

(Published in the Topeka Metro News November 9, 2009)

ORDINANCE NO. 19328

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code §48-1.09, §48-7.00, §48-7.02, §48-7.03 and §48-7.04 concerning manufactured home zoning regulations and specifically repealing said original sections as well as §48-7.05.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 2. That section 48-1.09, Use and building restrictions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Use and building restrictions.

(a) Except as hereinafter provided:

(1) No person shall use any premises for a use other than those permitted in the district in which such premises are located.

(2) No building shall be erected, enlarged or structurally altered unless it shall be designed to make the premises conform to the regulations for the district in which the premises are located.

(b) The use of buildings and land, and the regulations herein shall be uniform for each district but may differ from those regulations in other districts.

(c) The use regulations shall not apply to:

(1) Public utilities such as poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves, hydrants, or other similar facilities located on public rights-of-way or public easements and operated by a public utility as a franchise holder from the City of Topeka or Shawnee County, Kansas; and including water lines, sewer lines and similar facilities owned and operated by the City of Topeka

or Shawnee County, Kansas, except the following which shall be subject to the use regulations:

- a. Substations; booster stations; pump stations; distribution stations;
- b. Treatment plants; transmission equipment buildings; and
- c. Towers or reservoirs and similar uses facilitating utility transmission, distribution, and collection systems.

(2) Railroad right-of-way and all uses in conjunction with such railroad operations. Nonrailroad use upon any railroad right-of-way or other property shall conform to these regulations.

(3) The temporary use of land in conjunction with, and exclusively for, a specific construction project; and conditional to the following restrictions and requirements:

- a. Public works construction projects. The temporary use of any land located either on the site of construction or off-site, is permitted which is in conjunction with a project by a governmental entity. Such uses shall include topsoil or fill-dirt extraction; and the location of an asphaltic concrete and/or portland cement concrete plant. However, said plants shall be located a minimum distance of 400 feet from the nearest residential dwelling unit. Distances less than 400 feet may only be permitted by action of the metro board of appeals.

- b. Other construction projects. The temporary use of land in conjunction with a construction project is permitted wherein the temporary use is located upon the site of the project; however, the temporary use of

53 an asphaltic concrete and/or portland cement concrete plant shall be
54 located a minimum distance of 400 feet from the nearest residential
55 dwelling. Distances less than 400 feet may only be permitted by action of
56 the metro board of appeals.

57 c. The temporary use of land for any construction project as set
58 forth above is subject to the approval by the applicable public works
59 director of the political subdivision in which the temporary use is located.
60 Further, said temporary use of land shall not commence until such time
61 that a permit has been granted by the above referenced public works
62 director after first consulting with the planning director; and said permit
63 may include conditions, limitations, and requirements as may be required
64 by other applicable laws, statutes and codes, or as may be determined by
65 the public works director in order to provide for the public health, safety,
66 comfort, and welfare of the community. The public works director may at
67 his or her discretion, deny such temporary use.

68 (4) Exceptions. The appropriate city or county building official or
69 governing body shall have the authority to permit certain exceptions to the district
70 regulations set forth as follows, by the issuance of a permit maintaining
71 conditions governing design, construction, operation and/or expiration of the
72 exception, so as to adequately safeguard the health, safety, and welfare of
73 citizens of Topeka and unincorporated Shawnee County.

74 a. Exception for manufactured homes.

75 i. Replacement of an existing single-wide mobile home
76 or manufactured home with another manufactured home on the

77 same lot or parcel; provided the existing unit was allowed by permit
78 and as otherwise be in conformance with all other applicable zoning
79 regulations; including the development regulations contained within
80 Article 7 of the Comprehensive Zoning Regulations as well as the
81 wastewater management plan.

82 ii. Within the unincorporated areas of Shawnee County,
83 the temporary placement of a manufactured home as a second
84 dwelling on an existing lot or parcel, in instances of extreme
85 hardship or necessity, not based on financial considerations, as
86 determined by the board of commissioners, provided:

87 (a) The applicant shall justify and attest to the
88 hardship or reason for requesting said exception in a
89 notarized affidavit; and

90 (b) The applicant shall agree that the exception
91 may be granted for a one time period not to exceed 18
92 months; provided, however, that at such time the hardship or
93 reason of necessity shall cease and become null and void
94 and the temporary manufactured home shall be removed;
95 and

96 (c) The placement of the temporary manufactured
97 home shall otherwise comply with the comprehensive zoning
98 regulations, wastewater management plan, and all other
99 applicable restrictions and regulations.

(5) The use regulations and dimension requirements of each zoning district shall not apply to agricultural buildings.

(d) Other general requirements:

(1) Prior to the construction of any development or excavation within 1,000 feet of any flood protection facility, a certificate of approval shall be obtained from the city or county engineer, as applicable.

(2) Any or all development authorized by these regulations shall be subject to other applicable codes, regulations, or policies as adopted by the City of Topeka, Shawnee County, Kansas, and the State of Kansas, as appropriate.

(3) Burial of human remains on residentially zoned property is prohibited except as may specifically be provided for herein.

(4) Frontage as required herein shall be continuous in both dimension and extension, and further provided, the subject street frontage is improved to applicable standards or is guaranteed to be improved through appropriate surety. When applicable, the entire frontage shall include all right-of-way abutting, adjacent or coincident with such development site, including corner lots. For purposes of unplatted property, "frontage" shall not include or recognize those segments, sides or portion of the tract or parcel perimeter which restricts and prohibits vehicular ingress/egress; and further, "frontage" shall not include the cross-section width of a stub street as defined by this chapter.

Section 2. That Appendix C, Article VII of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

~~R-4 SINGLE-FAMILY DWELLING~~ MANUFACTURED HOME DISTRICT

Section 3. That section 48-7.00, Purpose; intent, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Purpose; intent.

The primary purpose for the establishment of this district is to provide for the location and use of detached single-family dwellings and manufactured homes as defined, together with specified accessory and supportive uses; and to provide for housing development at affordable levels ~~through minimum site area requirements, lot size and design standards~~ in a subdivision setting. This district may be established in conjunction with an approved plat of subdivision for development in accordance with the provisions of the dimensional requirements and general lot requirements established in section 48-27.01. ~~Further, development for the above-stated purpose may be established in conjunction with the planned unit development district and subject only to the dimensional requirements and standards set forth in said district.~~

Section 4. That section 48-7.02, Use regulations, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Use regulations.

(a) *Permitted uses:*

(1) ~~Detached single family dwelling district building, rResidential-~~ design manufactured home, and manufactured home, ~~and/or ANSI certified mobile home,~~ for the purpose, use and occupancy of a family as defined herein.

The manufactured home shall meet the ~~below-listed development requirement which may be appealable to the metro board of zoning appeals~~ development requirements listed in (a) through (f) below:

a. The manufactured home shall have a minimum dimensions of 14 body feet in width for the principal structure.

b. The manufactured home shall be secured to the ground on a permanent foundation.

c. 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 ten days of unit placement.

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

e. The manufactured home shall have an exterior façade of vinyl or wood siding, stone, brick, or other non-metallic material.

f. The roof of the manufactured home shall be double pitched and have a nominal vertical rise of three (3) inches for each twelve inches (12) of horizontal run, and shall be covered with material that is residential in appearance, including but not limited to wood, asphalt, composition of fiberglass shingles, but excluding corrugated aluminum, corrugated fiberglass, or corrugated metal roofing material. The roof shall have a minimum eave projection or overhang of ten (10) inches on a least two (2) sides, which may include a four (4) inch gutter.

(2) Group home.

(3) Public parks, playgrounds, trails, paths, recreational areas, golf courses, scenic and historic sites, and associated recreational and leisure

169 facilities, including but not limited to shelters, pools, court games, maintenance
170 structures and associated parking to the above uses.

171 (4) Private parks, playgrounds, trails, paths, recreation areas, golf
172 courses, scenic and historic sites, common open space, and associated
173 recreational and leisure facilities, including but not limited to clubhouses,
174 shelters, pools, court games, parking and maintenance structures, for use by
175 members and guests only, provided such facilities are developed in conjunction
176 with, and intended to serve, a residential community and are located and
177 designated on either the recorded plat of subdivision or on an approved planned
178 unit development.

179 (5) Subdivision maintenance facilities and/or U.S. Postal Service
180 receptacle pods and shelter, developed in conjunction with, and intended to
181 serve, a residential community and which is located and designated on either the
182 recorded plat of subdivision or on an approved planned unit development.

183 (6) Public or private elementary and secondary school.

184 (7) Residential care facility, type I.

185 (8) Medical care facility, type I.

186 (b) *Provisional uses:*

187 (1) Day care facility, type I subject to the requirements of article XXVI.

188 (2) Religious assembly subject to the requirements of article XXVI.

189 (3) Golf course subject to the requirements of article XXVI.

190 (c) *Uses permitted by conditional use permit:* The following uses may be
191 granted a conditional use permit by the governing body provided by article XXV:

192 (1) Public use facility.

(2) Vehicle surface parking lot in association with a principal use.

(3) Cultural facility.

(4) Recreation field, court, track, or range in which the principal use is of an outdoor and unenclosed nature and which may include accessory and support facilities as an incidental and ancillary use. Permitted uses shall include the following activities:

a. Swimming.

b. Tennis.

~~(5) Retail sales of a nature clearly incidental and subordinate to and customary in connection with, a principal use.~~

(6) Food service facility, in which food and beverage is offered or prepared for sale or for service with or without charge on the premises and clearly incidental and subordinate to a principal use.

(7) Private or public utility structures facilitating the transmission, distribution, and/or collection systems, including substations, distribution stations, pump stations, reservoirs, towers, transmission equipment buildings and similar such uses.

(8) Community center.

(9) Common open space.

~~(10) Bed and breakfast home subject to the requirements of article XXVI.~~

~~(11) Bed and breakfast inn subject to the requirements of article XXVI.~~

~~(12) Reception, conference and assembly facility subject to requirements of article XXVI.~~

(439) Communication towers, telecommunication equipment and accessory facilities other than those provided for elsewhere in this chapter as exempt as set forth by definition; and subject to the requirements of article XXVI.

(4410) Group residence limited, subject to article XXVI.

Section 5. That section 48-7.03, Dimensional requirements, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Dimensional and size requirements.

(a) *Minimum district size and minimum number of lots:*

(1) 10 lots.

(b) *Minimum lot size:*

(1) Minimum lot width = 40 feet.

(2) Minimum lot depth = 75 feet.

(a) *Minimum lot area and maximum intensity of use:*

(1) Single-family dwelling: 45,000 square feet.

(2) All other uses: 7,500 square feet.

(b) *Minimum yard requirements and maximum structure height:*

(1) Front yard: 25 feet.

(2) Side yard: five5 feet.

(3) Rear yard: 25 feet.

(4) If the recorded plat of subdivision provides for a greater minimum yard requirement than provided by this district, the provisions of the plat shall prevail.

239 ~~(5) The applicable side yard of a corner lot and the rear yard of a~~
240 ~~double frontage lot shall conform to the minimum front yard requirements of this~~
241 ~~district.~~

242 (65) Height: 42 feet.

243 ~~(c) Minimum district size and number of dwellings:~~

244 ~~(1) The "R-4" single-family dwelling district minimum size is 8,000~~
245 ~~square feet.~~

246 Section 6. That section 48-7.04, General provisions, of The Code of the City of
247 Topeka, Kansas, is hereby amended to read as follows:

248 **General provisions.**

249 All principal and accessory uses permitted within this zone are subject to the
250 following requirements:

251 (a) *Accessory uses and requirements:*

252 (1) Permitted accessory uses and restrictions. See article XXIX.

253 (2) Off-street parking requirements. See article XXX.

254 (3) Sign regulations. See article XXXI.

255 (b) *Other provisions:*

256 (1) Dimensional requirements. See article XXVII.

257 (2) Nonconforming uses. See article XXVIII.

258 (3) The development of "R-4" manufactured home district shall apply to
259 subdivided land of record which meets the objectives and requirements of this
260 district, the subdivision of land regulations, and the applicable plat of subdivision
261 stipulations.

(4) If the land subject to "R-4" rezoning is not subdivided land of record, an application for a plat of subdivision shall be submitted concurrently with the "R-4" zoning change application. The application for the plat of subdivision shall comply with Chapter 134 of the Topeka City code.

Section 7. That section 48-7.05, Development alternatives, of The Code of the City of Topeka, Kansas, is hereby specifically repealed.

Development alternatives.

~~(a) The development of "R-4" single-family dwelling district uses with multiple principal structures and/or uses may follow the provisions of article XXIV, Planned Unit Development District.~~

~~(b) The development of "R-4" single-family dwelling district shall apply to subdivided land of record which meets the objectives and requirements of this district, the subdivision of land regulations, and the applicable plat of subdivision stipulations.~~

Section 8. That original §48-1.09, §48-7.02, §48-7.03 and §48-7.04 of The Code of the City of Topeka, Kansas, is hereby specifically repealed.

Section 9. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

PASSED AND APPROVED by the City Council November 3, 2009.

CITY OF TOPEKA, KANSAS

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk