

(Published in the Topeka Metro News March 28, 2011)

ORDINANCE NO. 19534

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code § 18.210.020, concerning permitted accessory uses and specifically repealing said original section. **(ACZR10/5)**

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

Section 1. That section 18.210.020, Permitted uses, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Permitted uses.

The accessory uses, buildings and other structures permitted in each zone may include the following:

(a) In the RA-1 and the RR-1 districts:

(1) Open or enclosed storage of farm materials and equipment.

(2) Farm buildings, including barns, stables, sheds, toolrooms, shops, tanks, bins and silos.

(3) Fuel storage tanks and dispensing equipment for fuels used solely for farming operations. No wholesale/retail sales of such fuels shall be allowed as an accessory use.

(4) Wholesale and retail sales of agricultural products grown or raised upon the premises.

(5) Roadside stands for the sale of produce grown on the premises; provided, that such a stand shall not contain more than 600 square feet of floor area, the stand is located no closer than 20 feet from the right-of-way, and access to the stand is from an entrance to the farm or residence.

29 (6) Private, noncommercial antenna and supporting structure when
30 used for amateur radio service; citizens band radio; a telecommunication device
31 that receives only a radio frequency signal; a sole-source emitter with more than
32 one kilowatt average output; and satellite receiving devices, provided they shall
33 not be located in the area between the street and principal building nor within the
34 required side yard.

35 (7) Fences as regulated by TMC [18.210.040](#).

36 (8) Gazebos, enclosed patios and similar buildings for passive
37 recreational use.

38 (9) Home occupations as regulated by TMC [18.210.035](#).

39 (10) Private garages and carports.

40 (11) Private greenhouses or conservatories.

41 (12) Private recreational uses and facilities including but not limited to
42 swimming pools and tennis courts, if the use of such facilities is restricted to
43 occupants of the principal use and guests for whom no admission or membership
44 fees are charged.

45 (13) Private or public utility transmission, distribution and/or collection
46 systems; and not, however, including substations and distribution substations,
47 pump stations, reservoirs, towers, transmission equipment buildings and similar
48 facilitating structures.

49 (14) Residential accessory storage buildings for the storage of wood,
50 lumber, lawn or gardening equipment and other materials and equipment,

exclusively for the personal use of the residents of the premises, but not including a storage building for commercial purposes.

(15) Signs as regulated by Chapter [18.20](#) TMC.

(16) Statuary, arbors, trellises, flagpoles, and barbecue stoves.

(17) Structures for the shelter of household pets except kennels.

(18) Temporary construction buildings for on-site construction purposes for a period not to exceed the duration of the construction project.

(b) In the R-1, R-2, R-3, R-4, M-1 and M-1a districts: in addition to the accessory uses included in subsections (a)(6) through (a)(18) of this section, the following shall be permitted:

(1) Storage buildings and garages for the storage of wood, lumber, lawn or gardening equipment and other materials and equipment, exclusively for the personal use of the residents of the premises, but not including storage for commercial purposes. Truck bodies and cargo containers are not allowed as accessory uses. However, cargo containers may be used on a temporary basis for up to thirty (30) days within a calendar year.

(2) (a) No farming equipment or farming machinery shall be parked or stored on a lot or tract of land unless within an enclosed lawful structure, or screened from view from any abutting property or street. No ~~noncommercial~~ truck excluding a pickup truck, trailer, boat, bus, tractor, or similar vehicle, machinery, or equipment with a curb weight (unloaded vehicle weight) or manufacturer's gross vehicle weight rating exceeding

~~seven and one-half~~six (6) tons shall be parked or stored any place on a lot or tract of land within an R, M-1 or M-1a district.

(b) No commercial vehicles or commercial equipment, machinery or materials of any kind shall be stored any place on a lot or tract of land, except if such vehicles, equipment, machinery or materials are in temporary usage to actively accomplish permitted temporary activities on the premises such as construction, repair, moving, and other similar activities. In such case they shall be removed from the lot or tract of land within 48 hours of completion of said activity.

(3) Off-street parking as regulated by Chapter [18.240](#) TMC.

(4) A child's playhouse, ~~provided it shall not be more than 120 square feet in area.~~

(c) In the M-2, M-3 and M-4 districts: in addition to the accessory uses included in subsection (b) of this section, the following shall be permitted:

(1) A maintenance storage building incidental to a permitted use, provided no such structure shall exceed 160 square feet in gross floor area, and shall be in keeping with the principal structure.

(2) A facility for leasing, managing and/or maintenance of a multiple-family dwelling or planned unit development, provided such facility is of such size and scale which is in keeping with, and is accessory in nature to, said multiple-family dwelling or planned unit development, all as determined by the planning director.

(d) In the O&I-1, O&I-2 and O&I-3 districts:

(1) For residential uses, the accessory uses included in subsection (c) of this section shall be permitted.

(2) Off-street parking as regulated by Chapter [18.240](#) TMC.

(3) A storage building incidental to a permitted use, provided no such structure shall exceed 200 square feet in gross floor area, and shall be in keeping with the principal structure.

(4) Employee restaurants and cafeterias, when located in a principal structure.

(5) Signs as regulated by Chapter [18.20](#) TMC.

(6) Fences as regulated by TMC [18.210.040](#).

(7) Flagpoles and statuary.

(8) Private garages and carports.

(e) In the C-1, C-2, C-3, C-4 and C-5 districts: in addition to the accessory uses included in subsection (d) of this section, the following shall be permitted:

(1) Restaurants, drugstores, gift shops, clubs, lounges, newsstands, and travel agencies when located in a permitted hotel or motel.

(2) One independent, freestanding commercial structure of 400 square feet or less shall be permitted on a zoning lot. Such accessory structure shall not be required to provide off-street parking, but shall be located as to not interfere with or reduce the amount of required parking for the principal use. The location of such accessory structure shall be reviewed and approved by the planning director at the time of building permit application, provided such location does not conflict or interfere with site access and interior vehicular circulation.

(f) In the I-1 and I-2 districts, the following shall be permitted: ~~there may be any accessory use including but not limited to printing, publishing, design, development, fabrication, assemblage, storage and warehousing, and child care facilities; provided, that:~~

- (1) Fences as regulated by TMC [18.210.040](#).
- (2) Off-street parking as regulated by Chapter [18.240](#) TMC.
- (3) Signs as regulated by Chapter [18.20](#) TMC.
- (4) Gatehouse ~~and/or residence of a night watchman~~.
- (5) Employee recreational facilities.
- (6) Flagpoles and statuary.
- (7) Employee restaurants and cafeterias when located in the principal building of the use served.
- (8) Employee child care facilities.
- (9) Storage and warehousing.
- (10) Caretaker's or night watchmen's quarters.

(g) In the U-1 district: the accessory uses included in subsection (c) of this section.

(h) In the MS-1 district: the accessory uses included in subsection (d) of this section.

(i) In the X-1, X-2 and X-3 districts: the accessory uses included in subsections (b), (c), (d), (e) and ~~(e)~~ of this section shall be in compliance with any applicable performance standards of the X Mixed Use Districts.

Section 2. That original § 18.210.020 of The Code of the City of Topeka, Kansas, is hereby specifically repealed.

Section 3. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 4. This ordinance shall supersede any ordinance, resolution or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 5. 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 March 22, 2011.

CITY OF TOPEKA, KANSAS

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk