

181-04

RESOLUTION NO. 181-04

Date Adopted: 10-13-04

Date Published: \_\_\_\_\_

**A RESOLUTION AMENDING CHAPTER 12 OF THE SEDGWICK COUNTY CODE BY ADDING NEW ARTICLE III; CREATING THE SEDGWICK COUNTY SERVICE DRIVE CODE; AND SETTING FORTH PENALTIES FOR VIOLATIONS THEREOF.**

**WHEREAS**, the Board of County Commissioners recognizes the importance and necessity of standardizing service drive requirements for properties in the unincorporated areas of Sedgwick County in order to enhance life, safety, and well being of both citizens and emergency responders in Sedgwick County, Kansas; and

**WHEREAS**, the Board of County Commissioners has the power and authority to adopt and enforce the terms, conditions, and regulations established herein pursuant to (i) its general police powers to protect the public health, safety, morals, and general public welfare; and (ii) all other applicable provisions of law.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS:**

**SECTION 1. AMENDMENTS TO CHAPTER 12, ARTICLE III.** Chapter 12 of the Sedgwick County Code is hereby amended with the addition of new Article III, which shall read as follows:

**ARTICLE III. SERVICE DRIVE CODE**

**DIVISION 1. GENERALLY**

**Sec. 12-201. Short Title.**

Article III of Chapter 12 of the Sedgwick County Code shall be known as, and may be referred to as, the "*Sedgwick County Service Drive Code*," or the "*Service Drive Code*."

**Sec. 12-202. Definitions.**

- a. **100-YEAR FLOOD.** A flood event having a one percent (1%) probability of occurring in any given year.
- b. **ACCESSORY STRUCTURE.** A structure subordinate to a Primary Structure and located on the same property as the Primary Structure.

- c. **AGRICULTURE STRUCTURE.** A structure designed and built for agriculture purposes.
- d. **AGRICULTURE / ACCESSORY SERVICE DRIVE.** An access drive designed to service an Agricultural or Accessory Structure as defined by this code.
- e. **APPROVED TURN-A-ROUND.** A turn-a-round, which will allow the turning of a large vehicle in no more than two maneuvers.
- f. **APPROVED TURNOUT.** An area on a Service Drive that widens to allow for the simultaneous, safe passage of two large vehicles where the Service Drive is otherwise too narrow to allow for such maneuvers.
- g. **DRAINAGE AREA.** The area of land that would contribute drainage to the drainage structure as expressed in acres and/or square miles.
- h. **DRAINAGE STRUCTURE.** A structure, including but not limited to, a metal culvert, concrete culvert, concrete box or bridge which is designed for the discharge of storm water.
- i. **FLOOD INSURANCE RATE MAP (FIRM).** The official floodplain maps of the County that are issued by Federal Emergency Management Agency.
- j. **MULTI-SERVICE DRIVE.** A service drive that services two or three lots or tracts of land each containing one primary structure.
- k. **PRIMARY STRUCTURE.** A structure that is designed and built for the purpose of providing shelter and safety for people who live within it.
- l. **SERVICE DRIVE.** A private road, drive or driveway utilized to access one or more lots or tracts of land.
- m. **SINGLE SERVICE DRIVE.** A service drive that services only one lot or tract of land.

**Sec. 12-203. When required.**

A Service Drive shall be constructed and maintained when a Primary, Agriculture, or Accessory Structure is: (1) sited; (2) being built; or (3) being moved onto a lot or tract; and any part of the structure is more than two hundred feet (200') from the edge of a County or Township road or an existing Service Drive meeting the requirements of this code.

**Sec. 12-204. Application and inspection fee.**

An application and inspection fee in the amount of \$50.00 shall be remitted when building permit application is made.

**Sec. 12-205. General Requirements.**

All Service Drives shall comply with the following requirements:

a. Dimensions and Composition.

1. Service Drives shall maintain a minimum vertical clearance of thirteen feet, six inches (13'6").
2. The driving surface shall be designed to withstand a minimum weight of forty six thousand (46,000) pounds and must support this weight during times of inclement weather.
3. Any gates, entryways, poles, barriers or other obstructions located on a Service Drive shall be set back from the County or Township road driving surface a minimum of thirty feet (30').
4. Compliance with Service Drive requirements will be evaluated whenever an additional Primary Structure utilizing the Service Drive is constructed or sited.
5. The surface is to be of an all weather surface material consisting of rock or gravel, ground asphalt, laid asphalt or concrete.
6. The surface shall be applied to a minimum of four inches (4") in depth consistently over the entire driving surface. Gravel, if utilized, must be compacted.
7. All distances of one hundred (100) feet or more as used in this article shall be measured using the most direct route via travel by ground.

b. Maintenance.

1. A maintenance covenant must be in effect for maintenance of a Multi-Service Drive and for those service drives not owned by the same person or entity as the serviced property. The covenant must be recorded with the Sedgwick County Register of Deeds. An easement indicating access rights for the property served shall also be recorded with the Sedgwick County Register of Deeds. The building permit applicant shall present to Sedgwick County

Department of Code Enforcement a Register of Deeds stamped copy of the maintenance covenant and a Register of Deeds stamped copy of the easement indicating access rights, along with any additional documents required. (See Exhibit B, Sample Easement).

2. The owner of the property served by a Service Drive shall be responsible for constructing and maintaining the drive to the approved standards within this Article.
3. If a Service Drive extension is eligible to be approved but another connecting Service Drive has not been maintained in accordance with this Service Drive Code, the Service Drive extension will not be approved until the connecting Service Drive has been brought into compliance with the Service Drive requirements.
4. A Service Drive that cannot be installed in accordance with this code due to the location on property, topography, waterways, non-negotiable grades or other similar conditions may be reviewed by Sedgwick County Fire District #1 for consideration of approval by means of an alternative access.
5. Service Drive access to Primary, Agriculture, and Accessory Structures shall be provided and maintained in accordance with this code. In all other cases Service Drives shall be provided and maintained in accordance with the current Sedgwick County Fire Code.
6. If a bridge is required for access, it must be designed, constructed and maintained in accordance with the American Association of Highway and Transportation Officials current standards for an HS 20 loading. The bridge must be designed by a Licensed Engineer and the plans, specifications and design documentation must be submitted for review to the Sedgwick County Department of Public Works prior to construction. Prior to approval of the completed service drive and bridge, the design engineer must provide certification to the Department of Public Works that the bridge has been constructed in accordance with the plans. The minimum clear width of the bridge shall be fourteen feet (14'). The Service Drive may be reduced to fourteen feet (14') in width at the approaches to the bridge. The required drive width throughout the remainder of the length of the drive shall be maintained as otherwise required in this article.
7. If the Service Drive goes through any portion of land designated in the 100-year floodplain for Sedgwick County, the installation of all

culverts, bridges or similar crossings are to be approved by the floodplain manager for Sedgwick County. In addition, all local, state, and federal floodplain requirements must be met and all necessary permits must have been obtained prior to construction of the Service Drive or the crossing structure. The requirements of Division 2 of this Article must be followed.

8. Any Service Drive that is serving or has the potential to serve four or more lots or tracts shall be constructed and maintained to public road standards as determined by Sedgwick County Public Works.

c. Floodplain.

If the service drive or the structure it serves is within a floodplain, the building permit applicant must comply with the provisions of Division 2 of this Article.

**Sec. 12-206. Specific Requirements for Service Drives Servicing Primary Structures.**

Service drives servicing primary structures shall comply with the following requirements:

- a. Service Drives shall maintain a minimum driving surface width of twenty feet (20') for the continuous length of the drive. The twenty foot (20') width does not include ditches, shoulders, or similar structures but actual driving surface only.
- b. Service drives shall include an Approved Turn-A-Round within two hundred feet (200') of each Primary Structure.
- c. A detailed site plan is required for all lots or tracts where a Primary Structure is constructed or moved into or within Sedgwick County. The building permit applicant shall submit a site plan to the Sedgwick County Director of Code Enforcement prior to beginning construction. The Code Enforcement Director shall not accept a site plan unless it indicates the following: all boundaries, easements, setbacks, primary structure footprint, additional structure footprints, streets, driveways and service drives, distance of structures from streets or roads, including the measurements and dimensions thereof. The site plan shall be legible and certified by the applicant that the site plan is accurate and conforms to the requirements of this article.

**Sec. 12-207. Address Requirements.**

- a. Sedgwick County public roads shall be named as assigned by the Address Coordinator. Structures shall be addressed as required by the Address Coordinator. In addition, addresses shall be posted at the point where the Service Drive departs from a Sedgwick County or Township road and at the point where a Service Drive departs from another Service Drive.
- b. The addresses of all structures accessed via a Service Drive shall be posted at the entrance to the Service Drive where it departs from the Sedgwick County or Township road.
- c. All addresses shall be readily visible from the driving surface in either direction and shall be placed on a contrasting background.

**Sec. 12-208. Specific Requirements for Service Drives Servicing Agriculture and Accessory Structures.**

Service drives servicing agriculture and accessory structures shall meet the following requirements:

- a. Sleeping or cooking is not permitted in Agriculture and Accessory Structures at any time. Sleeping, living or cooking areas shall not be provided therein.
- b. Agriculture and Accessory Structures eight hundred (800) square feet or less in size do not require a Service Drive.
- c. Service drives servicing Agriculture and Accessory Structures shall have a driving surface which is constructed and maintained with a width of not less than fourteen feet (14').
- d. Service Drives over five hundred feet (500') in length must have an Approved Turnout which is not less than thirty feet (30') wide and seventy feet (70') in length for every five hundred feet (500') in length. The approved turnout must comply with the minimum dimensions and requirements found in Exhibit A.
- e. An Approved Turn-A-Round is required on all service drives five hundred feet (500') or longer. The Approved Turn-A-Round shall not be located more than two hundred feet (200') from the most distant point of the structure. Dimensions shown on Exhibit A must be strictly adhered to. Turn-a-rounds with configurations other those shown on Exhibit A will be evaluated by the Sedgwick County Fire District #1 Fire Prevention Bureau on a case by case basis.
- f. A site plan will be required for all Agriculture and Accessory Structures over eight hundred (800) square feet in size. The site plan shall indicate

all easements, setbacks, structure locations and sizes, geographical obstacles, Single and Multi-Service Drives and their dimensions.

- g. Any project not constructed as designed in accordance with this code, shall not be granted a Certificate of Occupancy of any type and the permit applicant will be subject to enforcement proceedings as provided in this Article and/or additional legal proceedings.

**Sec. 12-209. Code Enforcement Inspection.**

- a. The Service Drive shall be completed, inspected, and approved by Sedgwick County Code Enforcement, prior to or at the time of the framing inspection. If the drive has not been constructed and approved by that time, Sedgwick County Code Enforcement will advise the permit applicant to contact the Sedgwick County Fire District #1 Fire Prevention Bureau within five (5) working days for inspection in accordance with Section 12-208.
- b. Any project not constructed with a Service Drive meeting the requirements of this code shall not be granted a Certificate of Occupancy of any type and the permit applicant will be subject to enforcement proceedings as provided in this Article and/or additional legal proceedings.

**Sec. 12-210. Fire Department Inspection.**

Sedgwick County Fire District #1 shall be the enforcement agency for the Service Drive Code for Sedgwick County. Sedgwick County Fire District #1 shall take following steps to inspect the service drive to obtain compliance with the Service Drive Code:

- a. A building permit applicant shall apply for a Service Drive re-inspection by contacting the Sedgwick County Fire Marshal. The permit applicant shall submit a re-inspection application and re-inspection fee in the amount of seventy five dollars (\$75.00) to Sedgwick County Fire District #1 prior to the Fire Marshal's site inspection. Upon re-inspection, if the Fire Marshal finds the Service Drive complies with this Article, the Fire Marshal will note the approval on the building permit card. If the Service Drive remains noncompliant, the Fire Marshal shall make written recommendations for improvements needed to bring the Service Drive into compliance with the terms of this Article.
- b. When the Fire Marshal finds the Service Drive does not comply with the requirements of this Article at the time of the Fire Marshal's first re-inspection, the permit applicant shall submit another re-inspection application and an additional re-inspection fee in the amount of seventy five dollars (\$75.00) to the Sedgwick County Fire District #1 before a

second re-inspection will be conducted. If the Service Drive is found to be in compliance at the time of the Fire District's second re-inspection, the Fire Marshal will note the approval on the building permit card. If the Service Drive remains noncompliant, the Fire Marshal shall again make written recommendations for improvements needed to bring the Service Drive into compliance with the terms of this Article.

- c. When the Fire Marshal finds the Service Drive does not comply with the requirements of this Article at the time of the Fire Marshal's second re-inspection, the permit applicant shall submit another re-inspection application to the Sedgwick County Fire District #1 before a third re-inspection will be conducted. The re-inspection fee will be waived for this third re-inspection. If the Service Drive remains noncompliant following the third re-inspection, the Fire Marshal will issue a uniform complaint along with a "STOP WORK ORDER," at which time all construction, building or other work on the structure shall cease. Additional legal proceedings may be implemented as needed to obtain compliance with this Article.

**Sec. 12-211. Enforcement and Penalties.**

- a. The Sedgwick County Fire Marshal shall have the following authority to obtain compliance with the Service Drive Code and may exercise discretion in implementing any or all of the following:
  - 1. Issue a uniform complaint to the permit applicant for violation of this article.
  - 2. Issue a "STOP WORK ORDER" on the building project until such time the service drive is brought into compliance.
  - 3. Initiate any additional legal action, including but not limited to, abatement, injunction, or other equitable relief.
- b. It shall be unlawful for any person, firm, corporation, or other entity to construct or maintain a Service Drive in violation of this Article. Each day of a violation shall constitute a separate offense.
- c. This Article is enforceable under Chapter 8 of the Sedgwick County Code. Officials of Fire District #1 and any code enforcement officer or law enforcement officer being duly authorized and having jurisdiction in the county shall have the power to sign, issue and execute a uniform complaint and notice to appear in County Court to any person violating any provision of this Article.
- d. Violations of this Article are punishable as provided for in Section 1-8.



- e. Except as otherwise stated, violations of this Article are Class H offenses, as described in Section 8-5(a).

**Sec. 12-212. Other remedies unaffected.**

Nothing in this Article shall be construed to limit or forbid the county or any other person from pursuing any other remedies available at law or in equity to enforce the provisions of this Article.

**Secs. 12-213 to 12-222. Reserved.**

**DIVISION 2. FLOODPLAIN MANAGEMENT AREAS**  
**Drainage Structures for Service Drives**

**Sec. 12-223. Purpose.**

The purpose of this division is to provide for all-weather access for emergency vehicles to structures in floodplain management areas, where any part of the structure is located more than 200 feet from a publicly maintained road. This will help prevent or reduce loss of life, personal injury, and property damage during times of high water or floods.

**Sec. 12-224. Permits.**

For all new and reconstructed drainage structures that are served by any Service Drive crossing a drainage way, swale, stream, creek or river, the following design standards and rules shall apply:

- a. If a Service Drive crosses or encroaches a mapped floodplain as defined or described on the Flood Insurance Rate Map (FIRM) for Sedgwick County, the building permit applicant will be required to apply for and obtain a permit as provided for in Chapter 13, Floodplain Management, of the Sedgwick County Code.
- b. All Service Drives crossing a drainage pattern, swale, stream, creek or river having a drainage area of two hundred forty (240) acres or more must comply with K.S.A. 24-126 (and amendments thereto), K.S.A. 82a-301 through 82a-305a (and amendments thereto), and all other applicable laws. These requirements include applying for and receiving any and all permits as required by the state Division of Water Resources. If a state permit is required, it must be applied for and obtained before a county development permit will be issued.

**Sec. 12-225. Plans.**

In order to provide the Sedgwick County Director of the Department of Code Enforcement with sufficient information to properly evaluate the proposed Service Drive, the building permit applicant shall submit the following documentation to the Director:

- a. A topographic map of the area prepared by a registered land surveyor and having the following minimum requirements:
  1. Scale must not be less than one inch (1") to one hundred feet (100'); contour intervals must not be greater than two feet (2');
  2. Easement limits for all service drives must be indicated; and
  3. A benchmark (a known elevation) shall be established within the area being developed and shall be referenced on the topographic map.
- b. A plan and a profile of the proposed Service Drive and any drainage improvements which have been prepared by a licensed engineer. The plan and profile shall have the following minimum requirements:
  1. The benchmark, as required within Sec. 12-225(a), shall be indicated on the Service Drive and drainage improvement plans; and
  2. The existing profile along the centerline of the proposed Service Drive shall be indicated.

**Sec. 12-226. Construction Standards.**

- a. The Service Drive and drainage structures must be designed by a licensed engineer to prevent road overflow, backwater on other properties, and erosion. Service Drives must be constructed to an elevation that is one foot (1') above the Base Flood Elevation or the 100-year flood event. The drainage structures that are placed under the road must be capable of passing the 100-year flood event without road overflow.
- b. Prior to construction of a Service Drive crossing a mapped floodplain or drainage pattern that requires a state permit, a copy of the permit as well as a set of engineered plans must be presented to Sedgwick County Public Works for review before a county development permit will be issued.
- c. The plans for the proposed Service Drive must show hydrologic and hydraulic data, drainage area, coefficient of runoff, design intensity, design runoff, design velocity, design flow depth, flow line profile for approximately fifty feet (50') up and down stream and the road profile

over the drainage structure. This engineering data must be designed and sealed by a licensed engineer.

**Secs. 12-227 to 12-237. Reserved.**

### **DIVISION 3. APPEALS**

**Sec. 12-238. Appeals process.**

The Sedgwick County Board of Fire Appeals shall hear and decide appeals of orders, decisions or determinations that are made relative to the application and interpretation of this code. The board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a copy to the Director of Code Enforcement and the Sedgwick County Fire Marshal.

**Sec. 12-239. Application for appeal.**

All applications for appeal shall be made in writing to the Sedgwick County Fire Chief within ten (10) calendar days of the pronouncement of the decision being appealed from, or be forever barred. An appeal application fee of one hundred dollars (\$100.00) shall accompany the application for appeal.

**Sec. 12-240. Limitations on authority.**

An application for appeal shall be based on a claim that the intent of this code or the rules legally adopted there under has been incorrectly interpreted, the provisions of this code do not fully apply, or an equivalent method of protection or safety is proposed. The board of appeals shall have no authority to waive requirements of this code. In making its decision, the board of appeals shall consider the degree of safety to be achieved and any resulting detriment to the public welfare; the board of appeals shall use the current Sedgwick County Fire Code as the nationally recognized standard. The board, in cooperation with the fire chief and the director of Sedgwick County Code Enforcement shall review the Sedgwick County Service Drive Code as deemed necessary and appropriate and make a report to the Board of County Commissioners of Sedgwick County regarding recommendations for changes thereto.

**Secs. 12-241 to 12-251. Reserved.**

**SECTION 2. SAVINGS CLAUSE.** All rights and remedies of Sedgwick County, and the property owners and residents thereof, are expressly saved as to any and all violations of any prior Fire Access Road regulation, resolution, or code that have accrued at the time of the effective date of this resolution. The court shall have all the powers that existed prior to the effective date of this resolution as to all such accrued violations.

**SECTION 3. COPIES.** Copies in number as needed shall also be furnished without charge by the Department of Code Enforcement of Sedgwick County to the courts and all administrative departments charged with the enforcement of this code.

**SECTION 4. AMENDMENT OF SEDGWICK COUNTY CODE.** Chapter 12 of the Sedgwick County Code is hereby amended by the addition of new Article III, as set forth herein.

**SECTION 5. SEVERABILITY CLAUSE.** Should any section, clause or provision of this resolution be declared by any court of competent jurisdiction to be invalid, the same shall not affect the validity of this resolution as a whole, or any part thereof, other than the part so declared to be invalid.

**SECTION 6. PUBLICATION and EFFECTIVE DATE.** The Sedgwick County Clerk is directed to publish this resolution once in the official county newspaper. This resolution shall take effect upon its publication once in the official county newspaper.

**[APPROVALS ON FOLLOWING PAGE]**

Commissioners present and voting were:

DAVID M. UNRUH	<u>aye</u>
TIM R. NORTON	<u>aye</u>
THOMAS G. WINTERS	<u>aye</u>
CAROLYN McGINN	<u>aye</u>
BEN SCIORTINO	<u>aye</u>

Dated this 13<sup>th</sup> day of October, 2004.

BOARD OF COUNTY COMMISSIONERS OF  
SEDGWICK COUNTY, KANSAS

Thomas Winters

THOMAS G. WINTERS, Chair  
Third District

David Unruh

DAVID M. UNRUH, Chair Pro Tem  
First District

Tim R. Norton

TIM R. NORTON, Commissioner  
Second District

Carol McGinn

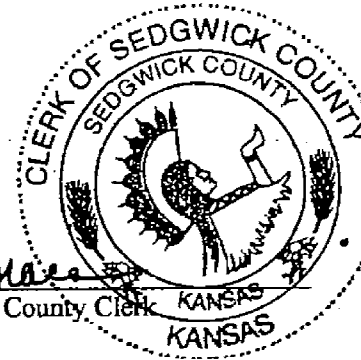
CAROLYN McGINN, Commissioner  
Fourth District

Ben Sciortino

BEN SCIORTINO, Commissioner  
Fifth District

ATTEST:

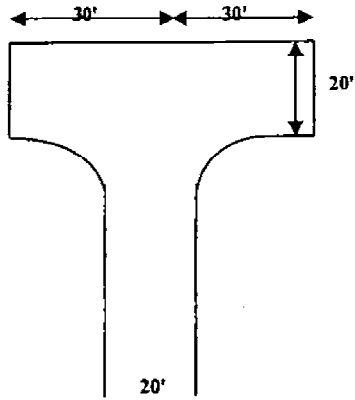
Don Brace  
DON BRACE, County Clerk



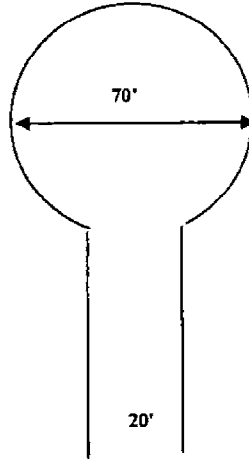
APPROVED AS TO FORM:

Karen L. Duranleau  
KAREN L. DURANLEAU  
Assistant County Counselor

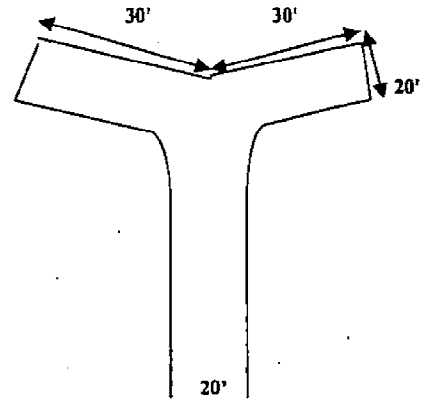
**EXHIBIT A**  
**Single Service Drive**  
**Turn-A-Round Dimensions**



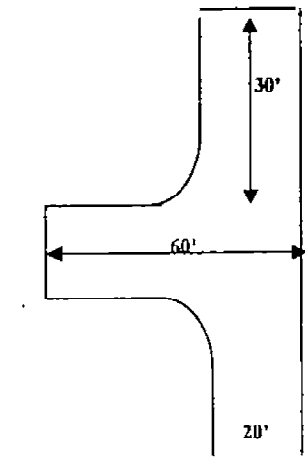
**60' Alternate Hammerhead**



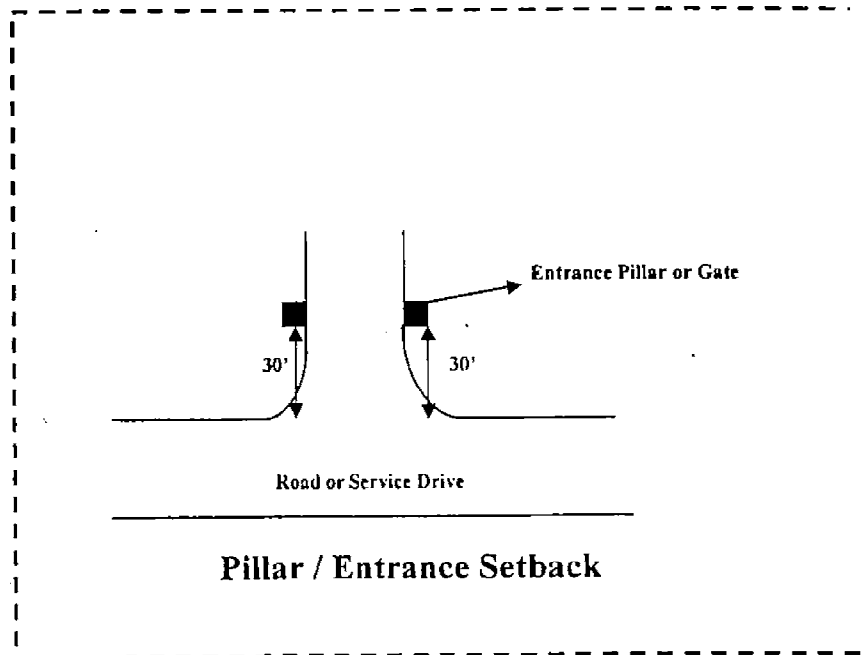
**70' Diameter Cul-de-Sac**



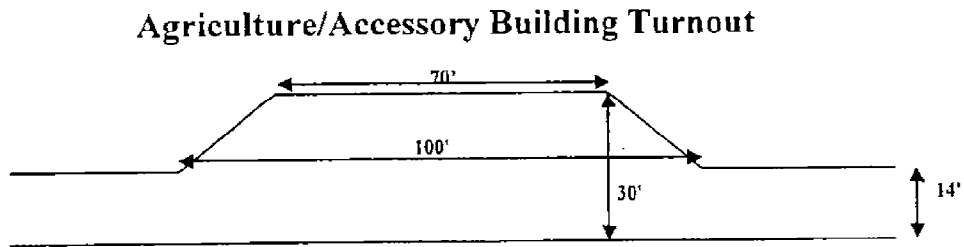
**Hammerhead Alternate #1**



**Hammerhead Alternate #2**



**Pillar / Entrance Setback**



**Agriculture/Accessory Building Turnout**

**EXHIBIT B**

**SAMPLE EASEMENT**

**[MARGINS. In order to file without additional fees, the Register of Deeds requires: three (3) inches of blank space at the top of the front page of the document; one (1) inch of blank space at the bottom of the front page of the document; and one half (1/2) inch margins on each side.]**

THIS INDENTURE made and entered into on this \_\_\_\_ day of \_\_\_\_\_, 200 \_\_, by \_\_\_\_\_, hereinafter referred to as "GRANTOR" and \_\_\_\_\_, hereinafter referred to as "GRANTEE."

WITNESSETH:

WHEREAS, GRANTOR is the owner of \_\_\_\_\_ [legal description]; which tract contains \_\_\_\_\_ [number] parcels each of which is improved by a free standing building; and

WHEREAS, GRANTOR desires to create a joint access easement to provide ingress and egress to each of such building from \_\_\_\_\_ [street] and to provide for the maintenance of such easement.

NOW, THEREFORE, GRANTOR does hereby grant and create a perpetual joint access easement across the portion of \_\_\_\_\_ [legal description] as described in Exhibit 1 (attached hereto) to provide ingress and egress to each of the parcels described; such joint access easement shall run with the land and shall be binding upon and inure to the benefit of the owners of each of such parcels, their heirs, successors and assigns.

At such time and from time to time as any or all of the owners of such parcels determines it to be necessary or advisable to repair or resurface such easement area to maintain in compliance with the Sedgwick County Service Drive Code, the owners of such parcels shall procure estimates for the cost of doing such work and the owners of such parcels shall accept the lowest and best estimate from a responsible bidder and will cause such work to be done in an expeditious manner. The owners of

such parcels shall pay in equal amounts for the repairs or resurfacing when payable. Should the owners fail to maintain the service drive in compliance with the Sedgwick County Service Drive Code, Sedgwick County may enter the premises and make any and all improvements necessary to bring the property into compliance with the Sedgwick County Service Drive Code. If Sedgwick County is not reimbursed by the owners for the improvement expenses, a lien on the properties served by the service drive will be filed for such expenses.

The covenants and agreements herein contained shall be binding upon the parties, their respective heirs, successors and assigns.

IN WITNESS WHEREOF, the undersigned has executed this Easement on the day and year first above written.

\_\_\_\_\_  
[Signature of GRANTOR]

STATE OF KANSAS    )  
                          )ss:  
SEDGWICK COUNTY )

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_ by  
\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Appointment Expires:

\_\_\_\_\_  
[Signature of GRANTEE]

STATE OF KANSAS    )  
                          )ss:  
SEDGWICK COUNTY )



This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_ by

\_\_\_\_\_

\_\_\_\_\_  
Notary Public

My Appointment Expires: