



PLANNING COMMISSION MEETING AGENDA

Tuesday, September 09, 2025 at 5:30 PM – 400 W Madison Ave, Arkansas City, KS

GoTo Meeting: <https://meet.goto.com/381948061> or call +1 (224) 501-3412 **Access Code:** 381-948-061

Call to Order

Roll Call

- | | | | |
|--|--|---|--|
| <input type="checkbox"/> Mike Bergagnini | <input type="checkbox"/> Lloyd Colston | <input type="checkbox"/> Brandon Jellings | <input type="checkbox"/> Chris Johnson |
| <input type="checkbox"/> Travis Pearman | <input type="checkbox"/> Duane Oestman | <input type="checkbox"/> Cody Richardson | <input type="checkbox"/> Dotty Smith |

Declaration

At this time, Planning Commission members are asked to make a declaration of any conflict of interest or of any Ex parte or outside communication that might influence their ability to hear all sides on any item on the agenda so they might come to a fair decision.

Consent Agenda

1. Meeting Minutes, **January 14, 2025 meeting.**
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Public Hearings

2. Consider the advisability of vacating the north 8 feet of East Washington Avenue from the East line of Summit Street to the West line of the alley adjacent to Lot 14 Block 69 Original Town to Arkansas City
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-
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Consideration

3. Front yard carports Amendments discussion
-
-
-

Public Comments

Persons who wish to address the Planning Commission regarding items not on the agenda. Speakers will be limited to three (3) minutes. Any presentation is for information purposes only. No action will be taken.

Other Items _____

Adjournment _____



City of Arkansas City

PLANNING COMMISSION MEETING

Minutes

Tuesday, January 14, 2025 at 5:30 PM — 400 W Madison Ave, Arkansas City, KS

Chair Dotty Smith called the meeting to order at 5:33PM.

Roll Call

☒ Mike Bergagnini ☒ Lloyd Colston ☒ Brandon Jellings ☒ Chris Johnson
☒ Duane Oestman ☒ Cody Richardson ☒ Dotty Smith

Consent Agenda

1. Meeting Minutes, **December 10, 2024 meeting**
 - Lloyd Colston made the motion to approve the meeting minutes from December 10, 2024 and Mike Bergagnini made the second motion. Voice vote carried the motion. ____

Public Hearings

2. Hold a public hearing to consider the advisability of granting a conditional use permit to allow a short-term rental in an R-2, Medium Density Residential District located at 311 Highland Drive:
 - Mike Bergagnini made the motion to open the Public Hearing at 5:35 PM and Lloyd Colston made the second motion. Voice vote carried the motion. Josh made a presentation and stated what the applicant had written on the application. Josh also stated that the applicant was on the GOTO Meeting. Dotty Smith asked if it was a 2 or 3 bedroom house. It was stated that it was a 3 bedroom. Pam Niskern and Bob Hicks neighbors of the property had some questions. Ron Steiner a sibling of the property owner said he could be a point of contact if there were noise complaints. Lloyd Colston asked if there were other Airbnb properties in Arkansas City, Josh stated that there were, but procedures were not yet in place for Conditional use when those were started. Lloyd Colston asked about a time frame and what would happen if the applicant would violate the conditional use, then what would happen. Josh explained. Cody Richardson asked about the zoning and Josh clarified the zoning. Dotty Smith asked about the Airbnb being limited to this property owner, Josh said it would need to be a part of the motion. Brandon Jellings asked about the property being up to code as far as egress and smoke detectors. Josh said that can be part of the condition. The conditions include a maximum of 5 guests, no parking on the street, no pets, smoke detectors. Lloyd Colston asked Ron Steiner asked his sister would be ok with the conditions and Ron stated that yes she would. Lloyd Colston made the motion to close the Public Hearing at 6:00 PM and Brandon Jellings made the second. Voice vote carried the motion.
 - Brandon Jellings made the motion to approve the conditional Use with the listed conditions and Lloyd Colston made the second. Roll Call vote carried the motion.

Other Items: No meeting in February

Adjournment: Brandon Jellings made the motion to adjourn the meeting at 6:03 PM and the Lloyd Colston made the second. Voice vote carried the motion.



Planning Commission Agenda Item

Meeting Date: 9/9/2025
From: Josh White, Principal Planner
Item: E Washington Ave vacation

Purpose:

Consider the advisability of vacating the north 8 feet of East Washington Avenue from the East line of Summit Street to the West line of the alley adjacent to Lot 14 Block 69 Original Town to Arkansas City

Background:

Kody Beltz has filed a request to vacate a portion of Washington Avenue adjacent to his property. There is an access door on the Washington side of the building without a proper porch/access. The vacation would allow the applicant's porch access to be properly constructed and would remove an encroachment on to the right of way. The request is for 8 feet of sidewalk leaving approximately 6 ½ feet of sidewalk. All adjacent property owners were notified. The Technical Advisory Committee noted that there are no utilities within the area to be vacated and has no concerns. Final design approval by the Historic Preservation Board would be required prior to construction. Attached to this report is an email from the applicant discussing the design and a diagram of the project.

Action:

Hold a public hearing, at the close of the hearing make a motion to recommend the City Commission approve/disapprove the request to vacate the north 8 feet of East Washington Avenue from the East line of Summit Street to the West line of the alley adjacent to Lot 14 Block 69 Original Town to Arkansas City.

Attachments:

Staff Report

Presentation Link: <https://arcg.is/1XKeim2>



STAFF REPORT

Neighborhood Services Division

Josh White, Principal Planner

118 W Central Ave, Arkansas City, KS 67005

Phone: 620-441-4420 Email: jwhite@arkansascityks.gov Website: www.arkcity.org

CASE NUMBER

VR-2025-047

PUBLIC HEARING DATE

September 9, 2025

APPLICANT/PROPERTY OWNER

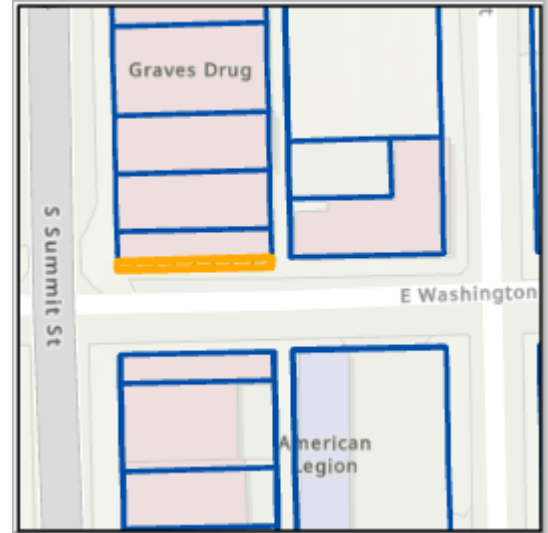
Kody Beltz

PROPERTY ADDRESS/LOCATION

Portion of E Washington Avenue between Summit and the alley between Summit & A

SUMMARY OF REQUEST

Kody Beltz has filed a request to vacate a portion of Washington Avenue adjacent to his property. There is an access door on the Washington side of the building without a proper porch/access. The vacation would allow the applicant's porch access to be properly constructed and would remove an encroachment on to the right of way. The request is for 8 feet of sidewalk leaving approximately 6 ½ feet of sidewalk. All adjacent property owners were notified. The Technical Advisory Committee noted that there are no utilities within the area to be vacated and has no concerns. Final design approval by the Historic Preservation Board would be required prior to construction. Attached to this report is an email from the applicant discussing the design and a diagram of the project.



Map data ©2025 Esri World Topographic Map with overlays

EXISTING ZONING Not applicable	EXISTING LAND USE Public Sidewalk	SURROUNDING ZONING & LAND USE North-C-4; Commercial East-C-4; Commercial South-C-4; Commercial West-C-4; Commercial	SITE IMPROVEMENTS Sidewalk	SIZE OF PROPERTY Approx 0.03 acres/1,056 sq feet
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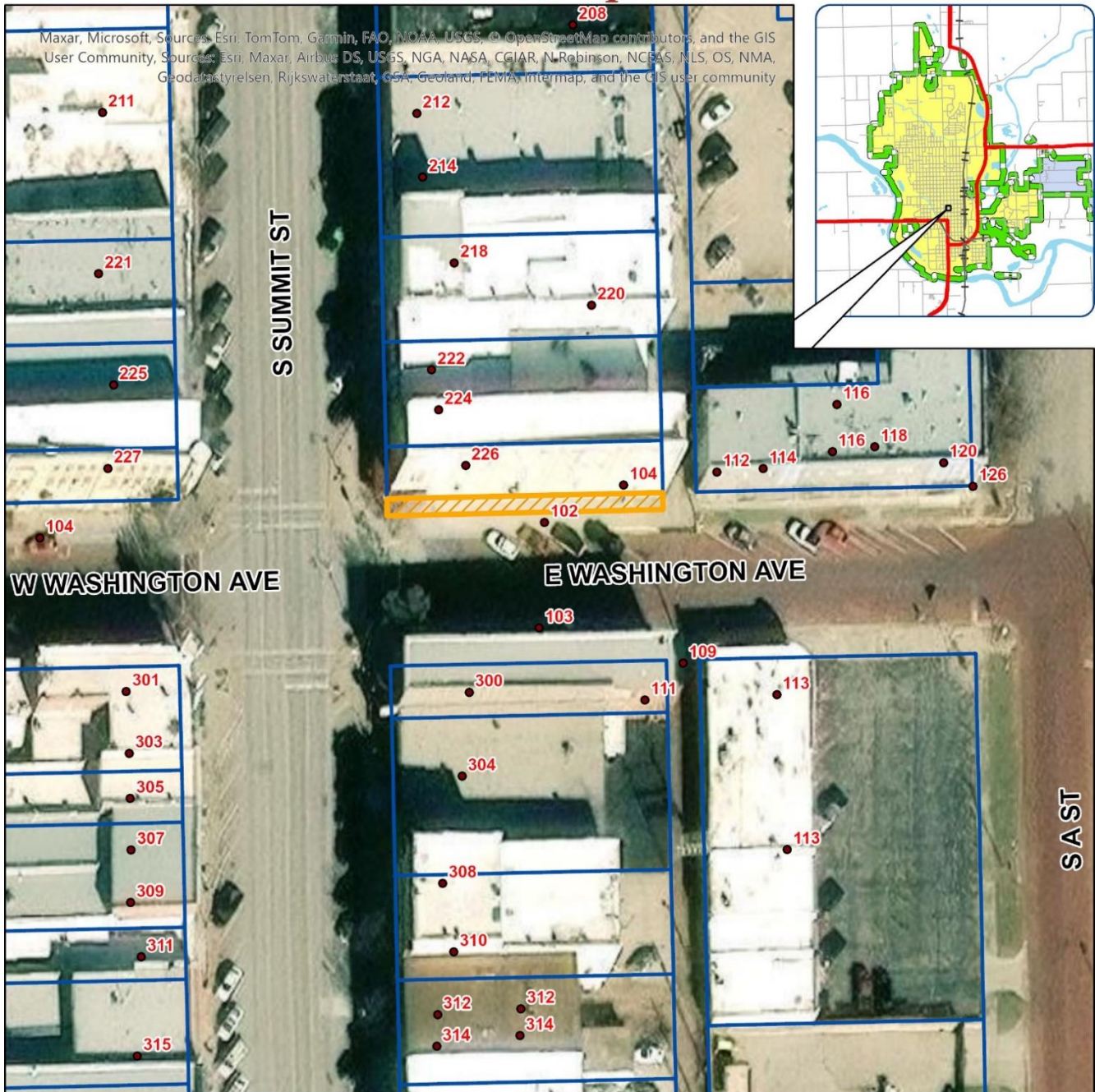
STAFF RECOMMENDATION

Staff recommend approval of the request but note that there are some concerns about narrowing the sidewalk. Perhaps the request could be narrowed to less than the 8 feet originally requested to maintain adequate sidewalk width, however the proposal still leaves at least 6 feet of sidewalk width.

TECHNICAL ADVISORY COMMITTEE COMMENTS There are no utilities in the area to be vacated and no other concerns were expressed.	PROPERTY HISTORY This area was platted in 1873. The rights-of-way are wide as this is the central business district.
	NOTICE GIVEN Proper notice was published in the newspaper. Notices were sent to the property owners within 200 feet.
PRIVATE RIGHTS /PUBLIC GAIN/LOSS There are some concerns that this vacation will limit sidewalk access especially during downtown events such as Arkalalah. The sidewalk would still be at least 6 feet wide though. However, staff note that the current steps are unsafe, and the proposal would remedy that.	

Area map

Vacation Request



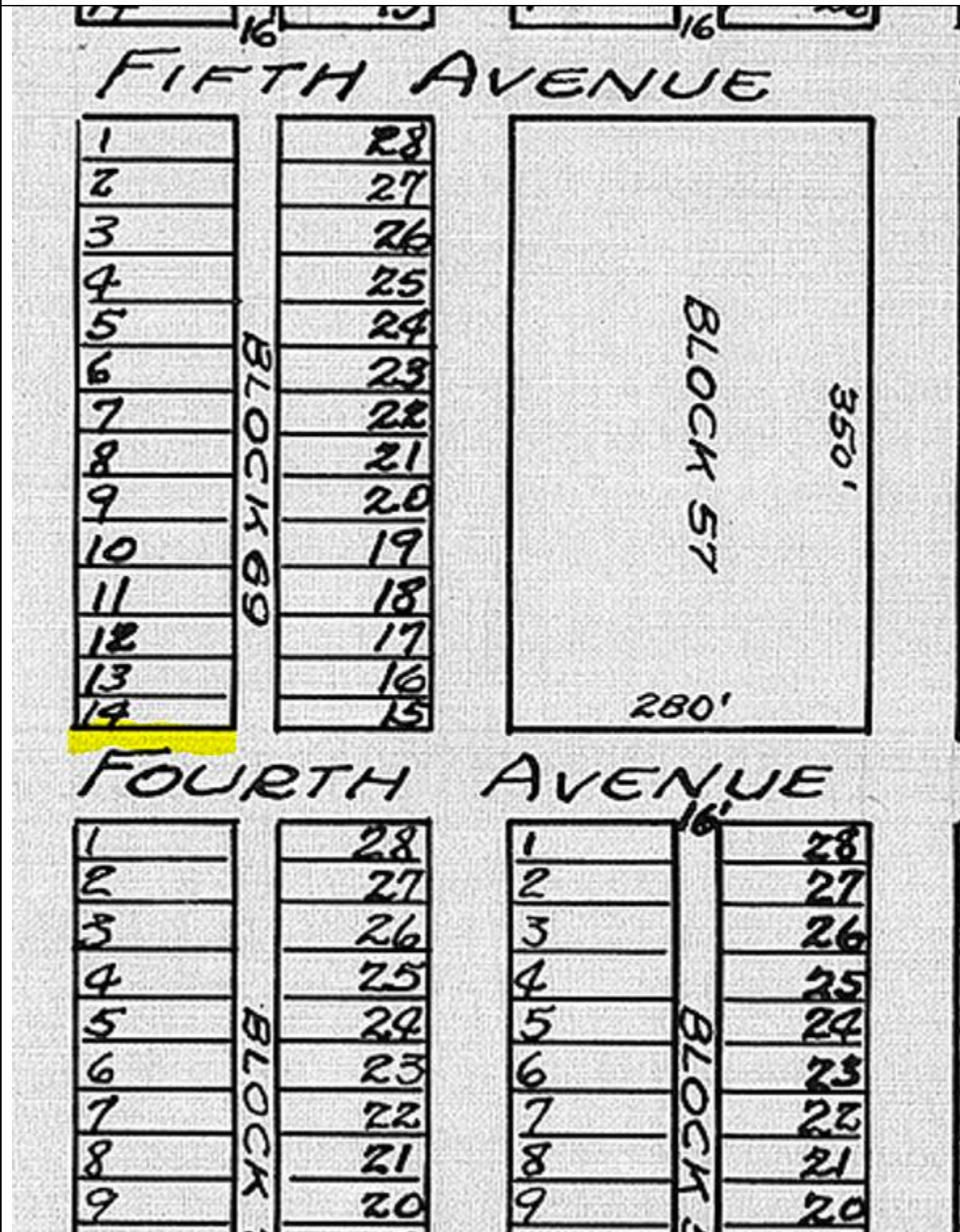
A request for a vacation of the North 8 feet of Washington Ave adjacent to 226 S Summit St

-  Vacation Request
-  Property Lines

Produced by the
City of Arkansas City GIS
using the best available
data to date.
Created: June 02, 2025



Portion of Plat

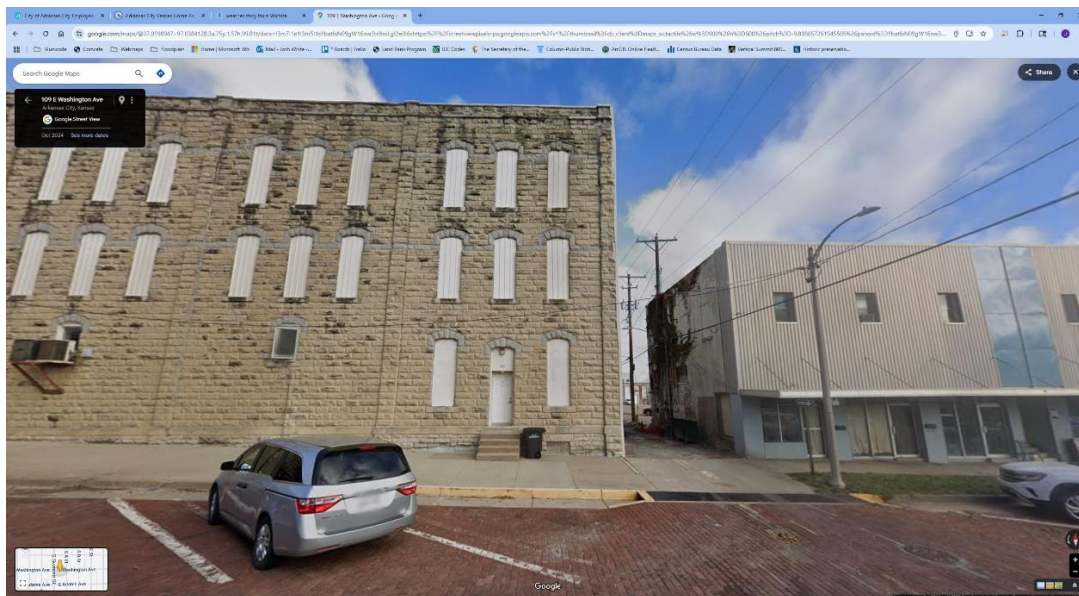


This is a portion of the Original Town plat filed in 1873. The highlighted area shows the approximate location (not to scale) of the vacation request. Fourth Avenue is now known as Washington Avenue. The right of way width of Fourth (Washington) Avenue is 80 feet.

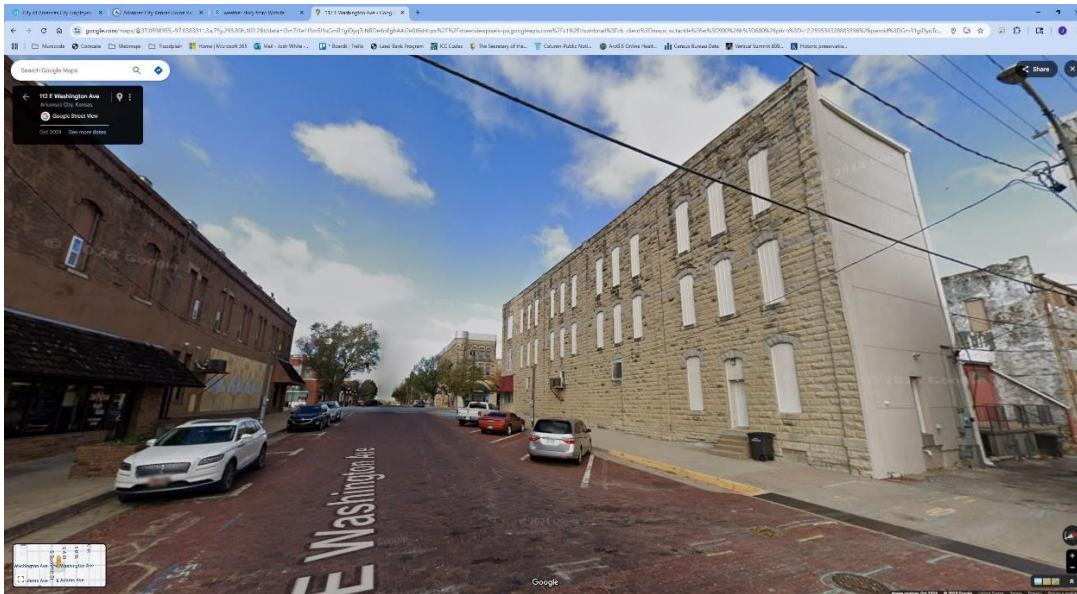
Neighborhood Photos



Summit & Washington looking northeast to area to be vacated. Google Streetview October 2024



Looking at entrance to 104 E Washington Ave. Google Streetview October 2024



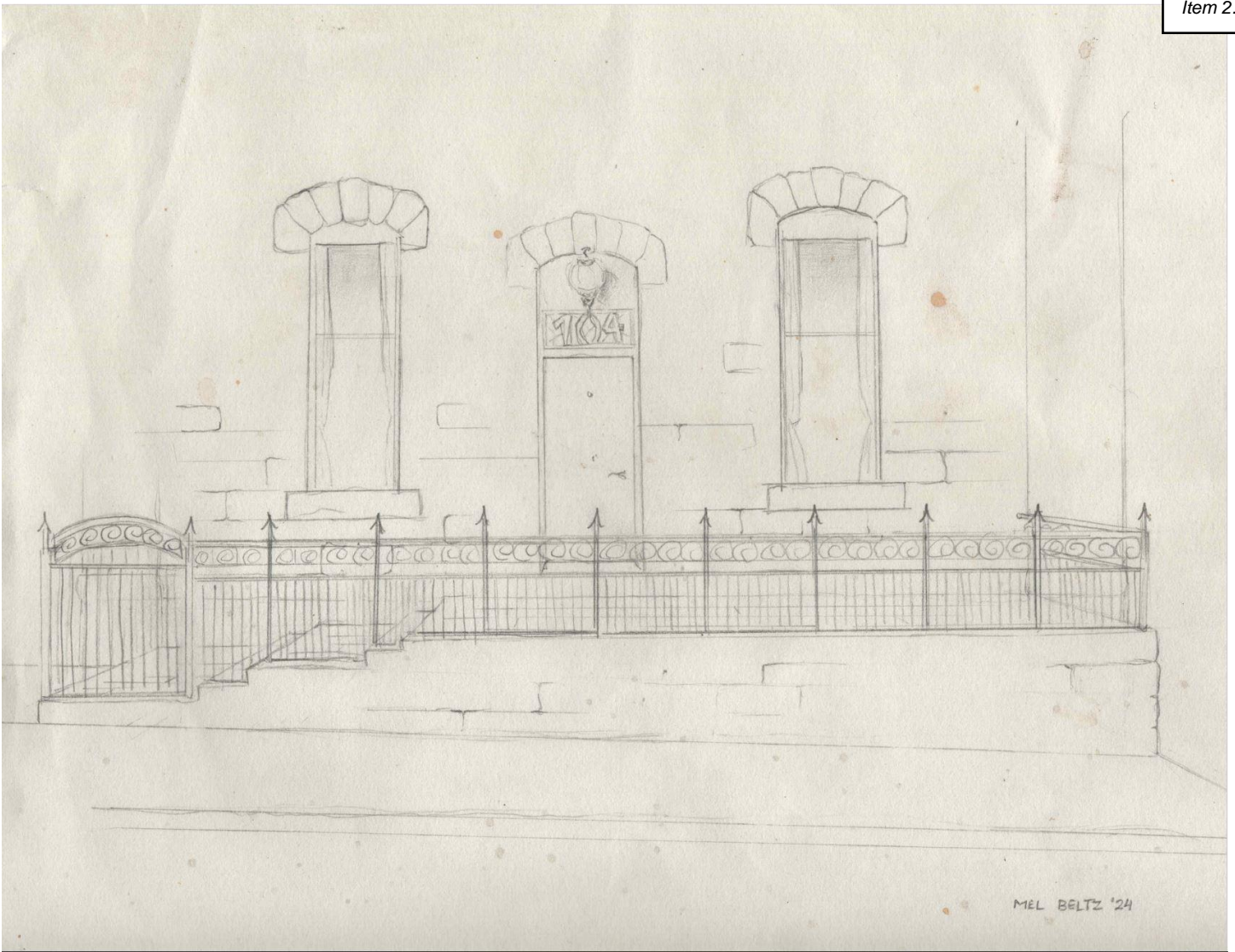
Looking west along Washington Ave towards Summit St. Google Streetview October 2024



In this earlier picture (40s?) you can see the old railing extends to the street and there is no sidewalk along our building. Courtesy of applicant



In this later photo where the building is the tack shack (70s?) you can see that this area seems to have been reduced; the sidewalks expanded. Courtesy of applicant



A rendering of the proposed design, courtesy of applicant.

City of Arkansas City, Kansas

jwhite@arkansascityks.gov

Office: 620-441-4420

Direct Line: 620-441-4427

Fax: 620-441-4403

From: k b <kodybeltz@gmail.com>
Sent: Tuesday, March 25, 2025 12:44 PM
To: Josh White <jwhite@arkansascityks.gov>
Subject: Outdoor improvement at 226 summit

Good afternoon Josh,

I hope this finds you well.

Wanted to get this information over to you and talk about the next steps on our building project.

I know we had spoken about all of this before but that's been a day or two so I thought I'd better get it written down.

As discussed, in reaching out to the surveyor you suggested (Chris I believe) he did state that he believes that our property line would be the south wall of our building, however we do have a historic right of access and use to an area beyond our south wall.

Documented with the picture below you can see that the building used to have a very large exterior access points (3 doors multiple windows etc.) it runs the entirety of the south side of our building.

Part of that old exterior basement entrance is still accessible from the interior of the building (we found it during our clean out process and I think we showed it to you when you visited, if not feel free to come back by)

In the earlier picture (40s?) you can see the old railing extends to the street and there is no sidewalk along our building.

In the later photo where the building is the tack shack (70s?) you can see that this area seems to have been reduced the sidewalks expanded.

We've been told that the entrance was covered in the 80s before the Schmidts purchased the building in the 90s

Looking at the physical evidence at building it looks like the access to the basement (it's width and how many places you could come in at) changed several times.

Based on everything we have found we believe that we have a historic right of access and use to about 8 feet of the sidewalk space off of our south wall, oddly enough very close to what our current awnings are on the building.

With all of this in mind we are looking to build a new stoop, which you can see in the attached drawing.

This new design would take advantage of the area that we have access to by constricting a terraced entrance to our home.

This would be a free standing structure (so it would not in any way attached to the building) and would also encapsulate the existing stairs (so they would not be removed but preserved inside of the structure) we would also face it with stone so as to match the building and not distract from the esthetic of the building.

In trying to keep with what has been used in the past to fence off this outdoor space (as seen in the pictures) we would be using metal fencing to add privacy to this space (we often find people on our stairs).

We would like to extend this fencing all along the south wall of the building to where you can see the old railings, so just to the right of the store windows on the south side.

This would allow us in time to remove the AC units from their perch on the side of building and remove what is a bit of an eyesore to the overall structure.

Additionally we would be opening the long enclosed windows back up and brining the old entrance to our home back to life by restoring the transom over the door and using it for our house numbers.

We feel that these improvements will add to both the overall beauty of both the building and the area as well.

I hope this is all the information you were looking for on this project. Let me know though if you have any questions or need anything else from me.

K. Beltz

[226 s Summit St, Arkansas City, KS 67005](#)



Planning Commission Agenda Item

Meeting Date: 9/9/2025

From: Josh White, Principal Planner

Item: Front Yard carports Amendments discussion

Purpose: Front yard carports Amendments discussion

Background:

Due to the hailstorm that affected much of the community on June 17, 2025, there have been increased requests for carports to help protect cars from future storms. In some neighborhoods, the only feasible location for a carport is in the front yard. Our current regulations would not allow the placement of a carport in the front yard as it would violate the front yard setback. Staff propose creating a special exception with administrative approval for areas that do not have rear alley access. All areas with rear alley access would still be required to conform to the current regulations. Carports can be placed on the side of houses but would still be required to meet the standard side yard setback. In most areas of the city, this would require all carports and other accessory structures to be placed on the rear half of the lot.

Staff will discuss proposed amendments and gather feedback. There is a potential variance request for this likely at the October meeting.

Action:

Discuss the proposed amendments and set a public hearing

Attachments:

Proposed Amendments

Proposed Changes to Zoning Regulations Regarding Carports

Due to the hailstorm that affected much of the community on June 17, 2025, there have been increased requests for carports to help protect cars from future storms. In some neighborhoods, the only feasible location for a carport is in the front yard. Our current regulations would not allow the placement of a carport in the front yard as it would violate the front yard setback. Staff propose creating a special exception with administrative approval for areas that do not have rear alley access. All areas with rear alley access would still be required to conform to the current regulations. Carports can be placed on the side of houses but would still be required to meet the standard side yard setback. In most areas of the city, this would require all carports and other accessory structures to be placed on the rear half of the lot.

Article 20: Supplemental District Regulations

SECTION 20-8 ACCESSORY USES; ADDITIONAL REQUIREMENTS IN RESIDENTIAL DISTRICTS

20-801.

- a. Detached accessory buildings shall not occupy a required yard other than a required rear yard if not located within five (5) feet of a rear property line or within three (3) feet of a side property line.
- b. Detached accessory buildings shall not be located within ten (10) feet of the primary structure and shall be located behind the front building line of the primary structure.
- c. Carports for single-family and two-family dwellings located on lots without a platted alley adjacent may project into a required front yard provided they meet the following conditions:
 1. All such carports shall be located only over an existing paved driveway
 2. No such carport shall be used for the storage of materials, equipment or goods, or the parking and/or storage of inoperable vehicles
 3. No such carport shall be enclosed at any time and must remain open on three (3) sides
 4. No such carport shall exceed eighteen (18) feet in width
 5. No such carport shall be permitted to extend closer than five (5) feet from the front property line and shall comply with all provisions of Section 20-401.
 6. All such carports shall be constructed of materials compatible and comparable to the primary structure and shall be attached to the principal where structurally feasible.

Commented [JW1]: This provision is to provide an exception to the regulations for those properties who would like protection for their vehicle but have no or limited access to their rear property. Derby used a construction cut-off date but we do not have a good cut-off date to use here. In their case, development patterns changed at a certain point.

Commented [JW2]: In areas where houses are setback 25 feet, this would allow a carport with a depth of 20 feet. This should cover most vehicles except trucks but their cabs should be protected. 20-401 discusses corner visibility

Commented [JW3]: Because these will stick out, it is necessary to have some standard of appearance so they don't look so out of place. Similar language was found in our previous regulations prior to 2014.

Alternatively, this text could be added to Section 25-502 instead, which would require the Board of Zoning Appeals to approve an exception using the same provisions as a guide. Staff feel that this would not be a necessary step due to the provision of requiring that there be no alley access. In most cases, this would apply only to Brad Meek Subdivision, the Hillside Additions along Highland Drive and areas along 1st Street and Summit Street between Birch and Kansas and again south of Madison Avenue. There are a few areas along North 6th & 7th Streets as well that would possibly be eligible to use this provision due to the old railroad alignment.

Article 20: Supplemental District Regulations

Sections:

- 20-1 General**
- 20-2 Height and Yard Regulations**
- 20-3 Number of Structures on a Lot**
- 20-4 Corner Visibility**
- 20-5 Screening for Commercial and Industrial-Zoned Property**
- 20-6 Temporary Uses**
- 20-7 Accessory Uses**
- 20-8 Accessory Uses; Additional Requirements in Residential Districts**
- 20-9 Fences**
- 20-10 Residential - Design Manufactured Housing Standards**
- 20-11 Building Setbacks**
- 20-12 Home Occupations**

SECTION 20-1 GENERAL

20-101. The regulations set forth in this article qualify or supplement, as the case may be, the district regulations appearing elsewhere in these regulations.

SECTION 20-2 HEIGHT AND YARD REGULATIONS

20-201

- a. Height. Chimneys, cooling towers, elevator headhouses, fire towers, monuments, stacks, water 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.
- b. Yard.
 1. *Front yards.* The front yards established by the district regulations are to be measured from the street right-of-way fronting a property, and shall be adjusted in the following cases:
 - (a) Where an official line has been established for the future widening or opening of a street or major thoroughfare upon which a lot abuts, the depth of a front or side yard shall be measured from such official line to the nearest line of the building.
 - (b) On through lots, the required front yard shall be provided on each street.
 - (c) Where a lot is located at the intersection of two (2) or more streets and there is a yard required on the side street, there shall be a yard of fifteen (15) feet on the side street. The yard on the side street shall not be greater than that of any other buildings on the side street within the same block, but the depth of the yard shall not be less than eight (8) feet on the side street.
 - (d) Open, unenclosed porches, platforms, or paved terraces, not covered by a roof or canopy and which do not extend above the level of the first floor of the building, may extend or project into the front and side yard not more than six (6) feet.
 - (e) Where twenty-five (25) percent or more of the street frontage or where twenty-five (25) percent or more of the street frontage within four hundred (400) feet of a property is improved with buildings that have a front yard that is six (6) feet greater or less than the required front yard in the district, no building shall project beyond the average front yard so established.

2. *Structural projections.* Every part of a required yard shall be open to the sky, unobstructed, except for accessory buildings or structures, and except for:
 - (a) Eave projections, sills, cornices and other ornamental features may project a maximum of twelve (12) inches into a required yard or setback.
 - (b) Open fire escapes, balconies opening onto a fire escape, chimneys and fireplaces may project no more than three and one-half (3.5) feet into a required side yard and five (5) feet into a required rear yard.
3. Additional setback requirements are set out at Section 20-11.

SECTION 20-3 NUMBER OF STRUCTURES ON A LOT

20-301. Where a lot is used for other than a single family residence, more than one principal use or structure may be located on such lot, provided that such buildings conform to all requirements for the district in which they are located, and all such buildings shall remain in single ownership unless such buildings and lots are certified as a condominium.

SECTION 20-4 CORNER VISIBILITY

20-401. Removal of Traffic Hazards. In all areas on public or private property at any corner formed by intersecting public streets, no traffic hazard shall be allowed by installing, setting out or maintaining or allowing the installation, setting out or maintenance of any sign, fence, hedge, shrubbery, natural growth or other obstruction to view, or the parking of any vehicle within that triangle formed as hereby described, such areas to be described as sight triangles:

- a. Uncontrolled Intersections – Local Street to Local Street: A sight triangle is the triangular area formed by the intersection of two streets bound by two lines extending from the point of intersection along the edge of traveled way for a distance of 50 feet.
- b. Uncontrolled Intersections – Local to Collector/Arterial: A sight triangle is the triangular area formed by the intersection of two streets bound by two lines extending from the point of intersection along the edge of traveled way for a distance of 50 feet on the local street and 60 feet on the collector or arterial street.
- c. Controlled Intersections – Partial Traffic Signalization/Signage: A sight triangle is the triangular area formed by the intersection of two streets bound by two lines extending from the point of intersection along the edge of traveled way for a distance of 25 feet on the street with the stop sign and 60 feet on the street with no traffic signage.
- d. Controlled Intersections – Full Traffic Signalization or 4 Way Stop Signs: A sight triangle is the triangular area formed by the intersection of two streets bound by two lines extending from the point of intersection along the edge of traveled way for a distance of 25 feet.
- e. Alley Intersections: A sight triangle is the triangular area formed by the intersection of the alley and the public street bound by two lines extending from the point of intersection along the edge of the traveled way for a distance of 5 feet.

20-402. Exceptions. The provisions of sight triangle shall not apply to those shrubs or bushes located within a designated sight triangle, the maximum height of which is less than three (3) feet measured from the established street level. For trees located within a sight triangle, a minimum height clearance for limbs and relative growth shall be trimmed for clearance of eight (8) feet from the established street level. Utility poles and equipment required for traffic control shall be exempt from this section's restrictions.

SECTION 20-5 SCREENING FOR COMMERCIAL AND INDUSTRIAL-ZONED PROPERTY

20-501. Commercial or industrial development adjacent to a residential zone shall be screened in accordance with the approved site plan.

SECTION 20-6 TEMPORARY USES

20-601.

- a. Only the following temporary uses may be permitted.
 1. Carnivals and circuses, located in a commercial or industrial zone or on public property, when located at least two hundred (200) feet from the boundary of a residential zone and for a time period not exceeding two (2) consecutive weeks.
 2. Contractor's office and equipment sheds on the site of a construction project only during the construction period.
 3. Model homes or development sales offices located within the subdivision or development area to which they apply, with such use to continue only until sale or lease of all units in the development.
 4. Outdoor temporary sales on private property and not incorporated or in partnership with the existing business located on this property in a commercial or industrial zone, including commercial sales, swap meets or similar activities providing they do not operate for more than ten (10) consecutive days and there are no more than four (4) such sales on any one property in any calendar year.
 5. One travel trailer or manufactured home to be used as a temporary office for any allowed use in an industrial or commercial zoning district, provided that such trailer or home shall not be used for more than a one year period starting the day the home is set upon the property.
- b. Persons seeking approval for a temporary use authorized by items 1,2 and 4 in subsection a. of this section shall make application to the Zoning Administrator at least ten (10) days in advance of the time desired for usage. The Zoning Administrator may issue a certificate of temporary use upon the payment of the temporary use permit fee imposed by the fee ordinance and upon finding:
 1. The temporary use will not impair the normal, safe and effective operation of any permanent use on the same or adjoining site.
 2. The temporary use will not impact the public health, safety, or convenience and will not create traffic hazards or congestion or otherwise interrupt or interfere with the normal conduct of use and activities in the vicinity.

SECTION 20-7 ACCESSORY USES

20-701. Accessory uses are permitted in any zoning district in connection with any permitted principal use, consistent with the provisions of this section and section 20-8.

- a. **Definitions.** An accessory use is a structure or use which:
 1. Is subordinate to and serves a principal building and principal use.
 2. Is subordinate in area, extent or purpose to the principal building or buildings served.
 3. Contributes to the comfort, convenience or necessity of occupants, business or industry in the principal building or principal use served.
 4. Is located on the same tract as the principal building or principal use served.
- b. **Permitted accessory uses.** Any structure or use that complies with the terms of subsection a. of this article may be allowed as an accessory use or structure. Accessory structures and uses include, but are not limited to, the following:
 1. Private garages and carports, whether detached or attached.
 2. A structure for storage incidental to a permitted use.

3. A children's playhouse.
4. A private swimming pool and bathhouse.
5. A guest house or rooms for guests in an 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 or permanent occupancy as house-keeping units.
6. Statuary, arbors, trellises, barbecue stoves, flagpoles, fences, walls, hedges and radio and television antennas.
7. Storm shelters.
8. Retail sales of products manufactured, processed or fabricated on site.
9. Storage of recreational equipment, such as boats, boat trailers, camping trailers and motor homes, provided no such equipment is occupied for dwelling purposes.
10. Restaurants, drug stores, gift shops, club and lounges and newsstands when located in a permitted hotel, motel or office building.
11. Offices for permitted business and industrial uses when the office is located on the same site as the business or industry to which it is an accessory.
12. The storage of retail merchandise when located within the same building as the principal retail business.
13. Accessory, open, and uncovered swimming pools and home barbecue grills may occupy a required rear yard; provided they are not located closer than five (5) feet to the rear lot line nor closer than three (3) feet to a side lot line.
14. Accessory Dwelling Units (ADU):
 - (a) An ADU is a dwelling unit that is accessory to a principal single-family dwelling unit on the same lot. This includes a building or part of a building that provides complete independent living facilities for one (1) or more people, including a kitchen, living room, bathroom, and bedroom, either attached to a principal dwelling or a detached building on the same lot.
 - (b) ADUs are permitted as accessory to single-family dwelling units in the R-2 and R-3 districts. ADUs are a conditional use in the R-1 district.
 - (c) An ADU may be constructed as a new building, adapted from an existing accessory structure on the same lot or adapted from a portion of the principal dwelling unit.
 - (d) Only one ADU is allowed on a lot.
 - (e) Standards:
 1. Attached ADUs must meet applicable district setbacks. Detached ADUs must conform to the yard regulations for accessory buildings in Section 20-8.
 2. The principal dwelling unit or the ADU must be occupied by an owner of record of the property.
 3. The architectural style of the ADU must conform to the architectural style and materials of the principal dwelling unit.
 4. The ADU must not exceed a gross floor area of eight hundred (800) square feet or more than fifty (50) percent of the principal structure's floor area, whichever is less.
 5. The ADU may not exceed the height of the principal dwelling unit.

6. The ADU must meet current building code requirements.
7. The ADU must obtain a separate address for emergency response.

c. **Prohibited accessory uses.** None of the following shall be permitted as an accessory use:

1. Outdoor storage, except as specifically permitted in the district regulations.
2. Storage of containers typically transported by tractor-trailer rigs, in a residential district, except where completely enclosed within a structure.

20-702. Existing accessory buildings or structures which do not meet the minimum setbacks may be repaired, maintained or enlarged, providing those actions do not further decrease the existing setbacks.

20-703 Licensed Amateur Communications. The provisions of this section apply only to antennas and antenna support structures used in FCC Licensed Amateur Radio Service Communications. The provisions of this section shall control in the event of a conflict with the Height and Yard Regulations of the District Regulations in which the antenna support structure shall be placed. If said communications facilities do not comply with the following regulations, then a Conditional Use Permit as defined in Article 23 Telecommunications Towers shall be required unless such communications facilities are otherwise in compliance with and/or otherwise allowed under applicable district development standards.

a. **Definitions.** For the purposes of this section and notwithstanding any conflicting definitions under any other section of this Code:

Amateur Radio Antenna. means “antenna(s)” used for the purpose of receiving and/or transmitting licensed Amateur Radio Communications.

Amateur Radio Antenna Support Structure. means a structure, such as a mast, tower, or pole, that is placed, erected, or constructed to support one or more antennas for the purposes of engaging in licensed Amateur Radio Communications. Buildings and associated roof mounted equipment alone shall not be considered an antenna support structure.

Licensed Amateur Radio Communications. means any form of communication and/or testing, whether transmitted or received, that is licensed by the Federal Communication Commission under and pursuant to 47 C.F.R. Part 97, including all Operator and Station Licenses, under which communication/or testing is conducted by, or under the authority of, a licensed Amateur Radio Operator and Station holding a current valid Amateur Radio License.

Detached Antenna Support Structure. as applicable to Amateur Radio Antenna Support Structures shall mean those structures which are not physically attached to, or in any way supported by, a house or any other permitted structure on the subject property.

Attached Antenna Support Structure. as applicable to Amateur Radio Antenna Support Structures shall mean those structures which are physically attached to, or in any way supported by, a house or any other permitted structure on the subject property.

b. **Maximum Number of Detached Antenna Support Structures in Residential Districts**

No more than one detached guyed or freestanding antenna support structures shall be permitted as a matter of right in a residential district. Upon a reasonable showing of substantial need consistent with licensed Amateur Radio Communication, the Zoning Administrator shall have the right to administratively approve one or more additional detached antenna support structures on the

condition that said additional structure(s) shall not create a risk of collapse on adjoining property not under the control of the Licensed Amateur Radio Operator requesting such additional structure(s).

c. **Maximum Number of Attached Antenna Support Structures in Residential Districts**

No more than one attached antenna support structures, whether guyed or unguyed, shall be permitted as a matter of right on a house or any other permitted structure on the subject property. Upon a reasonable showing of substantial need consistent with licensed Amateur Radio Communications, the Zoning Administrator shall have the right to administratively approve one or more additional attached antenna support structures on the subject property.

d. **Height Limitations applicable to Amateur Radio Communications Antenna Support Structures**

The maximum height for any Amateur Radio Communications antenna support structure in any district, whether attached or detached, shall be one hundred (100) feet. Any antenna support structure that exceeds one hundred (100) feet in height above the ground shall be allowed only with the approval of a Conditional Use Permit.

e. **Antenna and Antenna Support Structure Standards**

1. Number and Size

The number and/or size of antennas placed upon a properly erected antenna support structure used for licensed amateur radio communications shall not exceed the wind load requirements/limits for the supporting structure as specified by the manufacturer(s) of the antenna(s) and of the supporting structure, or in the absence of such specification, the wind load requirements contained in the current version of the City building codes if available, or under nationally recognized standards for wind loading determination.

2. Setbacks

Front Yards: Antenna support structures (including guy wires, foundations, anchor, and other components of the structure) shall not be permitted in required front yards. The Zoning Administrator may administratively approve the location of guy wires in a required front yard if it is demonstrated that there are limiting physical characteristics of the subject property that necessitate the location of guy wires in the front yard.

Side and Rear Yards: Guy wires shall be permitted in required side and rear yards. Minimum setbacks for antenna support structures (including guy wires, foundations, anchor, and other components of the structure) shall be the same as those required for accessory buildings in the applicable residential district and as for all buildings in nonresidential districts, except that side yard encroachments equal to that allowed for fireplaces or other allowed side yard encroachments under single family district regulations shall be permitted.

3. Lights

No lights shall be mounted on antenna support structures unless otherwise required by applicable State and/or Federal Regulations governing said structure. Any such lighting shall be as specified in said regulations.

4. Construction Standards

Antenna Support Structures shall be installed, maintained and/or modified in accordance with the support structures manufacturer's plans and specifications, or in accordance with engineering plans and specifications which meet or exceed the TIA-222 Standard for said structure prepared by and under the seal of a registered professional engineer of the State of Kansas. All installations and maintenance thereon shall otherwise be performed in accordance with the usual and customary standards of care in the industry applicable to such installations in the State of Kansas.

5. Insurance

The applicant must include a statement from their insurance company that lists the tower at the address of construction as a covered item on the applicant's property or otherwise show proof of coverage.

6. Maintenance

All Antennas and antenna support structures shall be kept in good condition and properly maintained in accordance with manufacturers recommendations, the standards of the industry and any applicable Federal Amateur Radio License regulations. Antennas and Antenna support structures that have, due to damage, lack of repair, or other circumstances, become unstable, in danger of failure to support, or which no longer meet the applicable standards of installation and maintenance shall be removed or brought into repair within 90 days following notice given by an authorized representative to the City. Notwithstanding said 90-day repair deadline, said authorized representative shall have the power to order such immediate remedial action as necessary, including removal of any offending antenna and/or antenna support structure if it is deemed to constitute an imminent threat to public safety or property.

7. Amateur Radio License Requirements

No person, corporation, partnership, or other legal entity shall have any rights under, nor be subject to the provisions of this section except the person or entity to whom a current, valid Amateur Radio License has been issued by the F.C.C under the provisions of 47 C.F.R. Part 97.

8. Discontinuance of Amateur Radio Operations

Within 180 days of the date that Amateur Radio Operations have been discontinued at the subject property on which an antenna and/or antenna support structure is located the owner of said property shall remove, or cause to be removed, all such antennas and structures on the property excepting only if said antennas and/or structures are otherwise and independently authorized to be on the subject property under other provisions of these regulations or other applicable law unrelated to this section.

Discontinuance: Discontinuance of Amateur Radio Operations means voluntary termination of operation or termination of the legal right to operate an Amateur Radio Station, including but not limited to the following: F.C.C. revocation, suspension and or termination of Amateur Radio operator and/or station license; death of the license holder or termination of any legal entity holding said license; voluntary cessation of operation by the license holder; termination of ownership, lease, license or legal interest in the subject property by the license holder under which licensed Amateur Radio Operations were conducted on the subject property.

SECTION 20-8 ACCESSORY USES; ADDITIONAL REQUIREMENTS IN RESIDENTIAL DISTRICTS

20-801.

- a. Detached accessory buildings shall not occupy a required yard other than a required rear yard if not located within five (5) feet of a rear property line or within three (3) feet of a side property line.
- b. Detached accessory buildings shall not be located within ten (10) feet of the primary structure and shall be located behind the front building line of the primary structure.
- c. Carports for single-family and two-family dwellings located on lots without a platted alley adjacent may project into a required front yard provided they meet the following conditions:
 1. All such carports shall be located only over an existing paved driveway
 2. No such carport shall be used for the storage of materials, equipment or goods, or the parking and/or storage of inoperable vehicles
 3. No such carport shall be enclosed at any time and must remain open on three (3) sides
 4. No such carport shall exceed eighteen (18) feet in width
 5. No such carport shall be permitted to extend closer than five (5) feet from the front property line and shall comply with all provisions of Section 20-401.
 6. All such carports shall be constructed of materials compatible and comparable to the primary structure and shall be attached to the principal where structurally feasible.

Commented [JW1]: This provision is to provide an exception to the regulations for those properties who would like protection for their vehicle but have no or limited access to their rear property. Derby used a construction cut-off date but we do not have a good cut-off date to use here. In their case, development patterns changed at a certain point.

Commented [JW2]: In areas where houses are setback 25 feet, this would allow a carport with a depth of 20 feet. This should cover most vehicles except trucks but their cabs should be protected.

Commented [JW3]: Because these will stick out, it is necessary to have some standard of appearance so they don't look so out of place. Similar language was found in our previous regulations prior to 2014.

20-802.

- a. Accessory buildings in a zoning district having residences as a permitted use shall not collectively occupy more than 40% of the required yard spaces in the rear half of the lot.
- b. No single accessory building in a zoning district having residences as a permitted use shall occupy more than 30% of the required yard spaces in the rear half of the lot.
- c. No accessory building on a corner lot shall be located closer to the street side yard than the front yard abutting the street.

20-803. Garages shall not be constructed upon lots in residential-zoned districts upon which no principal dwelling is located.

20-804. Accessory buildings may be constructed with used materials, except the exterior shall be of new materials. Accessory buildings shall be of conventional wood or metal construction. Metal shipping containers, truck boxes, trailers, etc. are prohibited from use as detached accessory buildings on property located in residential (R) zoning districts.

SECTION 20-9 FENCES

20-901. No fence shall be constructed within the City unless it is constructed in conformance with the following requirements:

- a. A fence or wall may project into or enclose any required front, side or rear yard subject to access requirements of any established easement and in accordance with the following:
1. The maximum height of fences or walls erected in a residential district shall be no more than six (6) feet in height for any side or rear yards measured from the adjacent grade.
 2. Any fence that extends beyond the front wall of any principal structure shall not be more than four (4) feet in height.
 3. For corner lots in a residential district, a solid fence six (6) feet in height may be constructed in the side street front yard subject to the following:
 - a. The fence shall not extend nearer to the front street lot line than the front wall of the principal building.
 - b. The fence shall not extend into any sight triangle as defined in these regulations.
 - c. The zoning administrator shall establish which yard is the side street front yard.
 4. For institutional uses in residential districts, such as schools, parks, hospitals and cemeteries, a fence may be constructed at a maximum eight (8) foot height provided it does not constitute a traffic hazard.
 5. A fence may be erected in a commercial district or industrial district to not more than eight (8) foot maximum height, except no fence shall have a height greater than six (6) feet in a required front yard, except where these Regulations provide otherwise.
 6. Except as otherwise set forth in these regulations, permitted materials for fences or walls on all properties shall include:
 - a. new lumber and new wood boards (picket style).
 - b. chain link.
 - c. wrought iron and decorative aluminum.
 - d. vinyl (picket or panel style).
 - e. brick and masonry (including proper footing in accordance with the building codes).
 - f. stone, rock, and concrete block (including proper footing in accordance with the building codes).
 - g. stucco (including proper footing in accordance with the building codes);
 - h. any generally accepted fencing materials commonly used in the fencing industry as approved by the Zoning Administrator.
 7. Prohibited materials shall include but not be limited to:
 - a. sheet metal.

- b. metal building siding and roofing materials.
 - c. corrugated metal or fiberglass.
 - d. chicken wire.
 - e. plywood.
 - f. scrap wood.
 - g. scrap metal.
 - h. canvas, nylon or other non-rigid material or fabric.
 - i. cast-off, secondhand, or other materials not originally intended to be used for constructing or maintaining a fence (including pallets).
 - j. stock fences (including cattle or hog panels) except in the Agricultural (A) District.
 - k. Barbed wire, except:
 - 1. When property exclusively used for agricultural purposes is annexed into the City and the barbed wire fencing does not pose a risk to pedestrians. Risk to pedestrians shall be presumed when any barbed wire fencing is located within 10 feet of any pedestrian sidewalk, street or public thoroughfare.
 - 2. On top of perimeter fencing of storage areas in industrial and commercial district zones, provided that barbed wire atop such fences shall be at least 6 feet above the ground with a maximum fence height of 8 feet;
 - l. Electric charged, except:
 - 1. An electric fence not exceeding 24 volts and completely contained within a landowner's fenced property shall be permitted if the landowner first obtains approval from City Code Enforcement;
 - 2. Electronic detector loops for animal containment systems shall not be classified as an electric charged fence;
 - m. Concertina wire or looped barbed-wire
8. The zoning administrator may require a photograph or sketch of the proposed fence.
- b. The finished surface of all fences shall face outward from the property. However, in the case of two or more property owners wishing to share a common fence line between their properties, said property owners shall jointly determine upon which side of the common fence line the finished face of the fence shall be placed. Such determination shall be consistent for the entire length of the common fence line.

- c. Any existing fence which was in conformity with the provisions of any previous ordinance and which was in place as of the date of adoption of these regulations may remain without change, notwithstanding same may be in conflict with one or more provisions of these regulations. However, any replacement or change consisting of more than 50 percent of said existing fence or addition of a new fence shall meet the requirements of these regulations.

SECTION 20-10 RESIDENTIAL-DESIGN MANUFACTURED HOUSING STANDARDS

20-1001.

- a. In order to be classified as a Residential-Design Manufactured Home a structure must be manufactured to the standards embodied in the National Manufactured Home Construction and Safety Standards generally known as the HUD Code established in 1976 pursuant to 42 U.S.C. Sec. 5403. Such structures shall provide all the accommodations necessary to be a dwelling unit and shall be connected to all utilities in conformance with applicable City regulations. Such a structure shall be on a permanent-type, enclosed perimeter foundation which has minimum dimensions of 22 body feet in width excluding bay windows, garages, porches, patios, pop-outs and roof overhangs; a pitched roof; siding and roofing materials which are customarily used on site-built homes; and which complies with the following architectural or aesthetic standards so as to ensure their compatibility with site-built housing:
 - 1. The roof must be predominantly double-pitched and must be covered with material that is customarily used on site-built dwellings, including but not limited to approved wood, asphalt composition shingles, clay or concrete tile, slate or fiberglass, but excluding corrugated aluminum or corrugated fiberglass roof. The roof shall have a minimum eave projection and roof overhang on at least two sides of ten (10) inches which may include a gutter.
 - 2. Exterior siding shall be of a nonreflective material customarily used on site-built dwellings such as wood, composition, simulated wood, clapboards, conventional vinyl or metal siding, brick, stucco, or similar materials, but excluding smooth ribbed or corrugated metal or plastic panels. Siding material shall extend below the top of the exterior of the foundation or curtain wall or the joint between siding and enclosure wall shall be flashed in accordance with any applicable City-adopted building codes.
 - 3. The home shall be installed in accordance with the recommended installation procedure of the manufacturer and any applicable building code adopted by the City.
 - 4. The running gear, tongue, axles and wheels shall be removed from the unit at the time of installation. Either a basement or a continuous, permanent masonry foundation or curtain wall, unpierced except for required ventilation and access which may include walk-out basements and garages, shall be installed under the perimeter of the home.
 - 5. At the main entrance door there shall be a landing that is a minimum of twenty-five (25) square feet which is constructed to meet the requirements of any applicable City-adopted building codes.
 - 6. On level sites, the main floor shall be no greater than twenty-four (24) inches above the finished grade at the foundation. On sloping or irregular sites, the main floor at the side closest to grade level shall not be greater than twenty-four (24) inches above the finished grade at the foundation.
 - 7. Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the City-adopted building codes and attached permanently to the primary structure and anchored permanently to the ground.

8. Any attached addition to such a home shall comply with all construction requirements of the City-adopted building codes, unless designed and constructed by a manufactured home factory.
- b. For purposes of these regulations, the term "manufactured home", when used by itself, shall not include a "residential-design manufactured home".

SECTION 20-11 BUILDING SETBACKS

20-1101. For purposes of determining the applicability of building setback lines established in these regulations whenever any two or more provisions in these regulations establish building setback lines that are applicable to a given building or structure, the regulation establishing the more restrictive standard shall be the regulation which controls.

SECTION 20-12 HOME OCCUPATIONS

20-1201. Home occupations as defined in Article 2 of these regulations shall be permitted in the A District, and the MHS, R-1, R-2 and R-3 residential districts, subject to the following:

- a. **Restrictions and Limitations; All Home Occupations.** The following shall apply to any home occupation in existence at the time of, or commenced after, the effective date of these Regulations:
 1. No exterior alterations or other construction shall be made to the dwelling which changes the character or appearance from its primary residential use.
 2. No equipment or material shall be used which creates any noise, vibration, smoke or odors perceptible at the boundary lines of the property, which would be in excess of that ordinarily created by a single-family residential dwelling.
 3. No merchandise shall be displayed or sold on the premises to members of the general public, except craft or articles made by the person operating the home occupation. In no instance shall there be any outside display of such articles in connection with the home occupation. "Members of the general public" shall not include persons who have prior individualized invitation.
 4. The area of an accessory structure devoted to home occupations shall be limited to nine hundred (900) square feet.
- b. **Restrictions and Limitations; New Home Occupations.** The following shall apply to any home occupation commenced after the effective date of these Regulations:
 1. No more than one employee or volunteer shall engage in such home occupation in addition to the person occupying the dwelling unit as his or her place of residence.
 2. There shall be no outdoor storage of materials or equipment used in the home occupation.

20-1202. Power of Zoning Administrator. The Zoning Administrator is hereby authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of Section 20-12, including the power to:

- a. Investigate any home occupation or alleged home occupation, to determine whether or not such is in compliance with these regulations.
- b. Enter upon premises for the purpose of making examinations: provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession, and obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted.

20-1203. Permitted home occupations are primarily of a service nature similar to, but not limited to, the following:

- a. Artists, sculptors and writers.
- b. Custom dressmaking, tailoring or sewing of fabrics.
- c. Giving of lessons of any type, provided instruction does not exceed five (5) pupils at a time. Such limitation shall not apply to recitals or other performances.
- d. Professional offices for architects, engineers, computer software engineers, planners, lawyers, accountants, bookkeepers, realtors, insurance agents, brokers, sales representatives, contractors, and similar occupations.
- e. Fabrication and/or assembly of handicraft or hobby articles.
- f. Occupations where business is conducted primarily or exclusively over the Internet.
- g. Photographic studios.
- h. Beauty or barber shops having one chair, stand or station.
- i. Multi-level marketing and home party product sales, including but not limited to, Avon, Mary Kay Cosmetics and Tupperware.
- j. Sales of farm or garden produce, bulbs, plantings or cut flowers when grown on the same premises as the residence.

20-1204. Except where allowed as a permitted or conditional use, home occupations shall not in any event include the following:

- a. Antiques, either retail or wholesale.
- b. Animal care other than grooming.
- c. Funeral homes or services.
- d. Retail sale or rental of any goods or products, other than where the commercial exchange constituting such sales or rental is accomplished by means of catalog orders, whether in written or electronic form.
- e. Automotive sales, repair or service of any type.
- f. Appliance repairs (other than for small electronic devices including computers and hand-held household appliances).
- g. Small-engine repairs.