

Planning Commission

- a. A public hearing to receive comments to consider text amendments to Article B. – Zoning on the subject of tiny houses.

At the February 1, 2022, meeting you set the date of March 1, 2022, for a public hearing to receive comments to consider text amendments to Article B. – Zoning on the subject of tiny houses.

Background:

At the December 7, 2021, meeting you provided feedback on what you would like to see regarding a text amendment regarding Tiny Houses. The City requested the assistance of Stinson LLP to assist us with this text amendment. Below and attached is the information they provided:

Attached for review are drafts of the following documents: i) a proposed Ordinance amending provisions of the City's Zoning Code in order to allow for "tiny houses"; and ii) a comparison draft, in Word, showing proposed changes to Section 507.0 of the Zoning Code (Residential Planned Unit Developments). The latter can either be incorporated into the proposed Ordinance as an exhibit or inserted directly into the body of the ordinance, depending upon your preference. The revisions to Section 507 are currently set up as an exhibit for ease of review.

The goal was to follow the apparent consensus from the December Planning and Zoning meeting. Accordingly, the Ordinance provides as follows:

1. Tiny houses must be on permanent foundations (Ordinance, Section 1).
2. A tiny house for use by the property owners' family is a permitted accessory use (Ordinance, Section 2).
3. A tiny house for "short term rentals not elsewhere listed" is a conditional accessory use (Ordinance, Section 3). This seemed like the best way to accommodate an Airbnb type use. If there are special provisions that the City would like to impose for such a use, they can be inserted into Article X of the Zoning Code. There aren't any special provisions listed for Bed and Breakfasts, which is the most similar conditional use.
4. Tiny houses must be constructed and installed in accordance with the then-current version of all applicable codes as adopted by the City (Ordinance, Section 4). If there are any known issues with respect to tiny houses under codes currently adopted by the City, it would be possible to address such issues through an amendment. In addition, the 2018 Edition of the International Residential Code contains an Appendix specific to Tiny Houses. It appears that this Appendix

helped resolve issues confronted by cities in applying prior building codes to tiny houses.

5. The revisions to Section 507 allow for a Tiny Houses/PUD. Minimum PUD size is one acre (Section 507.2.d). Permitted dwelling units is determined by doubling the amount of dwelling units that would be calculated if it was a normal residential PUD (Section 507.2.h). Please note that the numbers only reflect a general assessment of what I thought might be appropriate. Adjusting zoning ordinances to accommodate tiny houses appears to be a relatively new concept, and there isn't much in the way of relevant examples.

Suggested Motion:

I move to recommend the Governing Body adopt an ordinance implementing the text amendments to Article B. – Zoning on the subject of tiny houses as prepared by Anna Krstulic, Stinson LLP.

Attachments:

Proposed Ordinance amending provisions of the City's Zoning Code in order to allow for "tiny houses"

A comparison draft, in Word, showing proposed changes to Section 507.0 of the Zoning Code (Residential Planned Unit Developments.)

Hearing Notice

ORDINANCE NO. ____

**An Ordinance Setting Forth Text Amendments to the Zoning Code
on the Subject of Tiny Houses**

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

Section 1. Appendix B. – Zoning – Section 403.1 is amended to add the following defined term:

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

Section 2. Appendix B. – Zoning – Section 607.2 (Permitted accessory uses) is amended to add the following permitted accessory use:

- q. A tiny house for use by the property owner’s family.

Section 3. Appendix B. – Zoning – Section 607.4 (Accessory uses permitted by conditional use) is amended to add the following permitted accessory use:

- d. A tiny house for *short term rentals not elsewhere listed*.

Section 4. Appendix B. – Zoning – Article VI (Supplementary district regulations) is amended to add a new section, to be denominated as *Section 612.0. Tiny houses*, which shall read as follows:

Section 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.

Section 5. Appendix B. – Zoning – Section 507.0 (Residential planned unit developments) is amended and replaced in its entirety in the manner shown in Exhibit A, attached hereto and incorporated herein by reference.

Section 6. This Ordinance shall take effect upon its publication in the official City newspaper.

Adopted by the Governing Body of the City of Independence, Kansas, on the ____ day of _____, 2022.

LOUIS YSUSI, Mayor

ATTEST:

DAVID W. SCHWENKER, City Clerk

507.0. Residential planned unit developments.

507.1. Intent: In accordance with ~~K.S.A. 12-725 et seq.~~ [applicable law](#), the residential planned unit development is intended to provide for a greater flexibility in the design of buildings, yards, courts, and circulation, than would otherwise be possible through the strict application of district regulations, and to produce:

- a. A maximum choice in the type of living environment and living units available to the public.
- b. Open space and recreation areas.
- c. A pattern of development which preserves trees, outstanding natural topography, and geologic features, and prevents soil erosion.
- d. A creative approach to the use of land and related physical development.
- e. An efficient use of land resulting in smaller networks of utilities and streets and thereby lower housing costs.
- f. An environment of stable character in harmony with surrounding development.
- g. A more desirable environment than would be possible through the strict application of other sections of this ordinance.

A residential planned unit development shall function as an "overlay district" which acts in conjunction with the underlying zoning district. As such, the residential PUD may be established in any residential district and will not require a zoning change.

In general, the height and bulk of buildings, the amount of open space, light and air, the concentration of population and parking requirements shall be equal to those in the corresponding district R-1 to R-5 inclusive. The uses permitted shall also be the same as in the equivalent district R-1 to R-5 inclusive.

Variations and departures from normal practice may, however, be permitted provided that the city finds that such modifications shall create an environment for living that is equal or superior to the development obtainable under existing zoning regulations. For example, each building need not face on a public street and more than one main building may be located on a lot. Buildings may be constructed on platted tracts which are smaller than the minimum lot size requirements where other adjacent permanent open space is provided. Buildings may be located closer to lot lines than otherwise permitted provided such buildings are architecturally suitable for such relationship to adjoining buildings or property, due consideration being given to future development of adjoining property under separate ownership. Any building or portion thereof may be owned in condominium under K.S.A. 58-3101. [Variations and departures from normal practice will likely be especially prevalent with Tiny Houses/PUDs, which, given the size limitations on tiny houses, involve a higher residential density than other types of residential developments with proportionally smaller open space, and different needs regarding roadways, parking, open space, landscaping, etc.](#)

507.2. Design standards and conditions for residential planned unit developments:

- a. *Location:* A residential PUD shall be permitted as an overlay district to any residential district and shall not require a zoning change. The residential PUD shall be designated as follows:

Planned Unit Development	Corresponding District
R-1/PUD	R-1 large lot single-family district
R-2/PUD	R-2 single-family district
R-3/PUD	R-3 low density multifamily district

R-4/PUD	R-4 medium density multifamily district
R-5/PUD	R-5 high density multifamily district
Tiny Houses/PUD	R-1 – R-5 Districts, Tiny Houses Only

- b. *Permitted uses:* The uses permitted by right in a residential PUD ([other than a Tiny Houses/PUD](#)) shall be only those designated in the corresponding districts R-1, R-2, R-3, R-4 and R-5 as set out in appendix "A" of these regulations. [The only use allowed in a Tiny Houses/PUD are Tiny Houses.](#)
- c. *Conditional uses:* The uses conditionally permitted shall only be those designated in the corresponding districts R-1 to R-5 inclusive, as set out in appendix "A" of these regulations; [provided, however, that the only use allowed in a Tiny Houses/PUD are Tiny Houses.](#)
- d. *Minimum PUD size:* Two acres, [except for a Tiny Houses/PUD which has a minimum size of one acre.](#) However, the city commission may vary ~~said~~ [the applicable](#) minimum area where such an alteration would not have a negative impact on adjacent property.
- e. *Height limitations:* The height limitations for structures in residential PUDs shall be the same as those for corresponding residential districts. However, the city commission may vary said maximum building height where such an alteration would permit a more harmonious relationship to adjacent property and where the public health, safety and welfare will be preserved.
- f. *Yard regulations:* The design of the residential PUD may provide for modifications of interior yard setbacks provided that the plan provides adequate space between buildings for access by emergency vehicles. Yard setbacks on the outside perimeter of the PUD shall not be reduced and shall meet the yard setback requirements of the corresponding zoning district. However, the governing body may vary said perimeter setback requirement where such an alteration will not be detrimental to adjacent property.
- g. *Off-street parking:* The minimum off-street parking requirements set forth in article VII of this ordinance shall be complied with.
- h. *Number of permitted dwelling units:* ~~The~~ [Only tiny houses are allowed in Tiny Houses/PUDs. In all other residential PUDs, the](#) number and type of dwelling units permitted within the residential PUD shall remain the same as would be permitted if the area were to be developed conventionally. However, [for all residential PUDs](#) the dwelling units so permitted may be clustered and located irrespective of yard setback requirements or lot lines in order to create a smaller network of streets and utility lines and to create additional open space for the enjoyment of the residents provided necessary setback be maintained to allow emergency access in case of fire or natural disaster. The maximum number of permitted dwelling units within a residential ~~planned unit development (PUD)~~ shall be computed as follows:

Permitted dwelling units residential PUDs other than Tiny Houses/PUDs	=	Residential area of the PUD divided by minimum average land area per dwelling unit permitted in the applicable PUD.
Permitted dwelling units for Tiny Houses/PUDs	≡	Twice the number of dwelling units permitted by application of the formula, above, to the corresponding underlying zoning district (R-1, R-2, etc.)

1. *Residential area:* The residential area for the purposes of the above-described computation shall be the gross area of the PUD less the area of nonresidential land.

Nonresidential land shall include street pavement, parking lot pavement, and land allocated to schools, churches, accessory commercial development and other nonresidential uses.

Residential area shall include land allocated to dwellings, accessory buildings, recreational community facilities serving the homeowners and open space.

2. *Minimum land area:* The minimum average land area for the purposes of the described compilation shall be:

MINIMUM AVERAGE LAND AREA BY UNIT TYPE AND PUD DISTRICT

Dwelling Unit Type	PUD District				
	R-1/PUD	R-2/PUD	R-3/PUD	R-4/PUD	R-5/PUD
Single-family	10,000 sf	7,200 sf			
Two-family			4,000 sf	4,000 sf	4,000 sf
Three-family			3,000 sf	3,000 sf	3,000 sf
Low-rise multifamily				2,000 sf	2,000 sf
High-rise multifamily					900 sf

- i. *Common open space:* Open space resulting from the application of the residential PUD standards for density or intensity of land use shall be set aside for the use and benefit of the residents in such development. Such open space shall be owned and maintained in common by the residents through a homeowners' association. The residential PUD shall include such provisions for the ownership and maintenance of the common open spaces as are reasonably necessary to ensure its continuity, care, conservation and maintenance, and to ensure that remedial measures will be available to the city if the common open space is permitted to deteriorate, or is not maintained in a condition consistent with the best interests of the planned unit development or of the entire community. Such remedial measures shall include provisions for right of access over private streets, if necessary.
- j. *Staged development:* The residential PUD may be developed in stages. In such case, the owner of the planned development shall designate divisible geographic sections of the entire parcel to be developed as a unit, and shall specify the intended sequence and time schedule of development for each such unit. Each stage of development shall normally be a balanced unit of development and shall not provide a higher density or less open space as permitted in the PUD standards. However, it is recognized that in some instances it may be desirable to begin development with those portions of the overall PUD area which is devoted to more intensive use, leaving the undeveloped stages of the PUD in depleted density and open space. In such cases the governing body may permit the development of an initial stage containing a density in excess of that allowable within the whole PUD unit provided that such departure is in the best interest of the residents of the PUD and the city. In such case, the developer shall be required to execute a deed running in favor of the city granting it the following rights:
 - (1) The right, in the event that development of the planned unit is abandoned prior to completion, to locate the required amount of open space upon the balance of the PUD site for the exclusive

benefit of the residents of the developed portion of the sites—such location to be established only after a public hearing given to all interested parties;

- (2) The right, after such hearing and decision upon the proper location, to require that the developer deed the open space over [to] the established PUD homes association.
- k. *Landscaping and screening requirements:* The governing body may require additional landscaping and/or screening where it is necessary to protect the property values of the immediate neighborhood or its environs. Such additional requirements may be contained in the conditions in each ordinance authorizing the establishment of the particular residential PUD.
- l. *Homes association:* The developer shall provide for a homes association for improving, operating and maintaining common facilities including streets, drives, service and parking areas, and recreation areas. Such homes association shall be established in the initial phase of development.
- m. *Financial guarantees:* The developer may be required to furnish such performance bonds, escrow deposit, or other financial guarantees as may be reasonably required to assure performance in accordance with the development plan and to protect the public interest in the event of abandonment of said plan before completion.
- n. *Design standards for tiny houses:* Tiny houses must be constructed and installed in accordance with the then-current version of all applicable codes as adopted by the City.

507.3. *Application for approval of residential PUDs:* Processing procedures for residential PUDs are set forth in article XIV of this ordinance.

City of Independence, Kansas

NOTICE TO THE PUBLIC

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

Tuesday, March 1, 2022, at 5:30 p.m.

To receive comments to consider a text amendment to the zoning code relating to tiny houses.

Case Number:

2022/ZA/01

The hearing will be conducted in the Civic Center, Memorial Hall, Penn/Locust, Independence, Kansas, and will begin at 5:30 p.m. All interested persons should attend, and they will be heard. You may also participate via conference call: [+1 785-289-4727](tel:+17852894727) Conference ID: 652 632 373# Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

Kelly Passauer
Zoning Administrator
811 W Laurel Street
Independence, KS 67301
(620) 332-2506

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

Kelly Passauer, Zoning Administrator