(Published in the Topeka Metro News March 8, 2021)

ORDINANCE NO. 20283

AN ORDINANCE introduced by City Manager Brent Trout, concerning zoning ordinances, amending City of Topeka Code § 18.55.020, § 18.55.040, § 18.55.140, § 18.55.150, § 18.55.190, § 18.55.200, § 18.60.010, § 18.225.010 and § 18.240.030 and repealing original sections.

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

Section 1. That section 18.55.020, “B” definitions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

“B” definitions.

“Basement” means a story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story where more than one-half of its height is above the average finished grade.

“Bed and breakfast home” means a private, owner-occupied single-family dwelling where no more than four guestrooms are provided for overnight paying guests for not more than seven consecutive nights. The dwelling shall be the primary residence of the owner with no employees permitted, other than permanent residents of the dwelling. Food service may be provided for guests.

“Bed and breakfast inn” means a single-family structure or portion thereof that provides not more than 10 guestrooms for overnight paying guests. Food service may be provided for guests and sometimes in conjunction with social events.

“Block” means a piece of land usually bounded on all sides by streets or other transportation routes such as railroad lines, or by physical barriers such as water bodies or public open space, and not traversed by a through street.
“Boarding house” means any dwelling where for compensation and by prearrangement lodging with or without food is provided for three or more persons but not exceeding 20 persons in contradiction to hotels. No personal care is provided.

“Brew pub” means an eating and drinking establishment that includes a micro-brewery as an accessory use. The micro-brewery is limited to 5,000 barrels per year, which is equivalent to 155,000 gallons per year.

“Buildable area” means the space remaining on a zoning lot after the minimum open-space requirements (coverage, yards and setbacks) have been met.

“Building” means any roofed structure for the shelter, support or enclosure of persons, animals, chattels or property of any kind; and when separated by dividing walls without openings, each portion of such building, so separated, shall be deemed a separate building.

“Building code” means the International Building Code, as adopted in Chapter 14.20 TMC.

“Building coverage” means the percent of the lot area covered by the maximum horizontal cross-sections of all buildings on the lot. Portions of buildings below the finished lot grade, such as storm shelters, shall not be included in building coverage.

“Building, detached” means a building having no party wall in common with another building.

Building Line. See “building setback line.”

“Building, principal” means a building in which is conducted the principal use of the lot on which it is situated.

“Building setback line” means the required distance of open space between a building and a lot line.
“Bulk” is the term used to describe the size of buildings or other structures, and their relationships to each other and to open areas and lot lines, and therefore includes: (1) the size of buildings or other structures, (2) the area of the zoning lot upon which a residential building is located, and the number of dwelling units or rooms within such building in relation to the area of the zoning lot, (3) the shape of buildings or other structures, (4) the location of exterior walls of buildings or other structures in relation to lot lines, to other walls of the same building, to legally required windows, or to other buildings or other structures, and (5) all open areas relating to buildings or other structures and their relationship thereto.

“Bulk regulations” means the combination of controls which established the maximum size of a building and its location on the lot. Components of bulk regulations include: size and height of building; location of exterior walls at all levels with respect to lot lines, streets, or other buildings; building coverage; gross floor area of buildings in relation to lot area (floor area ratio); open space (yard) requirements; and amount of lot area provided per dwelling unit.

“Business” or “business use” means employment of one or more persons for the purpose of earning a livelihood, activities of persons to improve their economic conditions and desires, and generally relate to commercial and industrial engagements.

Section 2. That section 18.55.040, “D” definitions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

“D” definitions.

“Day care” means providing various levels of some or all of the following care as well as those services generally so associated, to individuals for less than 24 hours a day:
food and dietetic services; transportation, social, recreational, educational and activity arrangements; watchful and protective oversight; and supervision.

“Day care facility, type I” means a structure inhabited as a dwelling unit or portion thereof, and premises, operated and licensed in accordance with any and all applicable State and local requirements and conducted in the resident’s dwelling unit in which care is provided for profit or not for profit, to children and/or adults on a regular schedule for less than 24 hours a day to a maximum of 12 persons.

“Day care facility, type II” means a structure or portion thereof, and premises, operated and licensed in accordance with any and all applicable State and local requirements, in which care is provided for profit or not for profit, to children and/or adults on a regular schedule for less than 24 hours a day, and which may be operated as a secondary and/or ancillary use to a primary or principal use, such as, but not limited to, a place of worship, community center, library, or private business, and associated with that activity.

Demolition Landfill. See “landfill, demolition.”

“Density” means the number of dwelling units per acre.

“Developer” means the legal or beneficial owner or owners of a lot or of any land included in a proposed development including the holder of an option or contract to purchase, or other persons having enforceable proprietary interests in such land.

“Development” means the division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any mining, excavation, landfill or land disturbance and any use or extension of the use of land.

“Director” means the Director of Planning and Development or designee.
“Disability (or handicap)" with respect to a person means:

(1) A physical or mental impairment which substantially limits one or more of such person’s major life activities;

(2) A record of having such an impairment; or

(3) Being regarded as having such an impairment.

Such term does not include current, illegal use or addiction to a controlled substance, as defined in Section 102 of the Controlled Substance Act (21 U.S.C. Section 802).

“District” means any section of the jurisdiction for which the regulations governing the use of buildings and premises or the height and area of buildings are uniform.

“District map” means the boundaries of the zoning districts as they presently exist or as they may from time to time be amended as shown upon the district map on file in the office of the Planning Director, which boundaries shall have the same force and effect as though fully set forth or described herein.

“Domestic animal” means small animals that are customarily kept for personal use or enjoyment such as, but not limited to, dogs, cats, tropical birds, rabbits and rodents.

“Dormitory” means a building or part of a building operated by an institution and containing a room or rooms forming one or more habitable units which are used or intended to be used by residents of the institution for living and sleeping, but not for cooking or eating purposes.

“Drinking establishment” means premises which may be open to the general public, where alcoholic liquor by the individual drink is sold.

“Driveway” means a paved surface designed to provide vehicular access to a parking area.
“Dwelling” means a building or portion thereof, used exclusively for residential occupancy, including one-family, two-family and multiple-family dwellings, but not including hotels, motels, lodging houses, boarding houses, tourist homes, or house trailers and mobile homes.

“Dwelling, accessory” means an independent, detached dwelling unit having the defining characteristics of a dwelling unit but, in addition, being secondary to a primary dwelling located on the same lot of record and containing a maximum of 600 square feet, not including garage.

“Dwelling, attached” means a one-family dwelling attached to two or more one-family dwellings by common vertical walls.

“Dwelling, detached” means a dwelling which is designed to be and is substantially separate from any other structure or structures except accessory buildings.

“Dwelling, multiple-family” means a building or portion thereof used for occupancy by three or more families living independently of each other, and doing their own cooking in the building, including apartments, group houses, and row houses.

“Dwelling, row house or townhouse” means one of a series of three or more attached dwelling units separated from one another by continuous vertical party walls without openings from basement floor to roof.

“Dwelling, single-family” means a building designed and/or used exclusively for residential purposes for one family only and containing not more than one unit, including site-built homes and residential-design manufactured homes, but not including house trailers and mobile homes as defined by this chapter.
“Dwelling, single-family attached” means a one-family dwelling attached to one other one-family dwelling by a common vertical wall that is unpierced and located along its common property line, and each dwelling located on a separate lot.

“Dwelling, single-family detached” means a dwelling which is designed for and occupied by not more than one family and surrounded by open space or yards and which is not attached to any other dwelling by any means.

“Dwelling, two-family (duplex)” means a structure on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

“Dwelling unit” consists of one or more rooms, including a bathroom and complete kitchen facilities, which are arranged, designed or used as living quarters for one family or household.

Section 3. That section 18.55.140, “N” definitions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

“N” definitions.

“Neighborhood” means the smallest subarea in planning, defined as a residential area whose residents have public facilities and social institutions in common, generally within walking distance of their homes.

“Nonconforming lot” means a lot which was lawful prior to the adoption of or amendment to a zoning ordinance but which fails by reason of such adoption or amendment to conform to the present requirements for lots of its zoning district.
“Nonconforming structure or building” means a structure or building, the size, dimension or location of which was lawful prior to the adoption of or amendment to a zoning ordinance but which fails, by reason of such adoption or amendment, to conform to the present requirements of the zoning district.

“Nonconforming use” means a use or activity which was lawful prior to the adoption or amendment of a zoning ordinance but which fails, by reason of such adoption or amendment, to conform to the present requirements of the zoning district.

“Non-owner Occupied” means any dwelling in which the owner of record does not reside in the dwelling or resides in the dwelling fewer than 182 days per calendar year.

Section 4. That section 18.55.150, “O” definitions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

“O” definitions.

“Occupancy, change of” means a discontinuance of an existing use and substitution of a use of a different kind.

“Occupy” means to take or maintain possession of, reside in, or utilize.

“Office” means a building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations.

“Open space” means ground area and the space above which is unimpeded with any enclosed building. 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. Open space is the area remaining on a lot or land after subtracting “lot coverage,” as defined at TMC 18.55.120.
“Owner” means an individual, firm, association, syndicate, partnership, or corporation holding title to or having sufficient proprietary interest to seek permits for development of land.

“Owner-occupied” means any dwelling in which the owner of record resides for 182 days or more per calendar year.

“Ownership certificate (certificate of ownership)” means a listing of properties within an identified area by legal description and address, together with corresponding ownership of those having proprietary ownership for purposes of notification.

Section 5. That section 18.55.190, “S” definitions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

“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 reuse 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 access 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 is 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.

“Short-term residential rental, type I” means any owner-occupied dwelling which: (1) contains rooms furnished for the purposes of providing lodging to transient guests; (2) is kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are available for pay or compensation by transient guests; and (3) has no more than five bedrooms furnished for the accommodation of such guests.

“Short-term residential rental, type II” means any non-owner-occupied dwelling which (1) contains rooms furnished for the purposes of providing lodging to transient guests; (2) is kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are available for pay or compensation by transient guests; and (3) has no more than five bedrooms furnished for the accommodation of such guests.

“Short-term residential rental, type III” means any dwelling, which may or may not be owner-occupied, and which (1) contains rooms furnished for the purposes of providing lodging to transient guests; (2) is kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are available for pay or compensation by transient guests; and (3) has six or more bedrooms furnished for the accommodation of such guests.

“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:

1. **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;

2. **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. Section 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.

3. **Height.**
(i) Fifty feet in height or less; or

(ii) The structure is no more than 10 percent 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.

Section 6. That section 18.55.200, “T” definitions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

“T” definitions.

“Tap/tasting room” means an area included on site that is accessory to micro-alcohol production to allow customers to taste samples of products manufactured on site and purchase related items.
“Temporary use” means a use of land, buildings or structures not intended to be of permanent duration.

“Theater” means a structure used for dramatic, operatic, motion pictures, or other performance, for admission to which entrance money is received and no audience participation or meal service allowed.

“Tract” means an area or parcel of land other than a lot described and recorded in the office of the Register of Deeds of Shawnee County as a single parcel of land under individual ownership.

“Traffic impact analysis (TIA)” means a specialized study of the impact a development will have on the surrounding transportation system. It is specifically concerned with the generation, distribution, and assignment of traffic to and from a proposed development. The purpose of a TIA is to determine what impact that traffic will have on the existing and proposed roadway network, and what impact the existing and projected traffic on the roadway system will have on the proposed development. It will provide a credible basis for estimating roadway and on-site improvement requirements attributable to a particular project, and assess the compatibility of local transportation plans. The specific content of a TIA may vary depending upon the site, prevailing conditions, and safety considerations as expressed by reviewing staff during the preapplication conference, and shall conform to the recommended practice methods of the Institute of Transportation Engineers.

“Transient guest” means a person who occupies a short-term residential rental for not more than twenty-eight (28) consecutive days.
“Transmission tower” means a structure principally intended to support a source of nonionizing electromagnetic radiation (NIER) and accessory equipment related to telecommunications, other than the following uses which are exempt from this division:

1. Portable, handheld and vehicular transmissions;
2. Industrial, scientific and medical equipment operating at frequencies designated for that purpose by the FCC;
3. A source of nonionizing electromagnetic radiation with an effective radiated power of seven watts or less;
4. A sole-source emitter with an average output of one kilowatt or less if used for amateur purposes;
5. Marketed consumer products, such as microwave ovens, citizens band radios, and remote control toys; and
6. Goods in storage or shipment or on display for sale, provided the goods are not operated, except for occasional testing or demonstration.

“Truck stop” means a facility that provides services to the trucking industry, including but not limited to the following: dispensing of fuel, repair shops for large trucks, automated washes, restaurants, motels, overnight sleeping quarters, parking areas for large trucks, resting areas for trucks and drivers, all as part of a primary use.

Section 7. That section 18.60.010, Use Tables, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Use Tables.

A = Allowed
S/C = Allowed but Specific Use Requirements Apply; CUP to vary from specific use requirements
C = Conditional Use Permit Required
P = Prohibited
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Section 8. That section 18.225.010, Special use requirements, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Special use requirements.

The special uses identified in the use matrix table at TMC 18.60.010 are subject to the additional requirements of this chapter. In case of any conflict between the regulations of the district in which the use is allowed and the additional regulations of this chapter, the most restrictive regulations shall govern:

(a) Automobile or Vehicle Dealership. This use includes the sales, leasing, and service of vehicles and trailers having a gross vehicle weight rating over 12,000 pounds, watercraft, recreational vehicles, heavy construction equipment, and agricultural equipment.

(1) Ancillary towing services and body shops are permitted. Storage of damaged vehicles needing body shop repairs shall only be stored in rear yards or screened from view from public roadways and screened from abutting residentially zoned properties.

Automotive wrecking and dismantling for salvage purposes are prohibited. Each disabled
vehicle is limited to 30 days of on-site storage.

(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.

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

(b) Automobile or Vehicle Car Wash Facility.

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

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

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

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

(5) The traffic circulation plan for the facility shall be subject to the approval of the Traffic Engineer or authorized designee of the Public Works Department.

(6) 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.

(c) Automobile Sales. Except in the C-4 commercial district, ancillary uses for a body shop and automotive service station Type 3 are prohibited unless a conditional 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 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 has 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 at 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 18.10.170.

(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.

(I) 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 does not escape the confines of the building.

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

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

(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.

(o) Outdoor Storage of Nonmerchandise. When storage is located in a yard that abuts or is located across the street from residentially zoned property it shall be screened from public view by a solid, opaque screen, fence or sight-prohibitive landscaping of not less than six feet in height, 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. If storage is adjacent to driveways or intersections, screening may be reduced to comply with sight distance triangles, as outlined in TMC 12.20.020.

(p) Reception, Conference and Assembly Facility.

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

2. All applications requesting a conditional use permit shall include and address the following considerations in respect to:

   i. Maximum occupant load at any one time.

   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
(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 either less than 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 harmonious to the unit structure and installed within 10 days of unit placement.

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

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

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

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

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

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

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

(4) In D and X districts, retail merchandise outdoor display areas shall occur only during normal business hours. The outdoor display area shall provide adequate pedestrian clearance and shall not obstruct vehicular or pedestrian circulation.

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

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

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

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

(4) No business activity shall be conducted in the individual storage units.
(5) No living quarters are allowed within the individual units but the overall premises may have one dwelling unit for the caretaker.

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

(w) Animal Care and Services, Type I.

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

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

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

(x) Television, Radio, and Microwave Transmission Towers – Telecommunication Equipment – Accessory Facilities. In addition to the standard 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, excluding an attached garage.

(aa) Bed and Breakfast Inn.

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

(i) 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.

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

(iii) 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.

(iv) 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.

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

(vii) 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, 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.
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 events 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.
   d. Supervision of guests and arrangements for enforcement of any provisions of the conditional use permit, when applicable.
   e. Any proposed screening, buffering, or landscaping to mitigate potential negative effects.
f. Arrangements for parking. Specify the added number and location of guest parking in conjunction with social events. Additional on-site parking shall not interfere with accessing guest parking spaces nor conflict with internal traffic circulation.

(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.

(z) Short-Term Residential Rental, Type I.

(1) Specific Requirements. Each short-term residential rental, type I shall meet all of the following requirements unless waived as part of the conditional use permit process:

(i) The primary entrance to all rooms accessible to guests shall be within the dwelling. An original secondary exterior entrance opening onto a porch or balcony or from a basement unit is allowed.

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

(iii) Individual guestrooms shall not contain cooking facilities.

(iv) The short-term residential rental, type I shall not be used for weddings, receptions, large parties or gatherings, business meetings, or similar activities.

(v) Signage shall comply with the sign regulations applicable to residential uses.

(vi) Only retail sales of a nature clearly incidental and subordinate to the primary use of the premises as a short-term residential rental establishment shall be permitted.

(vii) Parking shall comply with the parking requirements of Chapter 18.240.
(viii) Parking of commercial vehicles by transient guests is not permitted.

(ix) In non-residential zoning districts, the dwelling containing the short-term residential rental shall conform to the use standards of TMC 18.60.010 or be a legal non-conforming use.

(x) The trash and recycling receptacles shall be of sufficient size and number to accommodate all refuse generated by the owner-occupant and the guests.

(xi) Outdoor activities shall not produce any excessive, unnecessary, unusual or loud noises which: (1) create a nuisance; or (2) which interfere with the use or enjoyment of property of any person of reasonable sensibilities.

(2) Administrative permit. Upon receipt of an application and payment of permit fee to be determined by the Director, the Director will determine whether the application meets the requirements in subsection (z). Upon approval, the Director will issue the permit and notify owners of all parcels adjacent to the subject property of the issuance of the permit. The administrative permit shall be valid for two years and may be renewed upon a finding of compliance with the requirements and payment of a fee to be determined by the Director. The Director may deny an application, revoke, or suspend a permit for failure to comply with subsection (z). The applicant or permit holder may appeal the Director’s determination to the Board of Zoning Appeals. An administrative permit is not required if a conditional use permit is granted.

(3) Conditional use permit. In the event that a person cannot meet the requirements of subsection (z)(1)(i) through (vi) or (z)(viii) through (x), such person may apply for a conditional use permit pursuant to Chapter 18.215 TMC.
(aa) Short-Term Residential Rental, Type II.

(1) Specific Requirements. Each short-term residential rental, type II shall meet all of the following requirements unless waived as part of the conditional use permit process:

(i) The primary entrance to all rooms accessible to guests shall be within the dwelling. An original secondary exterior entrance opening onto a porch or balcony or from a basement unit is allowed.

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

(iii) Individual guestrooms shall not contain cooking facilities.

(iv) The short-term residential rental, type II shall not be used for weddings, receptions, large parties or gatherings, business meetings, or similar activities.

(v) Signage shall comply with the sign regulations applicable to residential uses.

(vi) Only retail sales of a nature clearly incidental and subordinate to the primary use of the premises as a short-term residential rental shall be permitted.

(vii) Parking shall comply with the parking requirements of Chapter 18.240.

(viii) Parking of commercial vehicles by transient guests is not permitted.

(ix) Any short-term residential rental, type II in an R, M-1, or M-1A district established after March 1, 2021 shall be no closer than 500 feet from another short-term residential rental, type II or short-term residential rental, type III in an R, M-1, or M-1A district.
(x) In non-residential zoning districts, the dwelling containing the short-term residential rental shall conform to the use standards of TMC 18.60.010 or be a legal non-conforming use.

(xi) The trash and recycling receptacles shall be of sufficient size and number to accommodate all refuse generated by the guests.

(xii) Outdoor activities shall not produce any excessive, unnecessary, unusual or loud noises which: (1) create a nuisance; or (2) which interfere with the use or enjoyment of property of any person of reasonable sensibilities.

(2) Administrative permit. Upon receipt of an application and payment of permit fee to be determined by the Director, the Director will determine whether the application meets the requirements in subsection (aa). Upon approval, the Director will issue the permit and notify owners of all parcels adjacent to the subject property of the issuance of the permit. The administrative permit shall be valid for two years and may be renewed upon a finding of compliance with the requirements and payment of a fee to be determined by the Director. The Director may deny an application, revoke, or suspend a permit for failure to comply with subsection (aa). The applicant or permit holder may appeal the Director’s determination to the Board of Zoning Appeals. An administrative permit is not required if a conditional use permit is granted.

(2) Conditional use permit. In the event that a person cannot meet the requirements of subsection (aa)(1)(i) through (vi) or (viii) through (xi), such person may apply for a conditional use permit pursuant to Chapter 18.215 TMC.

(bb) Short-Term Residential Rental, Type III.
Specific Requirements. A conditional use permit is required for each short-term residential rental, type III, in the zoning districts designated in TMC 18.60.010. In those districts where a conditional use permit is required or where specific use requirements are imposed, the following standards shall apply unless waived as part of the conditional use process:

(i) The short-term residential rental, type III shall be operated within the single-family dwelling and not in any accessory structure.

(ii) The primary entrance to all rooms accessible to guests shall be within the dwelling. An original secondary exterior entrance opening onto a porch or balcony or from a basement unit is allowed.

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

(iv) Individual guestrooms shall not contain cooking facilities.

(v) Signage shall be regulated by the sign regulations except as allowed or restricted by conditional use permit.

(vi) Only retail sales of a nature clearly incidental and subordinate to the primary use of the premises as a short-term residential rental shall be permitted.

(vii) Parking shall comply with the parking requirements of Chapter 18.240.

(viii) Parking of commercial vehicles by transient guests is not permitted.

(ix) The trash and recycling receptacles shall be of sufficient size and number to accommodate all refuse generated by the guests.
(x) Outdoor activities shall not produce any excessive, unnecessary, unusual or loud noises which: (1) create a nuisance; or (2) which interfere with the use or enjoyment of property of any person of reasonable sensibilities.

(xii) Social events such as weddings, receptions, parties, business engagements or similar activities may be accommodated in conjunction with a short-term residential rental, type III, 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.

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

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

5. Parking for Social Events. Off-street parking for event guests shall meet the same number requirements as required by TMC 18.240.030 for religious assembly or cultural facilities.

(2) Conditional use permit. In the event that a person cannot meet the requirements of subsection (bb)(1)(i) through (vi) or (viii), (ix), or (xi), such person may apply for a conditional use permit pursuant to Chapter 18.215 TMC.

(bbcc) Management/Leasing Office and Maintenance Facility.

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

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

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

(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.

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.

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.

(eeff) 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.

(ffe) 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 streetfront side of the building.

(3) Any portion of the building that fronts a public street shall have a storefront 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.
(gghh) 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 nonrelated products are permitted.

(hhii) 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.

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 sight distance triangles, as provided in TMC 12.20.020.

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 and Aesthetic Requirements posted on the City’s website.

Section 9. That section 18.240.030, Required number of off-street parking spaces, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**Required number of off-street parking spaces.**

In all districts, except the C-5 district, there shall be provided prior to the occupation of a building or commencement of a principal use a minimum number of off-street parking and stacking spaces as set forth herein except as otherwise provided for in TMC 18.240.040(b).
<table>
<thead>
<tr>
<th>Principal Use</th>
<th>Number of Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Residential uses.</td>
<td></td>
</tr>
<tr>
<td>(1) Single- and two-family dwellings.</td>
<td>1 per dwelling unit having not more than 950 square feet of floor area</td>
</tr>
<tr>
<td>(2) Multiple-family dwelling and apartment hotels.</td>
<td>2 per dwelling unit having more than 950 square feet of floor area</td>
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<td>2 per dwelling unit for first 20 units, and 1.5 per dwelling unit after the first 20 units for dwelling units not more than 800 square feet of floor area</td>
</tr>
<tr>
<td>(3) Multiple-family dwelling, elderly housing.</td>
<td>2 per dwelling unit having more than 800 square feet of floor area</td>
</tr>
<tr>
<td>(4) Multiple-family dwelling, high-rise.</td>
<td>1 per every 2 dwelling units</td>
</tr>
<tr>
<td>(5) Bed and breakfast innShort term residential rental, Type I and III.</td>
<td>1.5 per dwelling unit for first 20 dwelling units and 1 per dwelling unit thereafter</td>
</tr>
<tr>
<td></td>
<td>1 per sleeping room 1 per every 2 bedrooms for guests in addition to parking required for the residence. In the calculation of parking for guest rooms, a fraction of one-half or more shall be rounded up to the next whole number. Up to three on-street parking spaces may substitute for required off-street parking if the property contains frontage of 22 feet or more, exclusive of driveway approaches, sidewalk ramps, and no parking zones. A minimum of 22 feet of frontage on a street is required for each on-street parking space.</td>
</tr>
<tr>
<td>(6) Short term residential rental, Type II.</td>
<td>As required for single and two-family dwellings. Up to two on-street parking spaces may substitute for required off-street parking if the property contains frontage of 22 feet or more, exclusive of driveway approaches, sidewalk ramps, and no parking zones. A minimum of 22 feet of frontage on a street is required for each on-street parking space</td>
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<tr>
<td>(67) Hotels and motels.</td>
<td>1 per sleeping room plus additional space for restaurant, convention centers and other facilities as may be open to public</td>
</tr>
<tr>
<td>(78) Congregate living and dormitory type dwellings.</td>
<td>1 per sleeping room</td>
</tr>
<tr>
<td>(89) Fraternity/sorority house.</td>
<td>1 per 300 square feet of floor area</td>
</tr>
<tr>
<td>(910) Developmentally disabled group home.</td>
<td>1 per each 2 sleeping rooms</td>
</tr>
<tr>
<td>(b) Community facilities and institutional uses.</td>
<td></td>
</tr>
<tr>
<td>(1) Public and private educational facilities.</td>
<td></td>
</tr>
<tr>
<td>(i) Elementary and secondary.</td>
<td>2.5 per classroom</td>
</tr>
<tr>
<td>(ii) Senior high.</td>
<td>10 per classroom</td>
</tr>
<tr>
<td>(2) Religious assembly.</td>
<td>1 per every 4 seats in auditorium or largest room</td>
</tr>
<tr>
<td>(3) Cultural facility.</td>
<td>1 per 300 square feet of floor area</td>
</tr>
<tr>
<td>(4) Community center.</td>
<td>1 per 300 square feet of floor area</td>
</tr>
<tr>
<td>(5) Reception, conference and assembly facility.</td>
<td>1 per 150 square feet of floor area or 1/3 of the occupant load, whichever is less</td>
</tr>
</tbody>
</table>
(6) Day care center, type II. 1 per every 10 persons the facility is licensed to serve, but not less than 5 spaces. To provide for the safe and convenient loading and unloading of persons as well as minimize traffic congestion, a paved unobstructed pickup space with adequate stacking area (as determined by the City or County Building Official) shall be provided at the building entrance or stacking space to accommodate 5 vehicles.

(7) Residential care facility, types II and III. 1 per every 3 roomers, but not less than 2 spaces.

(8) Medical care facility, type II. 1 per every 3 beds.
(9) Community living facility, type I. 1 per every 2 roomers.

(10) Community living facility, type II. 1 per every staff member determined by the maximum number of staff present at any one time, but not less than 5 spaces.

(11) Crisis center, type I. 1 per 300 square feet of floor area.
(12) Crisis center, type II. 1 per 200 square feet of floor area.

(13) Hospital or medical center. 1.75 per hospital bed.
(14) Private membership association, club, lodge or fraternal organization. 1 per 300 square feet of floor area.
(15) Business or vocational school, technical college. 1 per 200 square feet of floor area.
(16) College or university. 1 per 2.63 students enrolled.

(c) Professional offices.

(1) Medical and related offices and clinics, chiropractic, dental, optometrist, osteopath, pediatrician, etc. 1 per 300 square feet of floor area.
(2) Professional and governmental offices: accounting, architectural, engineering, governmental, insurance sales, law, real estate, sales and brokerage, etc. 1 per 400 square feet of floor area.
(3) Financial institution. 1 per 200 square feet of floor area, plus 3 stacking spaces for each external teller or customer service window.
### d) Commercial uses.

<table>
<thead>
<tr>
<th>(4) Veterinarian.</th>
<th>1 per 400 square feet of floor area</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Business and retail establishments (other than listed).</td>
<td>1 per 200 square feet of floor area</td>
</tr>
<tr>
<td>(2) Restaurants:</td>
<td></td>
</tr>
<tr>
<td>(i) Family dining type, where all food consumed within an enclosed structure.</td>
<td>1 per 150 square feet of floor area or 1/3 the occupant load, whichever is less</td>
</tr>
<tr>
<td>(ii) Carry-out and delivery only, where no food consumed on the premises.</td>
<td>1 per each employee based upon maximum shift, plus 5 stacking spaces per drive-in window. Such stacking spaces shall not be designed to impede pedestrian or vehicular circulation on the site or on any abutting street</td>
</tr>
<tr>
<td>(iii) Drive-in type, where food may be consumed on the premises, outside a completely enclosed building, or served directly to customers in parked vehicles.</td>
<td>1 per 35 square feet of floor area, plus 5 stacking spaces per drive-in window. Such stacking spaces shall not be designed to impede pedestrian or vehicular circulation on the site or on any abutting street</td>
</tr>
<tr>
<td>(iv) Fast food, an establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building or off premises.</td>
<td>1 per 85 square feet of floor area or 1/3 the occupant load, whichever is less, plus 5 stacking spaces per drive-in window. Such stacking spaces shall not be designed to impede pedestrian or vehicular circulation on the site or on any abutting street</td>
</tr>
<tr>
<td>(3) Automotive service station, types I and II.</td>
<td>1 per 4 gas pumps, but not fewer than 4 spaces. In no instance shall a required parking space or its maneuvering area conflict with vehicles being fueled or awaiting fuel</td>
</tr>
<tr>
<td>(4) Funeral home or mortuary.</td>
<td>1 per every 3 seats in the main seating area</td>
</tr>
<tr>
<td>(5) Theater, adult/nonadult.</td>
<td>1 per each 2.5 seats</td>
</tr>
<tr>
<td>(6) Automotive or vehicle car wash.</td>
<td>1 per each 2 washing stalls plus 2 stacking spaces per washing stall</td>
</tr>
<tr>
<td>(7) Shopping centers.</td>
<td>4.55 per 1,000 square feet of gross floor area</td>
</tr>
<tr>
<td>(e) Recreation, entertainment and amusement.</td>
<td></td>
</tr>
</tbody>
</table>

ORD/Zoning – Short Term Rental
Approved by Planning Commission
1/25/2021
| (1) Commercial recreational facility (unless otherwise listed). | 1 per 150 square feet of floor area |
| (2) Courts, racquetball, handball, squash and tennis (when operated as an independent use). | 4 per each court, or 1 per 3 spectator seats, whichever is greater |
| (3) Amusement indoor establishments. | 1 per 100 square feet of floor area |
| (4) Bowling alley. | 5 per alley, plus additional space for any other associated use (e.g., bar, restaurant, etc.) open to the public |
| (5) Amusement park. | 1 per 200 square feet of floor area plus 1 per 200 square feet of land area used for outdoor recreational areas |
| (6) Auditorium, fairgrounds, stadiums and grandstands. | 1 per every 4 seats |
| (7) Athletic field. | 15 spaces for every diamond; 20 spaces for every soccer or athletic field, or 1 space for every 4 seats, whichever is greater |
| (8) Golf courses. | 4 per each green, plus additional space for any other associated uses (e.g., tavern, restaurant, etc.) open to the public |
| (9) Golf driving range. | 1.5 per every tee, if provided, or 1.5 per each 20 feet of range width along the tees |
| (10) Miniature golf course. | 2 per hole |
| (11) Outdoor range, archery, rifle, trap or skeet. | 2 per target area or 1 per 5 seats, whichever is greater |
| (f) Industrial uses. | |
| (1) Industrial establishments (other than listed). | 1 per 1,000 square feet of floor area |
| (2) Research and testing laboratory. | 1 per 600 square feet of floor area |
| (3) Warehousing. | 1 per 1,000 square feet of floor area to a maximum of 5 spaces for establishments up to 25,000 square feet of floor area. For warehouses over 25,000 square feet, 5 spaces plus 1 for each additional 5,000 square feet above 25,000 square feet of floor area |
(4) Manufacturing or establishments engaged in production, processing, packing and crating, cleaning, servicing, or repair of materials, goods or products.

(g) Other uses. For uses not listed, parking spaces shall be provided on the same basis as required for the most similar listed use as determined by the appropriate City or County Building Official.

1 per 600 square feet of floor area up to 25,000 square feet of floor area; and 1 per 1,000 square feet of floor area above 25,000 square feet of floor area


Section 11. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 12. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 13. 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 March 2, 2021.

CITY OF TOPEKA, KANSAS

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Michelle De La Isla, Mayor

ATTEST:

Brenda Younger, City Clerk

ORD/Zoning – Short Term Rental
Approved by Planning Commission
1/25/2021