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RESOLUTION NO. 248-2023

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A RESOLUTION AMENDING ARTICLE II, SECTION B, ARTICLE III, SECTIONS B AND D, ARTICLE V, SECTION A AND ARTICLE VI, SECTIONS G AND H OF THE UNIFIED ZONING CODE AND REPEALING THE ORIGINAL SECTIONS THEREOF AND CREATING ARTICLE II, SECTION B, ITEM 12.q, ARTICLE III, SECTION D, ITEM 6.qq AND ARTICLE V, SECTION L. OF THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE (JULY 9, 2009, EDITION), AS ADOPTED BY REFERENCE IN RESOLUTION NO. 137-09, PERTAINING TO SHORT TERM RENTAL IN THE CITY.

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

SECTION I. That upon the recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission on May 11, 2023, and after said Planning Commission had given proper notice and held a public hearing as provided by law, and under the authority granted by K.S.A. 12-741 *et. seq.*, the Wichita-Sedgwick County Unified Zoning Code, as adopted by reference in Resolution No. 137-09, is hereby amended as follows:

Case No. DER2023-00006

Article II, Section B, Items 2.e., 5.i., 6.g. and 13.f. of the Unified Zoning Code (the "UZC"), are hereby amended to read as follows:

2.e. **Bed and Breakfast Inn** means the use of an owner-occupied or manager occupied residential Structure to provide rooms for temporary lodging or lodging and meals for not more than 15 Transient Guests on a paying basis. See Transient Guest in 13.f. herein. In the City of Wichita only, a Bed and Breakfast Inn shall be considered a Short Term Rental in the City.

5.i. **Group Residence** means a residential facility providing cooking, sleeping and sanitary accommodations for a group of people, not defined as a Family or Transient Guests. Typical uses include fraternity or sorority houses, dormitories, residence halls, boarding or lodging houses, children's homes, and emergency shelters for the homeless and for victims of crime, abuse or neglect. The term Group Residence does not include Group Homes Correctional Placement Residences, or Short Term Rental in the City.

6.g. **Hotel or Motel** means an establishment used, maintained or advertised as a place where sleeping accommodations are supplied for short term use by Transient Guests, in which rooms are furnished for the accommodation of such Transient Guests, which may have as an Accessory Use one or more dining rooms, and may include individual kitchen facilities. Typical uses include Hotels, Motels, tourist courts and emergency shelters for the homeless and for victims of crime, abuse or neglect. The term Hotel or Motel does not include Short Term Rental in the City.

13.f. **Transient Guest** means in the City, a person who occupies a room(s) for a period of not more than 28 days at a time (consecutive days). In the County, it means a person who occupies a

room(s) for a period of less than one week at a time.

Article III, Sections B, Items 4.b.(1), 5.b.(1), 6.b.(1), 7.b.(1), 8.b.(1), 9.b.(1), 10.b.(1), 11.b.(1), 12.b.(1), 13.b.(1), 14.b.(1), 16.b.(1) and 19.b.(1), and D, Item 6.g.(3) of the UZC, are hereby amended to read as follows:

III-B.4.b.(1)

Permitted Uses. The following Uses shall be permitted by-right in the SF-10 District.

Residential Uses

Single-Family

Manufactured Home (only in the County and subject to Sec. III-D.6.l)

Group Home

Short Term Rental in the City, subject to Sec. III-D.6.qq

III-B.5.b.(1)

Permitted Uses. The following Uses shall be permitted by-right in the SF-5 District.

Residential Uses

Single-Family

Manufactured Home (only in the County and subject to Sec. III-D.6.l)

Group Home

Short Term Rental in the City, subject to Sec. III-D.6.qq

III-B.6.b.(1)

Permitted Uses. The following Uses shall be permitted by-right in the TF-3 District.

Residential Uses

Single-Family

Duplex

Group Home

Short Term Rental in the City, subject to Sec. III-D.6.qq

III-B.7.b.(1)

Residential Uses

Single-Family

Duplex

Multi-Family

Accessory Apartment, subject to Sec. III-D.6.a

Assisted Living

Group Home

Short Term Rental in the City, subject to Sec. III-D.6.qq

III-B.8.b.(1)

Residential Uses

Single-Family

Duplex

Multi-Family

Accessory Apartment, subject to Sec. III-D.6.a

Assisted Living

Group Home

Short Term Rental in the City, subject to Sec. III-D.6.qq

III-B.9.b.(1)

Residential Uses

Single-Family
Duplex
Multi-Family
Accessory Apartment, subject to Sec. III-D.6.a
Assisted Living
Group Home
Group Residence, Limited
Short Term Rental in the City, subject to Sec. III-D.6.qq

III-B.10.b.(1)

Residential Uses

Single-Family
Manufactured Home
Manufactured Home Park
Manufactured Home Subdivision
Group Home
Short Term Rental in the City, subject to Sec. III-D.6.qq

III-B.11.b.(1)

Residential Uses

Single-Family
Duplex
Group Home
Short Term Rental in the City, subject to Sec. III-D.6.qq

III-B.12.b.(1)

Residential Uses

Single-Family
Duplex
Multi-Family
Manufactured Home (only in the County and subject to Sec. III-D.6.l)
Accessory Apartment, subject to Sec. III-D.6.a
Assisted Living
Group Home
Group Residence, Limited and General
Short Term Rental in the City, subject to Sec. III-D.6.qq

III-B.13.b.(1)

Residential Uses

Single-Family
Duplex
Multi-Family
Accessory Apartment, subject to Sec. III-D.6.a
Assisted Living
Group Home
Group Residence, Limited
Short Term Rental in the City, subject to Sec. III-D.6.qq

III-B.14.b.(1)

Residential Uses

Single-Family
Duplex
Multi-Family
Manufactured Home (only in the County and subject to Sec. III-D.6.1)
Accessory Apartment, subject to Sec. III-D.6.a
Assisted Living
Group Home
Group Residence, Limited and General
Short Term Rental in the City, subject to Sec. III-D.6.qq

III-B.16.b.(1)

Residential Uses

Single-Family
Duplex
Multi-Family
Manufactured Home (only in the County and subject to Sec. III-D.6.1)
Accessory Apartment, subject to Sec. III-D.6.a
Assisted Living
Group Home
Group Residence, Limited and General
Short Term Rental in the City, subject to Sec. III-D.6.qq

III-B.19.b.(1)

Residential Uses

Single-Family
Duplex
Multi-Family
Accessory Apartment, subject to Sec. III-D.6.a
Assisted Living
Group Home
Group Residence, Limited and General
Short Term Rental in the City, subject to Sec. III-D.6.qq

III-D. - Use Regulations Schedule

USE TYPE	ZONING DISTRICTS																				Conditions
	R R	S F	S F	S F	T F	M F	M F	B	M H	N O	G O	N R	L C	O W	G C	I P	I P	C B	L I	G I	
		2 0	1 0	5	3	1 8	2 9									- A		D			B
RESIDENTIAL																					
Single-Family	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			P			P
Duplex					P	P	P	P		P	P	P	P	P	P			P			P
Multi-Family					C	P	P	P		C	P	P	P	P	P			P			P
Manufactured Home	P	P	P						P												P D.6.1
Manufactured Home Subdivision									P												P D.6.1
Manufactured Home Park									P												P D.6.1
Accessory Apartment	C	C	C	C	C	P	P	P	C	C	P	P	P	P	P			P			P D.6.1
Assisted Living					C	P	P	P	C	C	P	P	P	P	P			P			P D.6.a
Group Home	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			P			P
Group Residence, Limited	C	C	C	C	C	C	C	P		C	P	P	P	P	P			P			P
Group Residence, General	C	C						C			P		P	P	P			P			P
Short Term Rental in the City			C/P	C/P	C/P	C/P	C/P	P	P	P	P	P	P	P	P			P			P D.6.qq

III-D.6.g.(3) A Wireless Communication Facility shall be approved by Administrative Permit in any zoning District, under the procedures in Sec. V-L, if it conforms to the Location/Design Guidelines in the "Wireless Communication Master Plan" and, for zoning Lots located within the City, is designated on the "Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map" as shown in the APPENDICES AND SUPPLEMENTS of this Code:

- (a) New disguised ground-mounted facilities up to 85 feet in height;
- (b) New undisguised ground-mounted facilities up to 65 feet in the SF-10, SF-5, TF-3, MF-18, MF-29, B and MH zoning Districts that comply with the compatibility height standards as outlined in Sec. IV-C.5, which shall not be reduced or waived through the provisions of Sec. V-1.2.e.;
- (c) New undisguised ground-mounted facilities up to 85 feet in the NO, GO and NR zoning Districts that comply with the compatibility height standards as outlined in Sec. IV-C.5, which shall not be reduced or waived through the provisions of Sec. V-1.2.e.;
- (d) New ground-mounted facilities up to 120 feet in height in the RR, SF-20, U, LC, OW, and GC zoning Districts that comply with the compatibility height standards as outlined in Sec. IV-C.5, which shall not be reduced or waived through the provisions of Sec. V-1.2.e.; or
- (e) New ground-mounted facilities up to 150 feet in height in the IP, CBD, LI and GI zoning Districts that comply with the compatibility height standards as outlined in Sec. IV-C.5, which shall not be reduced or waived through the provisions of Sec. V-1.2.e.

If the property on which the facility is located is within a CUP or P-O, the Administrative Permit shall also be considered as an application for an adjustment of the CUP or P-O as outlined in Sec. V-E.14, excluding the requirement of V-E.14.a, or Sec. V-C.14, excluding the requirement of V-C.14.a., as applicable.

Article V, Section A, Item 5 of the UZC, is hereby amended to read as follows:

5. **Standing to appeal.** The following persons shall have the standing to appeal a matter under this Code, except for a matter involving a Short Term Rental in the City, as shown below: the applicant; the Planning Director; the Zoning Administrator; the Planning Commission; the Governing Body; any owner of land directly affected by the action or proposed action; any owner of land within 200 feet of the property in question in the City and within 1,000 feet of the property in question in the County; if the matter is partly or wholly within the Urban Area of Influence of a second or third class city in the County, by the Planning Commission or municipal government of that city; or by any other person determined by either the body taking the final, non-appellate, action or by the appellate body to be actually or potentially aggrieved by the action or proposed action. For a matter involving a Short Term Rental in the City, the following persons shall have the standing to appeal the action of the Planning Director: the applicant, the Zoning Administrator, the Planning Commission, the Governing Body, and all owners of record of land directly affected by the action and which Abut and are Contiguous to the application area, irrespective of streets or alleys.

Article VI, Section G, Item 9 and Section II, Item 5 of the UZC, are hereby amended to read as follows:

VI-G. Planning Director

9. **Administrative Permits.** The Planning Director, with the concurrence of the Zoning Administrator, shall have the authority to approve, approve with conditions or modifications, or deny applications for Administrative Permits pursuant to Sec. V-L. The Planning Director's decision on such an application may be appealed by filing an application for a Conditional Use pursuant to Sec. V-D. If the application area is located within a CUP or P-O, the application for Conditional Use approval shall also be considered as an application for an amendment to the CUP or P-O as outlined in Sec. V-E.13, or Sec. V-C.13, as applicable.

VI-H. Zoning Administrator

5. **Administrative Permits.** The Zoning Administrator shall have the authority to review and recommend to the Planning Director approval, approval with conditions or modifications, or denial of applications for Administrative Permits pursuant to Sec. V-L. Administrative Permits may be granted by the Planning Director only with the concurrence of the Zoning Administrator.

Article II, Section B, Item 12.q. of the UZC, is hereby created to read as follows:

12.q. **Short Term Rental in the City** means the use of a residential Dwelling Unit or Structure to provide room(s) for temporary lodging or lodging and meals for Transient Guests on a paying basis. The residential Dwelling Unit or Structure may be owner or manager occupied. The term Short Term Rental in the City also includes Bed and Breakfast Inn.

Article III, Section D, Item 6.qq of the UZC, is hereby created to read as follows:

6.qq. Short Term Rental in the City. Although listed as permitted Uses in some Districts, Short Term Rental in the City shall always require an Administrative Permit and be subject to Sec. V-L (Administrative Permit review procedures) or a Conditional Use and be subject to Sec. V-D (Conditional Use review procedures) when non-owner occupied and located in the SF-10, SF-5, TF-3, MF-18 and MF-29 Districts. A non-owner occupied Short Term Rental in the City shall be permitted in all other Districts where listed as a permitted Use. An owner occupied Short Term Rental in the City shall be permitted where listed as a permitted Use. Whether allowed by-right, by Administrative Permit approval, or by Conditional Use approval, a Short Term Rental in the City shall be subject to the following standards:

- (1) Permitted only in residential Dwelling Units and permitted Accessory Apartments.
- (2) May be permitted as either a Primary Use or an Accessory Use.
- (3) Not permitted to be in any Recreational Vehicle.
- (4) Must be licensed and operated in accordance with the requirements of Chapter 3.40 of the Code of the City of Wichita.
- (5) Must be in compliance at all times with all applicable zoning, building, fire and life-safety, housing and health codes.
- (6) Must not exceed the posted capacity permitted in accordance with Chapter 3.40 of the Code of the City of Wichita.

For the purposes of this Section, owner occupied shall mean any Dwelling Unit in which the owner resides and which is the owner's primary place of residence. In order to be considered owner-occupied, the owner must be onsite during the period of time the unit(s) is rented as a

Short Term Rental.

Article V, Section L of the UZC, is hereby created to read as follows:

L. ADMINISTRATIVE PERMITS

The intent and purpose of this section is to allow for administrative action, and set out the required review procedures for Administrative Permits.

1. **Authority.** The Planning Director, with the concurrence of the Zoning Administrator shall have the authority to approve applications for Administrative Permits.
2. **Types of Administrative Permits Allowed.** The following Administrative Permits are allowed, when required by this Code.
 - a. Wireless Communication Facility, subject to Sec. III-D.6.g.
 - b. Short Term Rental in the City, subject to Sec. III-D.6.qq.
3. **Initiation.** An application for an Administrative Permit may be proposed by the owner(s) or the authorized representative of the owner(s) of the subject property. If the property is located within a CUP or P-O, the Administrative Permit shall also be considered as an application for an adjustment of the CUP or P-O as outlined in Sec. V-E.14, excluding the requirement of V-E.14.a. for a Wireless Communication Facility, or Sec. V-C.14, excluding the requirement of V-C.14.a. for a Wireless Communication Facility, as applicable.
4. **Application.** A complete application for an Administrative Permit shall be submitted to the Planning Department in a form established by the Planning Department along with a nonrefundable fee that has been established by the Governing Body to defray the cost of processing the application. No application shall be processed until the application is complete and the required fee has been paid. Applications shall include a site plan that clearly delineates the location and characteristics of the proposed use.
5. **Notices.** The provisions of this Section describe the various types of notices that may be required. The actual type of notice required for a given application is specified below.
 - a. Written notice.
 1. For a Wireless Communication Facility application, a sign shall be posted on the property for the specified time as required by Planning Commission policy.
 2. For a Short Term Rental in the City, written notification stating the nature of the proposed use shall be mailed to all owners of record of land which Abut and are Contiguous to the application area.
6. **Action by the Planning Director.** The Planning Director shall approve the application for an Administrative Permit unless the request would violate the provisions of Sec. V-L.7. The Planning Director may impose special conditions of approval on the Administrative Permit, including but not limited to time limitations, access limitations, design or architectural modifications, Screening, Landscaping, Parking, and other controls to prevent damage or mitigate adverse impacts to adjacent properties or safeguard public interests.
7. **Administrative Permit Criteria.** The Planning Director shall not approve an Administrative Permit if the Planning Director finds that the proposed development:

- a. is a Wireless Communication Facility that does not conform to the Location/Design Guidelines in the "Wireless Communication Master Plan" and, for zoning Lots located within the City, is not designated on the "Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map" of the APPENDICES AND SUPPLEMENTS of this Code, and that does not meet the requirements of Sec. III-D.6.g.;
- b. is a Short Term Rental in the City that does not meet the requirements of Sec. III-D.6.qq.;
- c. is a Short Term Rental in the City and more than 50% of all owners of record of land which Abut and are Contiguous to the application area, as specified above, file a written protest petition;
- d. would adversely affect the safety and convenience of vehicular and pedestrian circulation in the vicinity of the subject tract, including traffic reasonably expected to be generated by the proposed Use and other Uses in the area given the existing zoning, existing land Uses, and proposed land Uses in the area;
- e. creates more adverse impacts on existing Uses in surrounding areas than might reasonably result from Development of the Site in strict compliance with applicable standards;
- f. would not be compatible with existing or permitted Uses on Abutting Sites, in terms of Building Height, Setbacks and Open Spaces, bulk and scale, Landscaping, Parking or circulation features; or
- g. will be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity for reasons specifically articulated by the Planning Director.

The applicant shall have the burden of demonstrating that the proposal meets the applicable review criteria.

8. **Notice of decision.** The Planning Director shall, within three business days of making a decision, give notice of such decision to the applicant, to the Zoning Administrator, and to any other person reasonably requesting such notice. The Planning Director's decision shall be considered confirmed as submitted if the Zoning Administrator has not responded within ten days of the date of transmission, unless the review period is extended by action of the applicant.
9. **Appeal of the Planning Director's decision.** For the purposes of this Section, any person shall have the standing to appeal the action of the Planning Director, as specified in Sec. V-A.5. When an application for an Administrative Permit has been denied, or when such application has been approved with conditions or modifications that are unacceptable to the applicant, the applicant may file an application for Conditional Use approval with the Planning Commission pursuant to Sec. V-D and the filing fee for the Administrative Permit shall be applied toward the filing fee for the Conditional Use approval. When an application for an Administrative Permit, except for a Short Term Rental in the City, has been approved, with or without conditions, and a person with standing to appeal as specified in Sec V-A.5 has filed a written protest petition, the application shall be forwarded to the Planning Commission for Conditional Use approval pursuant to Sec. V-D. When an application for a Short Term Rental in the City has been approved, with or without conditions, and a person with standing to appeal as specified in Sec V-A.5, except for all owners of record of land which Abut and are Contiguous to the application area, file a written protest petition, the application shall be forwarded to the Planning Commission for Conditional Use approval pursuant to Sec. V-D. If more than 50% of all owners of record of land which Abut and are Contiguous to the application area, as specified above, file a written protest petition, the application shall be forwarded to the Planning Commission for Conditional Use approval pursuant to Sec. V-D. Any appeal provided for in this Section must be filed within 14 days of the date of the decision.

If the application area is located within a CUP or P-O, the application for Conditional Use approval shall also be considered as an application for an amendment to the CUP or P-O as outlined in Sec. V-E.13, or Sec. V-C.13, as applicable.

10. **Appeal of the Planning Commission's decision.** Any person as specified in Sec. V.L.9 dissatisfied with the decision of the Planning Commission may appeal to the Governing Body. Any such appeal must be filed within 14 days of the date of the final decision.
11. **Appeals of final action.** The Governing Body's decision on an application for Conditional Use, CUP or P-O approval, as applicable, shall be the final local action. Appeals of such final local action shall be taken to the district court in and for the Eighteenth Judicial District of the State of Kansas. Any such appeal must be filed within 30 days of the date of the final decision.

The originals of Article II, Section B, Items 2.e., 5.i., 6.g. and 13.f., Article III, Section B, Items 4.b.(1), 5.b.(1), 6.b.(1), 7.b.(1), 8.b.(1), 9.b.(1), 10.b.(1), 11.b.(1), 12.b.(1), 13.b.(1), 14.b.(1), 16.b.(1) and 19.b.(1), and Section D, Item 6.g.(3), Article V, Section A, Item 5 and Article VI, Section G, Item 9 and Section H, Item 5 of the Unified Zoning Code are hereby repealed.

SECTION II. Except as modified by the Resolution, the remainder of the UZC shall remain in effect.

SECTION III. That this Resolution shall take effect and be in force from and after its adoption by the Governing Body and publication in the official county newspaper.

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Commissioners present and voting were:

PETER F. MEITZNER	<u>Aye</u>
SARAH LOPEZ	<u>Aye</u>
DAVID T. DENNIS	<u>Aye</u>
RYAN K. BATY	<u>Aye</u>
JAMES M. HOWELL	<u>Aye</u>

Dated this 15 day of November, 2023.



BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

ATTEST:

[Signature]
KELLY B. ARNOLD, County Clerk

[Signature]
PETER F. MEITZNER, Chairman
Commissioner, First District

[Signature]
JAMES M. HOWELL, Chair Pro Tem
Commissioner, Fifth District

APPROVED AS TO FORM:

[Signature]
KIRK W. SPONSEL
Deputy County Counselor

[Signature]
SARAH LOPEZ
Commissioner, Second District

[Signature]
DAVID T. DENNIS
Commissioner, Third District

[Signature]
RYAN K. BATY
Commissioner, Fourth District