

RESOLUTION NO. ____-2017

**A RESOLUTION WAIVING APPLICATION OF THE
SEDGWICK COUNTY SERVICE DRIVE CODE AS IT PERTAINS TO CERTAIN
PROPERTY LOCATED IN SEDGWICK COUNTY, KANSAS**

WHEREAS, Sedgwick County Resolution 181-04, codified at Sedgwick County Code Section 12-201 *et seq.*, established the “Service Drive Code” which requires emergency vehicle access to structures be maintained by owners of property having certain characteristics;

WHEREAS, the Service Drive Code was enacted to address life, safety and wellbeing of citizens and emergency responders in Sedgwick County, Kansas;

WHEREAS, it has come to the attention of the Board of County Commissioners of Sedgwick County, Kansas (“County”) that certain property described herein has become landlocked and, given the nature of the property, the requirements of the Service Drive Code cannot be met without imposing extraordinary expense to the property owners;

WHEREAS, in exchange for waiving the application of the Service Drive Code, the property owners have agreed to waive claims of liability against the County and the Fire District which may arise for any damage, injury or harm experienced to persons or property as a result of granting the waiver of application of the Service Drive Code; and

WHEREAS, the County has authority to waive application of the Service Drive Code provisions as they apply to property in Sedgwick County, Kansas.

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

SECTION 1. The provisions of Sedgwick County Code Section 12-201 *et seq.* are hereby waived with respect to the property in the legal descriptions which are incorporated herein as Exhibits A, B, C and D to Attachment 1.

SECTION 2. Said waiver is conditioned on the owners of said properties executing a Waiver of Claims, which is incorporated herein as Attachment 1, waiving claims of liability against the County and the Fire District which may arise for any damage, injury or harm experienced to persons or property as a result of granting such waiver.

SECTION 3. This resolution shall be effective upon complete execution of the “Waiver of Claims” (Attachment 1).

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Commissioners present and voting were:

DAVID M. UNRUH
MICHAEL B. O'DONNELL, II
DAVID T. DENNIS
RICHARD RANZAU
JAMES M. HOWELL

Dated this _____ day of _____, 2017

BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

ATTEST:

KELLY B. ARNOLD, County Clerk

DAVID M. UNRUH, Chairman
Commissioner, First District

MICHAEL B. O'DONNELL, II, Chair Pro Tem
Commissioner, Second District

APPROVED AS TO FORM:

KAREN L. POWELL
Deputy County Counselor

DAVID T. DENNIS
Commissioner, Third District

RICHARD RANZAU
Commissioner, Fourth District

JAMES M. HOWELL
Commissioner, Fifth District

WAIVER OF CLAIMS

This Waiver of Claims ("Waiver") is made and entered into this ____ day of July, 2017 by the following owners of real property located within the unincorporated area of Sedgwick County, Kansas:

Charles Reiff Brown; Theresa Loree Brown; Bruce Brown; Rachel Brown; Russell Dale Cryer; Lesli Dawn Cryer; Philip E. Teakell and Linda R. Teakell (collectively referred to as "Property Owners").

WHEREAS, the County established the Service Drive Code (Sedgwick County Resolution No. 181-04, codified at Sedgwick County Code Section 12-201 *et seq.*) which requires emergency vehicle access to structures be maintained by owners of property having certain characteristics;

WHEREAS, the County granted Property Owners' request for waiver of the Service Drive Code requirements as described in County Resolution _____ - 2017;

WHEREAS, as consideration for granting a waiver of Service Drive Code provisions, the Property Owners enter into this Waiver and agree to waive liability and claims against the County and Sedgwick County Fire District #1.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and promises contained herein, the Property Owners agree as follows:

1. Charles Reiff Brown and Theresa Loree Brown own real property described in Exhibit A.
2. Bruce Brown and Rachel Brown own real property described in Exhibit B.
3. Russell Dale Cryer and Lesli Dawn Cryer own real property described in Exhibit C.
4. Philip E. Teakell and Linda R. Teakell own real property described in Exhibit D.
5. The Property Owners requested that the County waive certain requirements of its Service Drive Code and the County did so within County Resolution _____ - 2017 conditioned on the Property Owners agreeing to waive liability against the County and Sedgwick County Fire District #1 ("Fire District").
6. In consideration for the County's waiver of application of the Service Drive Code, the Property Owners hereby waive and release any and all claims against the County and/or the Fire District, for any and all types of loss that may arise as a result of the inability for emergency vehicles, including, but not limited to, Fire, Emergency Medical Service or Law Enforcement from any agency, to access any of the above-described properties. The Property Owners are of legal age and of sound mind and are not under any restraint, and this Waiver has been fully explained to them and they understand the Waiver and the legal effect thereof, and the same is a free and voluntary act and deed.

7. This Waiver will be attached to County Resolution _____ - 2017 which grants the waiver of Service Drive Code requirements and any release of liability is a material condition of said waiver. This Waiver is binding upon and inures to the benefit of the executors, administrators, personal representatives, heirs, successors, assigns and all subsequent interest holders of any kind for the properties identified above. All Property Owners warrant and agree to apprise any subsequent interest holder of the nature of this Waiver in writing, independent of the filing with the Sedgwick County Register of Deeds.
8. This Waiver will be filed with the Sedgwick County Register of Deeds.

IN WITNESS WHEREOF, all Property Owners hereto have executed this Waiver as of the day and year first above written.

PROPERTY OWNERS

Charles Reiff Brown

Theresa Loree Brown

Bruce Brown

Rachel Brown

Russell Dale Cryer

Lesli Dawn Cryer

Philip E. Teakell

Linda R. Teakell

Exhibit "A"

Legal Description of Charles and Theresa Lot

That part of the SE1/4 of the SE1/4 of Sec. 11, Twp. 26-S, R-2-E of the 6th P.M., Sedgwick County, Kansas, described as Commencing at the S.E. Corner of said SE1/4; thence N01°07'48"W, along the East line of said SE1/4, 1033.47 feet to the point of beginning; thence S88°51'21"W, 1327.07 feet to the West line of the SE1/4 of said SE1/4; thence N01°08'39"W, along the West line of the SE1/4 of said SE1/4, 295.39 feet to the N.W. Corner of the SE1/4 of said SE1/4; thence N89°05'11"E, along the North line of the SE1/4 of said SE1/4, 1327.15 feet to the N.E. Corner of the SE1/4 of said SE1/4; thence S01°07'48"E, along the East line of the SE1/4 of said SE1/4, 290.03 feet to the point of beginning,

AND

That part of the N1/2 of the SE1/4 of Sec. 11, Twp. 26-S, R-2-E of the 6th P.M., Sedgwick County, Kansas, described as Commencing at the S.E. Corner of the N1/2 of said SE1/4; thence S89°05'11"W, along the South line of the N1/2 of said SE1/4, 829 feet to the point of beginning; thence N01°07'48"W, parallel with the East line of said SE1/4, 55 feet to a point 1268.11 feet South of the North line of said SE1/4 and being a point on the northerly line of a 24 foot Ingress and Egress easement recorded at Doc. #FLM-PG: 28653616; thence S57°29'13"W, along said easement, 80.97 feet to the P.C. of a curve to the right, having a radius of 208 feet; thence Southwesterly, along said curve and through a central angle of 07°24'15", a chord bearing of S61°11'20"W, 26.86 feet and an arc distance of 26.88 feet to the South line of the N1/2 of said SE1/4; thence N89°05'11"E, along the South line of the N1/2 of said SE1/4, 92.91 feet to the point of beginning,

AND

That part of the N1/2 of the SE1/4 of Sec. 11, Twp. 26-S, R-2-E of the 6th P.M., Sedgwick County, Kansas, described as Commencing at the N.E. Corner of said SE1/4; thence S01°07'48"E, along the East line of said SE1/4, 1160 feet to the point of beginning; thence S89°03'32"W parallel with the North line of said SE1/4, 829 feet; thence S01°07'48"E, parallel with the East line of said SE1/4, 163.11 feet to the South line of the N1/2 of said SE1/4; thence N89°05'11"E, along the South line of the N1/2 of said SE1/4, 829 feet to the S.E. Corner of said SE1/4; thence N01°07'48"W, along the East line of said SE1/4, 163.50 feet to the point of beginning.

Exhibit "B"

Legal Description of Bruce and Rachel Lot

A tract of land in the Southeast Quarter of Section 11, Township 26 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as commencing at the Southeast corner of said Southeast Quarter; thence Northerly on the East line of said Southeast Quarter, on an assumed bearing of North 01 degrees 07' 48" West, 675.72 feet to the point of beginning; thence South 88 degrees 51' 21" West, 960.35 feet; thence North 0 degrees 56' 28" West, 105.25 feet; thence South 88 degrees 51' 21" West, 367.01 feet to a point on the West line of the East half of the Southeast Quarter; thence North 1 degree 08' 39" West on said West line, 252.49 feet; thence North 88 degrees 51' 21" East, a distance of 1327.07 feet; thence South 01 degree 00' 48" East, 357.75 feet to the point of beginning.

Exhibit "C"

Legal Description of Cryer Lot

The South 26 rods (429 feet) of the west 20 rods (330 feet) of the east 40 rods (660 feet) of the SW1/4 of the NE1/4 of Sec. 11, Twp. 26-S, R-2-E of the 6th P.M., Sedgwick County, Kansas,

AND

That part of the SE1/4 of Sec. 11, Twp. 26-S, R-2-E of the 6th P.M., Sedgwick County, Kansas, described as Commencing at the N.E. Corner of said SE1/4; thence S89°03'32"W, along the north line of said SE1/4, 1411.10 feet to a point 580.11 feet east of the N.W. Corner of the E1/2 of the NW1/4 of said SE1/4 for a point of beginning; thence S89°03'32"W along the north line of said SE1/4, 580.11 feet to the N.W. Corner of the E1/2 of the NW1/4 of said SE1/4; thence S01°09'04"E, along the west line of the E1/2 of the NW1/4 of said SE1/4, 1325.55 feet to the S.W. Corner of the E1/2 of the NW1/4 of said SE1/4; thence N89°05'11"E, along the south line of the E1/2 of the NW1/4 of said SE1/4, 580.11 feet; thence N01°09'04"W, parallel with the west line of the E1/2 of the NW1/4 of said SE1/4, 1322.85 feet to the place of beginning, together with the right of Ingress & Egress over and across a strip of land 24 feet in width described as Commencing at the S.W. Corner of the E1/2 of the NW1/4 of said SE1/4; thence N89°05'11"E, along the south line of the N1/2 of said SE1/4, 580.11 feet; thence N01°09'04"W, parallel with the west line of the E1/2 of the NW1/4 of said SE1/4, 28.72 feet for a point of beginning; thence N01°09'04"W, 24 feet; thence N89°05'11"E, 342.72 feet; thence S01°08'40"E, 79.89 feet to the northerly line of a 24 foot wide Ingress & Egress easement recorded at Doc. #/FLM-PG:28653616, said point being on a curve, having a radius of 412 feet; thence southwesterly along said curve to the left and through a central angle of 03°23'51", a chord bearing of S78°09'57"W, 24.43 feet, and an arc distance of 24.43 feet; thence N01°08'40"W, 60.51 feet; thence S89°05'11"W, 318.71 feet to the point of beginning, and together with the right of Ingress & Egress to and from 143rd Street East over and across the 24 foot wide Ingress & Egress Easement recorded at Doc. #/FLM-PG:28653611.

Exhibit "D"

Legal Description of Teakell Lot

The South 26 rods (429 feet) of the east 20 rods (330 feet) of the SW1/4 of the NE1/4 of Sec. 11, Twp. 26-S, R-2-E of the 6th P.M., Sedgwick County, Kansas,

AND

That part of the SE1/4 of Sec. 11, Twp. 26-S, R-2-E of the 6th P.M., Sedgwick County, Kansas, described as Commencing at the N.E. Corner of said SE1/4; thence S89°03'32"W, along the north line of said SE1/4, 829 for a point of beginning; thence S01°07'48"E, parallel with the east line of said SE1/4, 1268.11 feet to the northerly line of a 24 foot wide Ingress & Egress easement recorded at Doc. #/FLM-PG: 28653616; thence S57°29'13"W, along said easement 80.97 feet to the P.C. of a curve to the right, having a radius of 208 feet; thence southwesterly, along said curve and through a central angle of 07°24'15", a Chord bearing of S61°11'20"W, 26.86 feet and an arc distance of 26.88 feet to the south line of the N1/2 of said SE1/4; thence S89°05'11"W, along the south line of the N1/2 of said SE1/4, 488.70 feet to a point 580.11 feet east of the S.W. Corner of the E1/2 of the NW1/4 of said SE1/4; thence N01°09'04"W, parallel with the west line of the E1/2 of the NW1/4 of said SE1/4, 1322.83 feet to a point on the north line of said SE1/4, said point being 580.11 feet east of the N.W. Corner of the E1/2 of the NW1/4 of said SE1/4; thence N89°03'32"E, along the north line of said SE1/4, 582.11 feet to the point of beginning, together with the right of Ingress & Egress to and from 143rd Street East over and across the 24 foot wide Ingress & Egress Easement recorded at Doc. #/FLM-PG: 28653616.