, replaced, expanded, or relocated. A change in sign copy, or the replacement of a sign face, is not an alteration or replacement for purposes of this article, but conditions may be placed on the approval to bring the sign closer to compliance with the intent of the provisions of this article.
2. Maintenance: Legal nonconforming signs must be maintained in good condition. Maintenance required by this subsection shall include replacing or repairing of worn or

damaged parts of a sign or sign structure in order to return it to its original state, and it is not a change or modification for purposes of subsection (3) herein below.

3. Removal: Removal of a nonconforming sign or replacement of a nonconforming sign with a conforming sign is required when:
 - a. Fifty percent (50%) or more of the entire sign structure of a legal nonconforming sign is damaged, destroyed, or for any reason or by any means taken down; or
 - b. The condition of the legal nonconforming sign or legal nonconforming sign structure has deteriorated without maintenance as required by this article; or the legal nonconforming sign structure or building it is mounted on is destroyed or damaged by a fire, flood, windstorm, or similar abnormal event; and the cost of restoration of the sign to its condition immediately prior to such deterioration or event exceeds fifty percent (50%) of the cost of reconstruction of the sign structure; or
 - c. The use of the legal nonconforming sign, or the property on which it is located, has ceased, become vacant, or been unoccupied for a period of ninety (90) consecutive days or more. An intent to abandon is not required as the basis for removal under this subsection.

817.0. Variances and Appeals.

Any variance from these regulations may be approved only by the Board of Zoning Appeals after an application for a permit has been denied for the proposed sign, by the Zoning Administrator or Building Inspector as provided in these regulations. Any person aggrieved by an order, requirement, decision or determination of the Zoning Administrator or Building Inspector in the enforcement of this article may file an appeal with the Board of Zoning Appeals in accordance with City Code.

SECTION 6. Article X of the Zoning Code of the City of Independence, Kansas, is hereby repealed in its entirety and replaced as follows:

ARTICLE X. - SPECIAL PROVISIONS APPLYING TO MISCELLANEOUS CONDITIONAL USES

1001.0. Purpose.

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

1002.0. 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. Farm Animals.

1003.1. 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.

1004.0. Golf Driving Ranges.

1004.1. 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.

1005.0. Hospitals.

1005.1. 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.

1006.0. Kennels—Breeding and Boarding.

1006.1. 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.

1007.0. Mobile homes and mobile home parks.

1007.1. 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.

1007.2. 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.

1007.3. 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. *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.

1007.4. 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.

1008.0. Salvage Yards, Scrap and Waste Material Yards, Auto Wrecking and Junkyards.

1008.1. 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.

1009.0. Theaters, Outdoor Motion Picture.

1009.1. 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.

1010.0. Quarries and Sand and Gravel Pits.

1010.1. 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.

1011.0. Supplementary Parking.

- 1011.1. 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 this Article, Article VII, or to meet supplemental off-street parking needs.
- 1011.2. 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.

1011.3. 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.

1012.0. Cell Towers: Communication/Broadband Antenna, Communication/Broadband Towers, or Communication/Broadband Rooftop Sites.

1012.1. 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.

1012.2. **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.

1012.3. **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.

1012.4. **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.

1012.4. 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 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, 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.
- b. Each application for a conditional use permit for a cell tower shall be accompanied by the following information:

1. 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.
2. 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.
3. A photo simulation of the proposed facility of a type and quality as determined by the city to be appropriate.
4. A map identifying the service area of the proposed cell tower.
5. 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.
6. 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.

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.

14. All cell towers 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.
15. 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.
16. 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.
17. 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.
18. 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.
19. 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.
20. 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.

21. 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.
22. 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.
23. 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.
24. 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.
25. 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.
26. 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.

27. 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.
28. 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.
 - 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 . The determination of whether or not to deny 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. Delayed Deposit Service Businesses and Pawnshops.

1014.1. 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.

1015.0. Medical or Recreational Cannabidiol (CBD) and Tetrahydrocannabinol (THC) Dispensaries and Manufacturing Facilities.

- 1001.1. 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.
- 1015.2. 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.

1015.3. Special Conditions for Manufacturing Facilities: The following regulations shall apply to all CDB 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.

1016.0. Tiny Homes.

- 1016.1. Purpose: The intent of this section is to regulate the placement and use of tiny homes through the conditional use process, ensuring compatibility with surrounding neighborhoods, adequate infrastructure, and compliance with health, safety, and welfare standards.
- 1016.2. Applicability: Tiny homes may be permitted only with approval of a Conditional Use Permit, in the following contexts:
 - a. *Accessory use:* A single tiny house may be permitted as an accessory use to a principal dwelling, subject to the provisions of Article VI.
 - b. *Primary development:* Tiny homes may also be permitted as a primary development (tiny home neighborhood or community) under the conditions of this section.
- 1016.3. Special Conditions for Tiny Home Developments:
 - a. *Permitted Use:* Only tiny homes are allowed within a tiny home development.
 - b. *Minimum Development Size:* Minimum lot area shall be one acre. The City Commission may vary the minimum area if it finds that such variation will not negatively impact adjacent property.
 - c. *Density:* The maximum number of permitted units shall be twice the number allowed in the underlying zoning district (R-1 through R-5), as calculated by the minimum average land area per dwelling unit in that district.
 - d. *Height:* Tiny homes must comply with the height limits of the underlying zoning district. The City Commission may allow variation if necessary to achieve compatibility with adjacent property.
 - e. *Yards and Setbacks:* Interior yard setbacks may be modified if adequate emergency vehicle access is provided. Perimeter setbacks must meet the requirements of the underlying zoning district unless the governing body approves a reduction that will not harm adjacent property.
 - f. *Parking:* Off-street parking shall comply with the requirements of Article VII.
 - g. *Open Space:* A portion of the site shall be reserved as common open space for residents. Open space must be owned and maintained by a homeowners' association, with provisions ensuring maintenance and City intervention if neglected.

- h. *Homes Association:* A homeowners' association shall be created for the maintenance of common facilities, including open space, streets, parking areas, and recreation areas.
- i. *Landscaping and Screening:* The City Commission may require additional landscaping or screening where necessary to protect surrounding property values.
- j. *Construction Standards:* Tiny homes must be constructed and installed in compliance with the current version of all applicable building codes adopted by the City.
- k. *Financial Guarantees:* The developer may be required to provide bonds, escrow deposits, or other financial assurances to guarantee completion and protect public interests.

SECTION 7. Appendix A- Listing of Permitted and Conditional Uses, of the City Code's Appendix B – Zoning Code, is hereby repealed in its entirety.

SECTION 8. Appendix B - A Standard System for Identifying and Coding Land Use Activities, of the City Code's Appendix B- Zoning is hereby repealed in its entirety.

SECTION 9. All ordinances or parts of ordinances, in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 10. This Ordinance shall take effect and be in force from and after its publication in the official City newspaper.

**ADOPTED BY THE GOVERNING BODY OF THE CITY OF INDEPENDENCE, KANSAS,
ON THIS 22ND DAY OF OCTOBER, 2025.**



W.S. Smith, Mayor

ATTEST:



David Schwenker, City Clerk

