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**ORDINANCE NO. 20222**

AN ORDINANCE introduced by City Manager Brent Trout, concerning zoning regulations for small cell wireless facilities, amending City of Topeka Code § 18.55.030, § 18.55.190, § 18.60.010 and § 18.225.010 and repealing original sections.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS:

Section 1. That section 18.55.030, “C” definitions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**“C” definitions.**

“Cargo container or shipping container” means any portable, weather-resistant receptacle, container or other structure that is designed or used for the storage or shipment of household goods, commodities, building materials, furniture, or merchandise.

“Carport” means a roofed structure intended for the storage of motor vehicles and enclosed on not more than two sides by walls.

“Cemetery” means property used for the interring of the dead.

“Certificate of occupancy” means official certification that a premises conforms to provisions of the zoning ordinance (and building code) and may be used or occupied.

“Class A club” means a premises which is owned or leased by a corporation, partnership, business trust or association and which is operated thereby as a bona fide nonprofit social, fraternal or war veteran’s club, as determined by the state of Kansas, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates (hereinafter referred to as members), and their families and guests accompanying them.

“Class B club” means a premises operated for profit by a corporation, partnership

or individual, to which members of such club may resort for the consumption of food or alcoholic beverages and for entertainment.

“Classification” means: (1) division of uses or activities into groups or subgroups for regulatory purposes; (2) the process of deciding what uses should be permitted in what zoning districts; and (3) the zone requirements imposed on a particular piece of property. A subsequent change in a classification is called a reclassification.

“Clinic” means an establishment where patients are admitted for examination and treatment by one or more physicians, dentists, psychologists or social workers and where patients are not usually lodged overnight.

“Club or lodge, private” means a building and facilities owned, leased or operated by a corporation, association, person, or persons for a social, educational or recreational purpose; but not primarily for profit or to render a service which is customarily carried on as a business; and shall not include or be construed as a class A or class B club.

“Commercial equipment” means any equipment or machinery used in a business, trade or industry, including liquid storage tanks exceeding 100 gallons, earth-moving equipment, trenching or pipe-laying equipment, landscaping equipment, spools of wiring/cable, portable pumps, portable generators, portable air compressors, pipes, pool cleaning equipment and supplies, and any other equipment or machinery similar in design or function. However, equipment and machinery for business use kept within an enclosed pickup truck or van; ladders, PVC pipe, or conduit attached to a truck or van via a rack; or equipment and machinery solely for personal residential use are not included.

“Commercial vehicle” means any vehicle, excluding pickup trucks, used for a

business that has a height (including ladder racks and other items attached thereto) exceeding a height of 10.5 feet or width (excluding mirrors) exceeding eight feet or length exceeding 25 feet or manufacturer's rating exceeding 12,000 pounds of gross vehicle weight. Additionally, the following types of vehicles shall all be considered commercial vehicles: flatbed, stake-bed, or box trucks except those that are pickup trucks, buses, semi-trailers or tractor-trailers, dump trucks, cement mixers, wreckers, and trailers loaded with any commercial equipment or construction materials. Additionally, any vehicles, including pickup trucks, with any of the following exterior modifications shall be considered commercial vehicles: liquid storage tanks exceeding 100 gallons, aerial buckets or platforms, welding equipment, or mechanical lifts or arms for loading and unloading materials/equipment. Vehicles for transferring passengers and their personal luggage/cargo for churches, nonprofit agencies, nursing homes, retirement communities, and other similar facilities shall not be considered commercial vehicles. Recreational vehicles are not considered commercial vehicles unless used for business purposes.

“Common open space” means ground area and the space above, which is unimpeded by any enclosed building, and located within a development which is designed for and designated for the use and enjoyment of occupants of the development. Common open space areas may be used for: landscaping, water bodies, stormwater management systems, sidewalks, walking trails, courtyards, and passive recreational purposes. Parking lots and storage areas for vehicles, equipment, and material shall not be considered as open space.

“Communication antenna” means an antenna or array of antennas at one location intended to broadcast and receive signals as part of a wide-area

communication system such as cellular telephone systems, pager systems or wireless computer networks, but excluding short-wave radio antennas operated primarily as a hobby.

“Communication tower” means a ground-mounted guyed, monopole or self-supporting tower, constructed as a freestanding structure or in association with a building, other permanent structure or equipment, containing one or more antennas intended for transmitting or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication. Not included in this definition are: (a) small cell wireless facilities; and (2) towers which are held, used or controlled exclusively for public purposes by any department or branch of government. Such towers are defined as a “public use facility” and regulated accordingly.

“Community center” means a building open to the public, together with lawful accessory buildings and uses, used for recreational and cultural activities and usually not operated for profit.

“Community facilities” means public or privately owned facilities used by the public, such as streets, schools, libraries, parks and playgrounds; also facilities owned and operated by nonprofit private agencies such as churches, settlement houses and neighborhood associations.

“Community living facility, type I” means a dwelling building or portion thereof, and premises other than a hospital, operated and licensed in accordance with any and all applicable state and local requirements, in which short-term residential care for profit or not-for-profit is provided as well as supportive programs which assist or train the recipients to address or improve their living skills relative to chemical dependency, behavioral modification, domestic abuse, mental illness, economic recovery, job

training, emergency shelter, and similar such physical, economic, or social reintegration programs. Although recipients do not require intensive treatment or secure environment, structured programs often include individual and group counseling, recreational and social activities, milieu therapy and individual work therapies designed to provide a transition and reentry into society, gainful employment, and sustained welfare upon leaving the facility. Residents are not in need of acute medical or psychiatric care and the facility is operated on a 24-hour basis. "Community living facility, type I" does not include a correctional placement residence or facility.

"Community living facility, type II" means a dwelling building or portion thereof, and premises other than a hospital, operated and licensed in accordance with any and all applicable state and local requirements, in which residential care for profit or not-for-profit is provided; intermediate treatment programs in a therapeutic setting for diagnostic and primary treatment environment relative to chemical dependency, behavioral modification, and mental illness and similar such physical and social treatment programs may be provided. Residents are not in need of acute medical or psychiatric care and the facility is operated on a 24-hour basis and may be operated as a secure facility. "Community living facility, type II" does not include a correctional placement residence or facility.

"Community service organization" means an organization, group or association formed for the single purpose of providing a philanthropic service for the community, but not to include any use which provides social or physical entertainment, except as a part of the philanthropic services.

"Compatibility" means the characteristics of different uses or activities that permit them to be located near each other in harmony and without conflict.

“Comprehensive plan” means a plan intended to guide the growth and development of a community or region and one that includes analysis, recommendations and proposals for the community’s population, economy, housing, transportation, community facilities and land use.

“Conditional use” means a use permitted in a particular zoning district only upon showing that such use in a specified location will comply with all the conditions and standards for the location or operation of such use as specified in a zoning ordinance and authorized by the governing body.

“Condominium” means the legal arrangement in which a dwelling unit in an apartment building or residential development or a retail or office unit in a commercial building or commercial development is individually owned but in which the common areas are owned, controlled and maintained through an organization consisting of all the individual owners.

“Construction and demolition waste” means waste building materials and rubble resulting from construction, remodeling, repair or demolition operations on houses, commercial buildings, other structures and pavements.

“Contractor’s office” means a building or portion of a building used for conducting business related to construction, including interior shops with minor fabrication and assembly processes that have minimal off-site impacts.

“Contractor’s yard” means an outdoor storage area operated by a contractor for the storage of equipment, vehicles, and materials commonly used in the contractor’s type of business.

“Conversion” means the change of the use of an existing building into another use.

“Correctional facility” means a public use facility providing housing and care for individuals confined for violations of law. Typical uses include jails, prisons, and juvenile detention centers. A correctional facility does not include a correctional placement residence or facility, general, or a correctional placement residence or facility, limited.

“Correctional placement residence or facility” means a facility for individuals or offenders that provides residential and/or rehabilitation services for those who reside or have been placed in such facilities due to any one of the following situations: (1) prior to, or instead of, being sent to prison; (2) received a conditional release prior to a hearing; (3) as a part of a local sentence of not more than one year; (4) at or near the end of a prison sentence, such as a state-operated or franchised work release program, or a privately operated facility housing parolees; or (5) received a deferred sentence and placed in a facility operated by community corrections. Such facilities will comply with the regulatory requirements of a federal, state or local government agency; and if such facilities are not directly operated by a unit of government they will meet licensure requirements that further specify minimum service standards.

“Correctional placement residence or facility, general” means a facility occupied by more than 15 individuals, including staff members who may reside there.

“Correctional placement residence or facility, limited” means a facility occupied by three to 15 individuals, including staff members who may reside there.

“Country club” means a land use consisting of both a golf course and a clubhouse building for social assembly, food and beverage preparation/service, pro shop, club office, recreational and physical exercise facilities including fitness center, spa, swimming pool, court games, locker and shower facilities; and vehicle parking areas and drives. Country club facilities are open to members and their guests for a

membership fee.

“Court” means an open space which may or may not have street access, and around which is arranged a single building or group of related buildings.

“Court, inner” means that portion of a lot unoccupied by any part of a building, surrounded on all sides by walls or by walls and a lot line.

“Court, outer” means that portion of a lot unoccupied by any part of a building, opening onto a street, alley, or yard.

“Crisis center, type I” means a facility or portion thereof and premises which is used for purposes of emergency shelter, crisis intervention, including counseling, referral, hotline response, and similar human social service functions. Said facility shall not include meal preparation, except for residents of the center, distribution, or service; merchandise distribution; or shelter, including boarding, lodging, or residential care.

“Crisis center, type II” means a facility or portion thereof and premises which is used for purposes of emergency shelter, crisis intervention, including counseling, referral, hotline response, and similar human social service functions; meal preparation, distribution, and service; merchandise distribution; and temporary and/or transient shelter, including boarding and lodging facilities.

“Cultural facilities” means establishments such as museums, libraries, art galleries, botanical and zoological gardens of a historic, educational or cultural interest which are not operated commercially.

Section 2. That section 18.55.190, “S” definitions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**18.55.190 “S” definitions.**

“School” means any building or part thereof which is or was designed,



constructed or used for education or instruction in any branch of knowledge, including any re-use for office or administrative functions designed to support school services or programs.

“School, elementary” means any school licensed by the state and which meets the state requirements for elementary education.

“School, private” means any building or group of buildings the use of which meets state requirements for primary, secondary or higher education and which use does not secure the major part of its funding from any governmental agency.

“School, secondary” means any school licensed by the state and which is authorized to award diplomas for secondary education.

“School, vocational” means a secondary or higher education facility primarily teaching usable skills that prepare students for jobs in a trade and meeting the state requirements as a vocational facility.

“Self-storage, type I” means a low intensity indoor facility serving the temporary storage needs for individuals and small businesses. Individual units have indoor accesses only via hallways and no business activities shall occur on the premises except for the leasing of the units.

“Self-storage, type II” means an indoor and/or outdoor facility to meet the temporary storage needs for individuals and small businesses. Individual units may have their own exterior access; the outdoor storage of recreational vehicles, boats, and motor vehicles are permitted; and no business activities shall occur on the premises except for the leasing of the units.

“Setback” means the minimum required distance between a building and the lot line or street right-of-way line, whichever is applicable.

“Setback line” means that line that is the required minimum distance from the street right-of-way line or any other lot line that establishes the area within which the principal structure must be erected or placed.

“Setback regulations” means the requirements of building laws that a building be set back a certain distance from the street or lot line either on the street level or at a prescribed height.

“Sewage system” means a facility designed for the collection, removal, treatment and disposal of waterborne sewage generated within a given service area.

“Shop” means a use devoted primarily to the sale of a service or a product or products, but the service is performed or the product to be sold is prepared in its finished form on the premises.

“Shopping center” means a group of retail stores, originally planned and developed as a single unit, with immediate adjoining off-street parking facilities.

“Site” means a specific location for the placement, erection or construction of a building, facility or establishment.

“Site-built home” means a home on a permanent foundation erected by the process of assembling individual building materials or members on site and subject to adopted construction codes and safety standards.

“Site plan” means a plan to scale, showing accurately and with complete dimensioning the boundaries of a site and the location of all buildings, structures, uses, drives, parking, drainage, landscaping, and other principal site development improvements for a specific parcel of land.

“Small cell wireless facility” or “SCWF” means a wireless facility that meets all of the following qualifications:

(a) Antenna. Each antenna is located inside an enclosure of no more than six cubic feet in volume, or in the case of an antenna that has exposed elements, the antenna and all of the antenna's exposed elements could fit within an imaginary enclosure of no more than six cubic feet;

(b) Equipment. Primary equipment enclosures that are no larger than 17 cubic feet in volume, or facilities comprised of such higher limits as the federal communications commission has excluded from review pursuant to 54 U.S.C. § 306108. Associated equipment may be located outside the primary equipment, and if so located, is not to be included in the calculation of equipment volume. Associated equipment includes, but is not limited to, any electric meter, concealment, telecommunications demarcation box, ground-based enclosures, back-up power systems, grounding equipment, power transfer switch, cut-off switch and vertical cable runs for the connection of power and other services.

(c) Height.

(1) 50 feet in height or less; or

(2) the structure is no more than 10% higher than that of adjacent structures or as prescribed in federal law.

“Specified anatomical area” means less than completely or opaquely covered human genitals, pubic region, and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

“Specified sexual activities” means human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; and fondling or other erotic touching of human genitals or pubic region.

“Stacking space” means a paved surface which is designed to accommodate a

motor vehicle waiting for entry to any drive-through facility or auto-oriented use, which is located in such a way that a parking space or access to a parking space is not obstructed, and which is at least nine feet in width and 19 feet in length. Stacking spaces commence 10 feet behind the middle of the pickup window.

“Standards” means site design regulations such as lot area, height limits, frontage, landscaping, yards, and floor area ratio – as distinguished from use restrictions.

“Storage” means holding or safekeeping goods in a warehouse or other depository to await the happening of some future event or contingency which will call for the removal of the goods.

“Street” means a right-of-way dedicated to the public use, or a private right-of-way serving more than one ownership, which provides principal vehicular and pedestrian access to adjacent properties.

“Street line” means a dividing line between a lot and a street right-of-way.

“Structural alterations” means any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any substantial change in the roof or in the exterior walls.

“Structurally altered” means the making of such a substantial change in the construction, identity, and use of the present building.

“Structure” means anything which is built or constructed, an edifice or building of any kind, or any place of work artificially built up or composed of parts joined together in some definite manner, which requires location on the ground or is attached to something having a location on the ground. It includes buildings, towers, cages for transformer substations, pergolas, and billboards but excludes poles, fences, retaining

walls, air-conditioning units, posts, and other minor incidental improvements.

“Stub street” means a nonpermanent dead-end street that is intended to be extended in conjunction with the subdivision and development of the adjacent unplatted land. Access from the stub street shall be permitted only along the frontage of such street to the lots in the subdivision containing the stub street.

“Subdivision” means division of a lot, tract or parcel of land into two or more parts for the purpose of ownership or building development.

Subdivision Plat. See “plat of a subdivision.”

Section 3. That the Industrial Use Table in section 18.60.010, Use tables, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Use	Description	R-1/R-2/R-3 Single-Family Dwelling	R-4 Manufactured Homes	M-1 Two-Family Dwelling	M-1a Limited Multiple-Family Dwelling	M-2 Multiple-Family Dwelling	M-3 Multiple-Family Dwelling	O&I-1 Office and Institutional	O&I-2 Office and Institutional	O&I-3 Office and Institutional	C-1 Commercial	C-2 Commercial	C-3 Commercial	C-4 Commercial	I-1 Light Industrial	I-2 Heavy Industrial	U-1 University	MS-1 Medical Service	X-1 Mixed Use	X-2 Mixed Use	X-3 Mixed Use	D-1 Downtown Mixed Use	D-2 Downtown Mixed Use	D-3 Downtown Mixed Use	RR-1 Residential Reserve	OS-1 Open Space
Storage of Nonmerchandise, Outdoor	See Chapter 18.225 TMC, outdoor storage of nonmerchandise	-	-	-	-	-	-	-	-	-	-	-	-	-	S/C/S/C	-	-	-	C	C	-	-	-	-	-	-
Tower, Communication #, Transmission Tower #	ground-mounted freestanding structure transmitting or receiving TV, radio, and microwave frequencies. Refer to Chapter 18.20 TMC	C	C	C	C	C	C	C	C	C	C	C	C	S	S	S	C	C	-	-	-	C	C	C	C	-
Small Cell Wireless Facilities	Refer to TMC Chapter 18.20 and 18.225 TMC.	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S



326 six feet except in front yards where it may be reduced to three feet or replaced  
327 with shrubs designed to grow two to three feet in height.

328 (4) Automobile dealerships shall have frontage on a roadway designated  
329 as an arterial roadway by the Shawnee County functional classification of  
330 roadways map.

331 (b) Automobile or Vehicle Car Wash Facility.

332 (1) All washing facilities shall be within the interior of the structure or  
333 beneath a roofed area.

334 (2) Vacuum, automatic air drying, and similar facilities shall not be located  
335 in such a manner that will restrict the orderly ingress to the facility.

336 (3) The washing facility shall be set back a minimum of 50 feet from any  
337 public street.

338 (4) All accesses, drives and off-street parking spaces shall be in  
339 accordance with the parking standards.

340 (5) The traffic circulation plan for the facility shall be subject to the  
341 approval of the traffic engineer or authorized designee of the public works  
342 department.

343 (6) A solid, opaque screen, fence or sight-prohibitive landscaping shall be  
344 provided along lot lines adjoining residential property at a height of not less than  
345 six feet except in front yards where it may be reduced to three feet or replaced  
346 with shrubs designed to grow two to three feet in height.

347 (c) Automobile Sales. Except in the C-4 commercial district, ancillary uses for  
348 a body shop and automotive service station Type 3 are prohibited unless a conditional  
349 use permit is secured.

(1) Automobile sales, leasing, and service of vehicles are restricted to automobiles, pickup trucks, motorcycles and other vehicles that do not exceed a gross vehicle weight rating of 12,000 pounds in the C-3 district.

(2) The inventory of vehicles for sale, lease, or service shall be parked only on paved areas and shall not displace the minimum required number of off-street parking spaces.

(3) A solid, opaque screen, fence or sight-prohibitive landscaping shall be provided along lot lines adjoining residential property at a height of not less than six feet except in front yards where it may be reduced to three feet or replaced with shrubs designed to grow two to three feet in height.

(d) Automotive Service Station.

(1) Type 1. A facility which dispenses automotive fuels and oil with or without retail sales of incidental merchandise such as packaged beer, nonalcoholic beverages, ice, candy, cigarettes, snacks and convenience packaged foods.

(2) Type 2. A facility which may include those uses defined in Type 1 and specifically includes replacement of automotive parts including but not limited to fan belts, hoses, sparkplugs, tires and tubes, ignition parts, batteries, shock absorbers, and fuses. A Type 2 facility is limited to servicing automobiles, pickups, motorcycles and other vehicles having a gross vehicle weight rating of 12,000 pounds or less. The following automotive services shall be permitted in a Type 2 facility:

(i) Lubrication.

(ii) Tire repair and replacement.



(iii) Brake repair and wheel balancing and alignment.

(iv) Muffler and exhaust system repair and replacement.

(v) Shock absorber and strut replacement.

(vi) Engine adjustment (tune-up).

(vii) Replacement of pumps, cooling systems, generators, alternators, wires, starters, air conditioners, bearings and other similar devices.

(viii) Radio, GPS, rear cameras, and similar electronics installation and repair.

(ix) Glass replacement.

(x) Trailer hitch and wiring installation and repair.

(xi) And other similar repair and replacement services normally deemed to be emergency and convenience services; however, the same shall not include drive train units such as the engine, transmission or drive components.

(3) Type 3. A facility which may include those uses defined in Types 1 and 2, and specifically includes repair, rebuilding and replacement of drive train units of automobiles, pickup trucks, motorcycles, trailers, and other vehicles.

(4) For Types 1, 2, and 3 a solid, opaque screen, fence or sight-prohibitive landscaping shall be provided along lot lines adjoining residential property at a height of not less than six feet except in front yards where it may be reduced to three feet or replaced with shrubs designed to grow two to three feet in height.

(e) Automobile or Vehicle Tow Lot and Body Shop. This use includes body repair of vehicles and trailers having a gross vehicle weight rating over 12,000 pounds,

watercraft, recreational vehicles, heavy construction equipment, and agricultural equipment. Facilities shall meet the following standards:

(1) Storage of damaged vehicles requiring repairs shall only be parked on surfaces meeting city standards in rear yards or screened from view from public roadways.

(2) Vehicle wrecking and dismantling for salvage purposes are prohibited.

(3) Each disabled vehicle is limited to 30 days of on-site storage.

(4) A solid, opaque screen, fence or sight-prohibitive landscaping shall be provided along lot lines adjoining street rights-of-way and residential property at a height of not less than six feet except in front yards where it may be reduced to three feet or replaced with shrubs designed to grow two to three feet in height.

(f) Cemetery.

(1) Areas. Any cemetery established after the effective date of the ordinance codified in this division shall be located on a site containing not less than 20 acres.

(2) Setback. All structures including but not limited to a mausoleum, permanent monument or maintenance building shall be set back not less than 30 feet from any property line or street right-of-way line and all graves or burial lots shall be set back not less than 30 feet from any property line or street right-of-way line.

(3) A cemetery shall have the principal entrance or entrances on a major traffic thoroughfare designated as a collector or arterial roadway on the Shawnee County functional classification of roadways map, with ingress and egress so designed as to minimize traffic congestion.

(4) All on-site private drive locations and their widths shall be reviewed by the traffic engineer or designee of the applicable department of public works in respect to providing efficient vehicular access and traffic flow; and to minimize vehicle conflict with pedestrians. Development of the cemetery shall not commence until approval of the aforementioned drive locations and their widths have been secured.

(g) Community Gardens.

(1) All community gardens shall be allowed only after the owner or applicant has registered the community garden with the planning department and has paid a fee of \$50.00. The planning director shall adopt administrative procedures necessary to govern the registration requirements and ensure compliance with the requirements.

(2) Community gardens shall be the primary use of the lot. The gardens may be divided into plots for cultivation by one or more individuals and/or groups or may be cultivated by individuals and/or groups collectively.

(3) Fences are allowed subject to a fence permit and compliance with TMC 18.210.040. In R and M districts, the minimum front yard setback for the district shall act as the front face of the principal structure.

(4) Sales and operation of mechanical equipment shall occur only between 8:00 a.m. and 8:00 p.m. For Type 1 gardens, sales of produce grown on site are permissible; provided, that all stands and displays are removed on or before 8:00 p.m.

(5) Cultivation equipment shall not exceed the size of a compact utility tractor and its accessories.

(6) The cultivated area shall have a minimum setback of three feet from all property lines. Crops planted in any minimum front yard setback are limited to those that will grow to a height of four feet or less (e.g., four feet maximum in the front 30 feet).

(7) Dead garden plants shall be removed regularly and no later than November 30th of each year.

(8) Weeds, grass, undergrowth and uncultivated plants shall not exceed a height of 12 inches.

(9) Compost bins shall be set back at least 10 feet from all side and rear property lines and 25 feet from the front property line. Compost bins shall be screened and maintained in such a manner as to not attract insects, vermin, reptiles and other animals. Appropriate best management practices shall be used to minimize odor.

(10) The site shall be designed and maintained so that no water, fertilizers, or pesticides drain onto adjacent property.

(11) The entire site shall be maintained in a manner, including noise and odors, so that it complies with Chapter 8.60 TMC.

(12) Signage is limited to one permanent identification sign per property frontage consisting of up to 10 square feet per sign face and temporary signs are allowed in accordance with TMC 18.25.230(a).

(13) Orchards and tree farms shall meet the front yard setback for their zoning district and shall be set back at least 15 feet from all other property lines, with the measurements based on the nearest part of the trees' canopies.

(14) Accessory structures for Type I community gardens are limited to the

following standards:

(i) Accessory structures may include storage buildings, greenhouses, high tunnels and hoop houses maintained in good condition.

(ii) Maximum height of 12.5 feet.

(iii) Maximum lot coverage for structures shall be calculated based on the cultivated area for the community garden, including pathways. Maximum lot coverage for structures shall be 10 percent or less than 150 square feet, whichever is greater.

(iv) Storage buildings are limited to less than 150 square feet and may only be used for storing garden equipment and materials used on site.

(v) Each structure shall meet the required setbacks from property lines as outlined in TMC 18.60.020. If the area of cultivated land exceeds one acre, a 50-foot setback is required between properties with existing dwelling units and any cultivated area or accessory structures.

(15) Accessory structures for Type II community gardens are limited to the following standards:

(i) In addition to Type I standards, Type II permitted accessory structures include: garden sales stands, other buildings for storage, structures for cold storage and processing of garden products, and buildings for aquaculture, aquaponics, and hydroponics.

(ii) Maximum lot coverage for structures is 30 percent of the site area designated for the community garden (cultivated area and pathways).

(iii) Accessory structures 150 square feet or greater are permitted,

subject to required building permits.

(16) If one or more of the requirements cannot be met, a person may apply for a conditional use permit pursuant to Chapter 18.215 TMC.

(h) Day Care Facility, Type I.

(1) An on-site automobile drop-off/pickup area for a minimum of two vehicles shall be provided for a facility which only has street frontage on a major traffic thoroughfare as designated by the transportation plan; and said drop-off/pickup shall be in accordance with any applicable provisions of said plan.

(2) Playground equipment or structures shall not be permitted to be located in a required yard adjacent to a public street.

(i) Day Care Facility, Type II.

(1) An on-site automobile drop-off/pickup area for a minimum of two vehicles shall be provided for a facility which only has street frontage on a roadway that is classified as a collector or arterial roadway on the Shawnee County functional classification of roadways map; and said drop-off/pickup shall be provided in accordance with any applicable provisions of said plan.

(j) Demolition Landfill.

(1) The applicant shall submit documentation showing compliance with all licenses or permits required by the State Department of Health and Environment prior to construction and within 30 days of renewal of any state licenses and permits. The site shall maintain a neat appearance along all public road frontages and along all property boundaries abutting residential zoning districts.

(k) Dwelling Units on Main Floor. Dwelling units located on main floors shall meet the following requirements:

(1) The units must be subordinate in area or location to nonresidential uses on the main floor; or

(2) The units shall be allowed in structures that were originally built for use as dwelling units, the structure has been used historically for dwelling units, or the dwelling units were converted from hospital, school, or hotel rooms.

(l) Extraction, Processing, Storage and Sale of Raw Materials, Including Ore, Minerals, Sand, Rock, Stone, Gravel, Topsoil, Fill Dirt, and Other Materials Delivered by Quarry, Mining, Dredging, or Stripping Operations. In addition to the standard application components required of an applicant to petition for a conditional use permit, a request for the subject use shall identify the specific raw material and type of operation under consideration and furthermore, shall include the below-listed additional information, plans and data:

(1) Site Plan. A site plan prepared by a registered civil engineer, drawn to scale on a sheet measuring 24 inches by 36 inches in size and including the following:

(i) Contour intervals: two feet for slopes 30 percent or less; 10 feet for greater slopes when map scale is one inch equals 100 feet.

(ii) Contour intervals: two feet for slopes 20 percent or less; 10 feet for greater slopes when map scale is one inch equals 200 feet.

(iii) Identify name, grade, right-of-way and street width of existing and proposed streets extending through or adjacent to the site.

(iv) Identify width and purpose of easements extending through or adjacent to the site.

(v) Identify natural land features including but not limited to

watercourses and drainageways, floodplains, rock outcropping, springs, wooded areas, etc.

(vi) Identify manmade features such as buildings and other structures, dams, dikes and impoundments of water.

(vii) Identify all of the above-noted adjacent land features within 300 feet of the site. In addition, show all platted subdivision lots and metes and bounds parcels.

(viii) Show location of at least five borings, which show depths to groundwater.

(ix) Provide a cross-section to illustrate physical conditions of the site. Show vertical scale equal to, or in exaggeration of, horizontal scale.

(2) Development Plan. A development plan prepared in the same manner as the site plan and including the following:

(i) North point, scale and date.

(ii) Extent of area to be excavated.

(iii) Location, dimension and intended use of proposed structures.

(iv) Location of all areas on the property subject to inundation or flood hazard, and the location, width, and directions of flow of all watercourses and flood control channels that may be affected by the excavation.

(v) Benchmarks.

(vi) Typical cross-section, at sufficient intervals, showing the extent of overburden, extent of sand and gravel deposits or rock, and the water table.



(vii) Identification of processing and storage areas, the boundaries of which to be shown to scale.

(viii) Proposed fencing, gates, parking areas and signs.

(ix) Sequences of operation showing approximate areas involved shall be shown to scale and serially numbered with a description of each.

(x) Ingress/egress roads including on-site haul roads and proposed surface treatment and means to limit dust.

(xi) A map showing access routes between the property and the nearest arterial road.

(xii) Location of screening berms shall be shown to scale, and notes shall be provided indicating when they will be used as reclamation material. In the same manner overburden storage areas shall be identified and noted.

(xiii) Proposed location of settling basins and process water ponds.

(xiv) Site drainage features shall also be shown and flow direction indicated.

(3) A restriction of use statement, which shall include:

(i) The approximate date of commencement of the excavation and the duration of the operation.

(ii) Proposed hours of operation and days of operation.

(iii) Estimated type and volume of the excavation.

(iv) Method of extracting and processing, including the disposition of overburden or top soils.

(v) Equipment proposed to be used in the operation of the

excavation.

(vi) Operating practices proposed to be used to minimize noise, dust, air contaminants, and vibration.

(vii) Methods to prevent erosion and pollution of surface or underground water.

(4) Reclamation Plan. A reclamation plan prepared in the same manner as the site plan and including the following:

(i) A statement of planned reclamation, including methods of accomplishment, phasing, and timing.

(ii) A plan indicating: the final grade of the excavation; any water features included in the reclamation and methods planned to prevent stagnation and pollution; landscaping or vegetative planting; and areas of cut or fill. This plan, if clearly delineated, may be included with the site plan. For quarry applications, the final grade shall mean the approximate planned final grade.

(iii) A phasing plan, if the excavation of the site is to be accomplished in phases. This plan shall indicate the area and extent of each phase and the approximate timing of each phase.

(iv) The method of disposing of any equipment or structures used in the operation of the excavation upon completion of the excavation.

(v) Show location of any proposed streets within the reclaimed area and their connection to present public streets beyond.

(vi) Show location of any lakes, ponds, or streams proposed within the reclaimed area and their connections to streams or drainageways

beyond.

(vii) Show areas where vegetation is to be established, and indicate types of vegetative cover.

(m) Golf Course – Country Club.

(1) A golf course or country club shall be established on a minimum contiguous area of 20 acres and shall consist of a minimum of nine holes.

(2) Vehicular access to a golf course or country club may ingress/egress directly to a local street provided the local street intersects with a roadway that is classified as a collector or arterial roadway on the Shawnee County functional classification of roadways map; and further provided, that said points of ingress/egress are located within 300 feet of the centerline of the aforementioned thoroughfare.

(3) All patron parking lots, clubhouses and recreational facilities other than those for golf, shall be located a minimum distance of 500 feet from all property boundaries of the golf course or country club.

(4) All maintenance facilities and employee parking lots shall be located a minimum distance of 200 feet from all property boundaries of the golf course or country club.

(5) If one or more of the requirements cannot be met, a person may apply for a conditional use permit pursuant to Chapter 18.215 TMC.

(n) Indoor Gun Range.

(1) A building for the safe discharge of firearms shall meet the following requirements:

(i) The building shall be designed so that discharged ammunition

638 does not escape the confines of the building.

639 (ii) Discharge noise does not adversely impact neighboring  
640 properties.

641 (iii) The building shall be located at least 200 feet from any  
642 residentially zoned property.

643 (2) If one or more of the requirements cannot be met, a person may  
644 apply for a conditional use permit pursuant to Chapter 18.215 TMC.

645 (o) Outdoor Storage of Nonmerchandise. When storage is located in a yard  
646 that abuts or is located across the street from residentially zoned property it shall be  
647 screened from public view by a solid, opaque screen, fence or sight-prohibitive  
648 landscaping of not less than six feet in height, except in front yards where it may be  
649 reduced to three feet or replaced with shrubs designed to grow two to three feet in  
650 height. If storage is adjacent to driveways or intersections, screening may be reduced to  
651 comply with site distance triangles, as outlined in TMC 12.20.020.

652 (p) Reception, Conference and Assembly Facility.

653 (1) As an independent principal use within any subdistrict of the residential  
654 dwelling and multiple-family dwelling districts, the facility shall be located only  
655 within a structure that exists on the date of the adoption of these regulations,  
656 except for the RR-1 district; and further, vehicle parking lots shall not be  
657 permitted within the established front yard setback.

658 (2) All applications requesting a conditional use permit shall include and  
659 address the following considerations in respect to:

660 (i) Maximum occupant load at any one time.

661 (ii) Presentation of a plan of operation which shall include:

(A) Days of the week and hours of operation in which the facility will function.

(B) Any permitted outdoor activities.

(C) Supervision of guests and arrangements for enforcement of any provisions of the conditional use permit.

(iii) Any proposed screening, buffering, or landscape plan.

(iv) On-site vehicle parking and ingress/egress plan.

(v) Address the general applicability of building, life safety, and associated codes and standards to the facility.

(3) All activities of the facility as a conditional use permit shall be by prearranged lease, contract, or agreement and therefore the facility shall not be open to the general public.

(q) Recycling Depot. Recycling depots shall meet the following requirements:

(1) Limited to the collection, storage and processing of metal, glass or plastic food or beverage containers and paper resources as an initial phase of a recycling process.

(2) The recycling process shall be limited to the volume reduction of such materials by mechanical and hand sorting methods only.

(3) All storage and processing operations in conjunction therewith shall be contained within the principal structure.

(r) Religious Assembly.

(1) Vehicular access to a facility of religious assembly may ingress/egress directly to a local street, provided said local street intersects with a major traffic thoroughfare as designated on the transportation plan; and further provided, that

said points of ingress/egress are located within 300 feet of the centerline of the  
aforementioned thoroughfare.

(2) If one or more of the requirements cannot be met, a person may apply  
for a conditional use permit pursuant to Chapter 18.215 TMC.

(s) Relocation, Remodeling or Rebuilding of Legal Nonconforming Billboards.

No application for a conditional use permit to relocate, remodel, or rebuild an existing  
legal nonconforming billboard shall be approved unless the governing body, upon  
recommendation by the planning commission, shall determine that the proposed  
billboard is appropriate in the location proposed based upon its consideration of the  
standards set forth below.

(1) This subsection shall apply only to existing legal nonconforming  
billboards presently located within the C-4 commercial district. In seeking a  
conditional use permit, the applicant shall specify the location, size, height and  
area of the existing billboard proposed to be removed.

(2) The structural members of all billboard materials shall be constructed  
entirely of noncombustible materials excepting only the sign face, ornamental  
molding and platform and shall be installed only on single-pole structures.

(3) The proposed relocated sign shall not be larger than the existing  
billboard proposed to be removed, but not to exceed 750 square feet including  
extensions; nor shall such relocated sign have more than two sign faces.

(4) No billboard to be relocated shall be erected upon the roof of any  
building or attached to any building.

(5) No billboard to be relocated shall be set back less than 20 feet from  
any public right-of-way line.

(6) No billboard to be relocated shall be less than either 1,320 feet from any other such sign on the same street or closer than a 400-foot radius on different streets.

(7) No billboard to be relocated shall be less than 200 feet from any underpass, overpass or bridge structure.

(8) No billboard to be relocated shall be placed within 300 feet of a residential dwelling, which fronts on the same street right-of-way, nor within 500 feet of any religious assembly or public or private elementary or secondary school on the same street.

(9) No billboard shall result in the loss or damage of natural, scenic, or historic features of significant importance; and shall be constructed and operated with minimal interference of the use and development of neighborhood property.

(10) No billboard shall be so designed to include the vertical stacking of billboards on the sign pole. Each billboard shall be comprised of a single sign face oriented in a given direction. This provision does not preclude double-sided billboards where arranged back to back on the sign pole.

(t) Manufactured Home. A manufactured home for the purpose, use and occupancy of a family shall meet the following requirements:

(1) The manufactured home shall have a minimum dimension of 14 body feet in width for the principal structure.

(2) The manufactured home shall be secured to the ground on a permanent foundation.

(3) The undercarriage of the manufactured home shall be completely screened from view by the foundation or skirting, such skirting to be of material

734 harmonious to the unit structure and installed within 10 days of unit placement.

735 (4) The manufactured home shall have the towing apparatus, wheels,  
736 axles, and transporting lights removed.

737 (5) The manufactured home shall have an exterior facade of vinyl or wood  
738 siding, stone, brick, or other nonmetallic material.

739 (6) The roof of the manufactured home shall be double pitched and have a  
740 nominal vertical rise of three inches for each 12 inches of horizontal run, and  
741 shall be covered with material that is residential in appearance, including but not  
742 limited to wood, asphalt, composition or fiberglass shingles, but excluding  
743 corrugated aluminum, corrugated fiberglass, or corrugated metal roofing material.  
744 The roof shall have a minimum eave projection or overhang of 10 inches on at  
745 least two sides, which may include a four-inch gutter.

746 (u) Retail Merchandise Outdoor Display. Items for sale that are displayed  
747 outside buildings, exclusive of very large items such as vehicles and construction  
748 materials, shall meet the following standards:

749 (1) The display area shall not exceed 50 percent of the first floor area of  
750 the business.

751 (2) Screening shall be provided between the merchandise being stored  
752 and residentially zoned properties when the merchandise is located in a side or  
753 rear yard next to residentially zoned properties. Merchandise shall not be stacked  
754 higher than the screening in this area.

755 (3) The inventory of vehicles and equipment for sale, lease, or service  
756 shall not displace the minimum required number of off-street parking spaces.

757 (4) In D and X districts, retail merchandise outdoor display areas shall



758 occur only during normal business hours. The outdoor display area shall provide  
759 adequate pedestrian clearance and shall not obstruct vehicular or pedestrian  
760 circulation.

761 (v) Self-Storage, Type I. An indoor storage facility for individuals and small  
762 businesses shall meet the following specific requirements:

763 (1) Any new building shall have exterior design characteristics similar to  
764 retail buildings in the area.

765 (2) Only one large common dock/garage door opening shall be allowed  
766 per building and shall not face any street frontage unless appropriately screened.

767 (3) All items being stored must be inside of an enclosed building.

768 (4) No business activity shall be conducted in the individual storage units.

769 (5) No living quarters are allowed within the individual units but the overall  
770 premises may have one dwelling unit for the caretaker.

771 (6) The storage of hazardous, toxic, or explosive substances is prohibited.

772 (w) Animal Care and Services, Type I.

773 (1) Medical treatment or care of large animals such as horses, cattle,  
774 sheep, goats, swine, etc., shall not be permitted on the premises.

775 (2) Medical treatment or care shall be provided only within the confines of  
776 an enclosed building or structure.

777 (3) The building or structure shall be constructed in such a manner as to  
778 prevent audible noise and/or odor from adversely impacting adjoining properties.

779 (x) Television, Radio, and Microwave Transmission Towers –  
780 Telecommunication Equipment – Accessory Facilities. In addition to the standard  
781 application components required of an applicant to petition for a conditional use permit,

a petition for a conditional use permit for the subject use shall include:

(1) A site plan or plans drawn to scale of one inch equals 30 feet or larger and identifying the site boundary; tower(s); guy wire anchors; existing and proposed structures; vehicular parking and access; existing vegetation to be retained, removed, or replaced; and uses, structures, and land use designations on the site and abutting parcels.

(2) A plan drawn to scale showing any proposed landscaping, including species type, size, spacing, and other features.

(3) The applicant shall provide written communications obtained from the Federal Communications Commission and the Federal Aviation Administration indicating whether the proposed tower complies with applicable regulations administered by that agency or that the tower is exempt from those regulations. If each applicable agency does not provide a requested statement after the applicant makes a timely, good-faith effort to obtain it, the application is complete. The applicant shall send a subsequently received agency statement to the planning director.

(4) The applicant shall demonstrate that the tower complies with any applicable provisions of the airport hazard zone regulations if the tower site is located within the hazard zone as established by said regulations.

(y) Vehicle Surface Parking Lot.

(1) The parking lot site shall be of like district zoning classification as that of an associated principal use or that of a less restrictive district. The parking lot site shall not be separated from the associated principal use by an intervening zoning district of a more restrictive classification.

(2) The parking lot site shall not be separated from an associated principal use by an intervening public street right-of-way classified as a collector or arterial roadway on the Shawnee County functional classification of roadways map.

(3) The nearest point of a parking lot site to the nearest point of the building served by the parking lot shall not be greater than 500 feet.

(4) If one or more of the requirements cannot be met, a person may apply for a conditional use permit pursuant to Chapter 18.215 TMC.

(z) Bed and Breakfast Home.

(1) Specific Requirements. Requests to establish a bed and breakfast home shall conform to all of the following requirements:

(i) The bed and breakfast shall operate as an ancillary use to the principal use of the residence as a single-family dwelling.

(ii) The bed and breakfast shall be located in an existing single-family dwelling and no new structure shall be built expressly for a bed and breakfast establishment.

(iii) The bed and breakfast shall be operated within the single-family dwelling and not in any accessory structure.

(iv) The primary entrance to all guestrooms shall be from within the dwelling. A guestroom can retain an original secondary exterior entrance opening onto a porch or balcony.

(v) The exterior of the dwelling and premises shall outwardly remain and appear to be a single-family dwelling giving no appearance of a business use.

(vi) Individual guestrooms shall not contain cooking facilities.

(vii) The bed and breakfast shall not be used for weddings, receptions, parties, business meetings, or similar such activities.

(viii) One nonilluminated nameplate sign, attached flat on the face of the principal dwelling, shall be permitted, not to exceed nine square feet. The nameplate shall be styled and detailed architecturally with the principal building and shall be limited to the name of the bed and breakfast or owner or both.

(ix) Retail sales of a nature clearly incidental and subordinate to the primary use of the premises as a bed and breakfast establishment shall be permitted subject to the following requirements:

(A) The merchandise offered for sale shall be confined to the dwelling and not located within a garage or accessory structure, whether attached or detached.

(B) Merchandise offered for sale shall be restricted to that produced on site; souvenir items bearing the name and/or logo of the establishment; and those items customarily provided for the convenience of resident guests.

(C) There shall be no advertising, display or other indication of merchandise offered for sale on the premises.

(D) No commercial telephone listing, newspaper, radio or television service shall be used to advertise the sale of merchandise.

(E) The total area devoted to the display or merchandise shall not exceed five percent of the gross floor area of the dwelling,

854 excluding an attached garage.

855 (aa) Bed and Breakfast Inn.

856 (1) Specific Requirements. Requests to establish a bed and breakfast inn  
857 shall conform to all of the following requirements:

858 (i) The bed and breakfast shall be located in an existing single-  
859 family dwelling and no new structure shall be built expressly for a bed and  
860 breakfast establishment.

861 (ii) The bed and breakfast shall be operated within the single-family  
862 dwelling and not in any accessory structure.

863 (iii) The primary entrance to all guestrooms shall be from within the  
864 dwelling. A guestroom can retain an original secondary exterior entrance  
865 opening onto a porch or balcony.

866 (iv) The exterior of the dwelling and premises shall outwardly  
867 remain and appear to be a single-family dwelling giving no appearance of  
868 a business use.

869 (v) Individual guestrooms shall not contain cooking facilities.

870 (vi) One nonilluminated nameplate sign, attached flat on the face of  
871 the principal dwelling, shall be permitted, not to exceed nine square feet.  
872 The nameplate shall be styled and detailed architecturally with the  
873 principal building and shall be limited to the name of the bed and breakfast  
874 or owner or both.

875 (vii) Retail sales of a nature clearly incidental and subordinate to  
876 the primary use of the premises as a bed and breakfast establishment  
877 shall be permitted subject to the following requirements:

(A) The merchandise offered for sale shall be confined to the dwelling and not located within a garage or accessory structure, whether attached or detached.

(B) Merchandise offered for sale shall be restricted to that produced on site; souvenir items bearing the name and/or logo of the establishment; and those items customarily provided for the convenience of resident guests.

(C) There shall be no advertising, display or other indication of merchandise offered for sale on the premises.

(D) No commercial telephone listing, newspaper, radio or television service shall be used to advertise the sale of merchandise.

(E) The total area devoted to the display or merchandise shall not exceed five percent of the gross floor area of the dwelling, excluding an attached garage.

(F) In the RR-1 district, a bed and breakfast inn shall not be established on less than a three-acre parcel. In all other districts where permitted, a bed and breakfast inn shall be established on a parcel having a minimum size equivalent to 500 square feet per guestroom plus the minimum lot area of the district, for a single-family dwelling, in which located.

(G) Social events such as weddings, receptions, parties, business engagements or similar activities may be accommodated in conjunction with a bed and breakfast inn, subject to the following

requirements:

1. The scheduling and conduct of social events shall be incidental and subordinate to the principal use of the premises as a bed and breakfast inn.

2. All scheduled events shall be by prearranged contract or agreement. Such event shall not be open to the general public.

3. No amplified sound or music, noise or glare shall be allowed outside the inn nor be perceptible from beyond the property line.

4. Social events shall be restricted to between the hours of 9:00 a.m. and 11:00 p.m.

5. Submission of a plan of operation which shall include:

a. Types of social events anticipated to be scheduled at the inn including the types of services to be offered in conjunction with a social event and the anticipated maximum number of guests to be accommodated.

b. Days of the week and hours of operation for which social events would be scheduled.

c. Any permitted outdoor activities and the location on the premises that may be used for such activities.

926 d. Supervision of guests and arrangements for  
927 enforcement of any provisions of the conditional use  
928 permit, when applicable.

929 e. Any proposed screening, buffering, or  
930 landscaping to mitigate potential negative effects.

931 f. Arrangements for parking. Specify the added  
932 number and location of guest parking in conjunction  
933 with social events. Additional on-site parking shall not  
934 interfere with accessing guest parking spaces nor  
935 conflict with internal traffic circulation.

936 (2) If one or more of the requirements cannot be met, a person may apply  
937 for a conditional use permit pursuant to Chapter 18.215 TMC.

938 (bb) Management/Leasing Office and Maintenance Facility.

939 (1) A facility for leasing, managing and/or maintaining a residential  
940 community shall meet the following requirements:

941 (i) The proposed facility shall be located within the boundaries of  
942 and operate exclusively in association with a legally described residential  
943 community consisting of rental housing units. Activity not associated with  
944 the management of the residential community or that serves the residents  
945 of the community shall not be permitted within the facility.

946 (ii) The proposed facility shall be comparable in design,  
947 construction, materials, siding and roofing to the rental units located within  
948 the residential community.

949 (iii) All materials, equipment and supplies shall be maintained within



the facility or within a detached accessory structure that is comparable in size and design to other detached accessory structures located within the residential community.

(iv) A building sign is limited to one wall-mounted identification sign not exceeding six square feet.

(2) If one or more of the requirements cannot be met, a person may apply for a conditional use permit pursuant to Chapter 18.215 TMC.

(cc) Automobile Rental Establishments.

(1) Automobiles, pickup trucks, motorcycles and other vehicles shall not exceed a gross vehicle weight rating of 12,000 pounds in the C-2 district.

(2) No automobile sales and/or long-term leasing of vehicles exceeding six months shall be permitted.

(3) No on-site vehicle maintenance or mechanical service shall be permitted except to clean and prepare a vehicle for rental.

(4) No gasoline service shall be provided on site.

(5) No exterior storage or display of products, materials, supplies or equipment shall be permitted except for the rental vehicles.

(6) The inventory of rental vehicles shall be parked only on paved areas and shall not displace the required number of off-street parking spaces to be provided.

(7) A solid, opaque screen, fence or sight-prohibitive landscaping shall be provided along lot lines adjoining residential property at a height of not less than six feet except in front yards where it may be reduced to three feet or replaced with shrubs designed to grow two to three feet in height.

(dd) Group Residence, General – Group Residence, Limited – Correctional Placement Residence or Facility, General – Correctional Placement Residence or Facility, Limited – Home Care, Type II. In considering an application for a conditional use permit for a correctional placement residence or facility, general; a correctional placement residence or facility, limited; home care, type II; a group residence, general; or a group residence, limited, the planning commission and governing body will give consideration to the following criteria:

(1) The conformance of the proposed use to the comprehensive plan and other adopted planning policies.

(2) The character of the neighborhood including but not limited to: land use, zoning, density (residential), architectural style, building materials, height, structural mass, siting, open space and floor-to-area ratio (commercial and industrial).

(3) The zoning and uses of nearby properties, and the extent to which the proposed use would be in harmony with such zoning and uses.

(4) The suitability of the property for the uses to which it has been restricted under the applicable zoning district regulations.

(5) The length of time the property has remained vacant as zoned.

(6) The extent to which approval of the application would detrimentally affect nearby properties.

(7) The extent to which the proposed use would substantially harm the value of nearby properties.

(8) The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the use, or

present parking problems in the vicinity of the property.

(9) The extent to which the proposed use would create excessive air pollution, water pollution, noise pollution or other environmental harm.

(10) The economic impact of the proposed use on the community.

(11) The gain, if any, to the public health, safety and welfare due to denial of the application as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application.

(ee) Mobile Retail Vendors. Mobile retail vendors are allowed in zoning districts where retail sales are permitted per TMC 18.60.010 or where allowed by ordinance.

(ff) Micro-Alcohol Production in X-2 and X-3 and D Districts.

(1) Micro-breweries are limited to 5,000 barrels per year.

(2) Tap rooms and tasting rooms are permitted as an accessory use and shall be located near the street front side of the building.

(3) Any portion of the building that fronts a public street shall have a store front facade and include windows and door openings along the street frontage.

(4) The area of the building used for manufacturing, processing, brewing, fermenting, distilling, or storage shall be above or below the ground floor or located to the rear of the building or otherwise subordinate in area and extent.

(gg) Artisan Manufacturing.

(1) The area used for production and assembly shall be limited to no more than 80 percent of the gross floor area of the principal structure and shall not exceed a total of 6,000 square feet.

(2) All activities and equipment associated with all aspects of artisan manufacturing shall be confined to the interior of structures located on the

property.

(3) In C-1, X-3, D-1 and D-2 districts, artisan manufacturing occurring on the ground level within a designated district classification must retain the front portion of the ground level to serve as a storefront entrance to a showroom, retail space, office use, or permitted residential use, consistent with the general character of the adjacent properties.

(4) The production process shall not produce offensive chemical odors, dust, vibration, noise, or other offensive external impacts that are detectable beyond the boundaries of the subject property.

(5) Retail sales of the product produced on site are allowed. On-site retail sales of other non-related products are permitted.

(hh) Drive-Up/Drive-Through Facilities.

(1) In D and X districts, the drive-up window, menu boards and all lanes needed for vehicle stacking shall be located to the rear or side of the principal building.

(2) In D and X districts, the drive-up window facility shall be secondary and subordinate in size to the principal uses of the structure in which the drive-up facility is located.

(3) All lanes used for ingress, stacking, service, and egress shall be integrated safely and effectively with circulation and parking facilities.

(4) Ingress and egress shall be designed to minimize potential conflicts with vehicular, pedestrian, and bicycle traffic.

(5) The location and design of the drive-up facility shall minimize blank walls on street-facing exteriors of the building and disruption of existing or

potential retail and other active ground floor uses.

(6) Approval of a traffic impact analysis by the city traffic engineer may be required.

(7) The principal use of the building is allowed in the zoning district.

(ii) Building, Construction, and Mechanical Contractor Office – Contractor Yards. Outdoor storage associated with a contractor office or contractor yard, when located along a lot line adjoining a visible public street or in a yard that abuts residentially zoned property, shall be screened from public view by a solid, opaque screen, fence or sight-prohibitive landscaping of not less than six feet in height. If storage is adjacent to driveways or intersections, screening may be reduced to comply with site distance triangles, as provided in TMC 12.20.020.

(ij) Small cell wireless facilities (SCWFs).

(1) Application. An applicant for placement of an SCWF shall submit site plans, elevation drawings and structural calculations prepared by a professional engineer licensed by the State of Kansas. The drawings must depict transmission equipment, power source, electrical service pedestal and any associated access or utility easements and setbacks.

(2) Right of Way. If placement is sited in public right-of-way, the applicant will execute a license agreement with the City.

(3) Compliance with Aesthetic Requirements. The proposed SCWF shall comply with the City of Topeka/Shawnee County Small Cell Wireless Facilities General Design & Aesthetic Requirements posted on the City's website.

Section 5. That original § 18.55.030, § 18.55.190, § 18.60.010 and § 18.225.010 of The Code of the City of Topeka, Kansas, is hereby specifically repealed.

Section 6. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 7. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 8. Should any section, clause or phrase of this ordinance be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

PASSED AND APPROVED by the Governing Body on November 19, 2019.

CITY OF TOPEKA, KANSAS

ATTEST:

Michelle De La Isla, Mayor

Brenda Younger, City Clerk