

1 (Published in the Topeka Metro News June 6, 2011)

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3 **ORDINANCE NO. 19568**

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5 AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending
6 City of Topeka Code § 18.230.030, § 18.55.120, and § 18.55.250
7 concerning general yard requirements and specifically repealing
8 said original section.
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10 BE IT ORDAINED BY THE GOVERNING BODY THE CITY OF TOPEKA:

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12 Section 1. That section 18.230.030, General yard requirements, of The Code
13 of the City of Topeka, Kansas, is hereby amended to read as follows:

14 **General yard requirements.**

15 (a) Location of Required Yards. The required yard space for any building,
16 structure or use shall be contained on the same zoning lot as the building, structure or
17 use and such required yard space shall be entirely upon land in a district in which the
18 principal use is permitted.

19 (b) Yard Requirements for Open Land. If a zoning lot is, or will be, occupied
20 by a permitted use without buildings or structures, then the minimum yards that would
21 otherwise be required for said zoning lots shall be provided and maintained unless
22 some other provision of this division requires or permits a different minimum yard. The
23 minimum yards shall not be required on zoning lots used for gardening purposes
24 without structures, or on zoning lots used for public recreational areas.

25 (c) Restrictions on Allocation and Disposition of Required Yards or Space.

26 (1) No part of a lot, yard, off-street parking space, open space or other
27 space provided in connection with any building, structure or use in order to
28 comply with this division shall, by reason of change of ownership or otherwise, be
29 included as part of the minimum lot area, yard, off-street parking space, open

space or other space required for any other building, structure or use, except as specifically provided herein.

(2) All of the lot area, yards, off-street parking, open space or other space provided in connection with any building, structure or use in order to comply with this division shall be located on the same zoning lot as such building, structure or use.

(3) No part of a lot, yard, off-street parking, open space or other space provided in connection with any building, structure or use (including, but not limited to, any building, structure or use existing on the effective date of the ordinance codified in this division) shall be subsequently reduced below, or further reduced if already less than, the minimum requirements of this division for the equivalent new construction.

(d) Computing Rear Yard. In computing the required minimum depth of a rear yard for any principal building, principal structure or principal use where such yard abuts on an alley, one-half of the alley right-of-way width may be included as part of the required minimum rear yard.

(e) ~~Front~~—Yards for Corner and Double Frontage Lots. Front yard requirements included in the district regulations within which the zoning lot is located shall apply on both frontages. A double frontage lot shall have two front yards, two side yards, and no rear yard. A corner lot shall have two front yards, one side yard, and one rear yard. The corner lot's rear yard shall be opposite the front yard, which is the yard having the least street frontage, unless the applicant desires otherwise or doing so would create a reversed corner lot. The planning director may approve the creation of

an alternative layout when doing so would result in a better development pattern based on existing and anticipated future development. A property owner may appeal the decision of the planning director by filing an appeal to the planning commission within ten days of receiving written notification of the decision. Such appeal shall be made in writing to the planning director and shall be considered by the planning commission at its next regularly scheduled meeting.

(f) Front Yard Building Setbacks on Existing Lots of Record. An individual unimproved lot of record in the office of the Shawnee County register of deeds may be developed irrespective of the front yard setback requirements of the applicable zoning district, subject to the following requirements:

(1) The proposed development of said property does not conflict with, or alternatively, promotes the policies and objectives as stated in the adopted comprehensive metropolitan plan or an adopted neighborhood plan;

(2) The proposed development is intended to complement the existing character and architecture of the surrounding properties in the neighborhood;

(3) The proposed development shall be consistent with the established building front yard setbacks so as to reflect and align with existing setbacks of buildings on the block face or surrounding neighborhood. Where variable building setbacks exist with respect to surrounding properties, an average of building setbacks may be applied.

(g) Platted Building and Setback Lines. If a recorded plat imposes a building or setback line for a lot which is greater than the minimum front yard of the district in

75 which located, then notwithstanding any other provisions of this division, the minimum
76 setback shall be the setback as imposed by the plat.

77 (h) Where a lot in the O&I, C, I or MS district abuts an R district, a yard at
78 least equal to the abutting yard required in the R district shall be provided along the R
79 district boundary line.

80 (i) An owner of an existing improved property who desires to undertake
81 further improvements to the property but which property does not comply with the yard
82 requirements, shall not be required to file a variance with the metro board of zoning
83 appeals for such further improvement, provided the following conditions are met:

84 (1) The additional improvement will not result in any less yard than that
85 observed by the existing structure; and

86 (2) The original structure was in compliance with regulations existing at
87 the time the original structure was built; or a variance was previously granted
88 which allowed for the deviation from the dimensional requirements; and

89 (3) Applicable designated yard requirements with which the existing
90 improvements are in conformance shall continue to be observed and conformed
91 to, unless an official variance is granted by the metro board of zoning appeals.

92 Section 2. That section 18.55.120, L definitions, of The Code of the City of
93 Topeka, Kansas, is hereby amended to read as follows:

94 **“L” definitions.**

95 “Laboratory” means an establishment devoted to the testing and analysis of any product
96 or animal (including humans). No manufacturing is conducted on the premises except
97 for experimental or testing purposes.

“Laboratory, medical” means an establishment which provides bacteriological, biological, medical, X-ray, pathological and other similar analytical or diagnostic services. Fabrication is limited to the custom fabrication of dentures, optical lenses, braces or other orthopedic appliances.

“Landfill, demolition” means a facility for the disposition of construction/demolition wastes which are transported to a permitted disposal area from an off-site source, and disposing of said wastes without creating nuisances or hazards to public health or safety of the environment.

“Landfill, sanitary” means a method of disposing of refuse/solid wastes on land without creating nuisances or hazards to the public health or safety of the environment at a permitted solid waste disposal area which meets the standards prescribed by the state or local unit of government.

“Landscaped area” means an area that is permanently devoted and maintained for the growing of trees, shrubbery, grass and/or other plant material.

“Landscaping” means the improvement of land by planting or installing living materials such as trees, shrubs, and ground cover; nonliving materials such as rocks, pebbles, bark, mulches, brick pavers, and earthen mounds (excluding pavement); and items of a decorative or embellishment nature such as fountains, pools, fencing, park benches, and sculptures. Landscaping provides screening between adjoining land uses, shade, softens building lines, and produces a visual pleasing effect of the premises.

“Land use plan” means a basic element of a comprehensive plan; it designates the future use or reuse of the land within a given jurisdiction’s planning area, and the policies and reasoning used in arriving at the decisions in the plan.

“Lattice tower” means a guyed or self-supporting three- or four-sided, open, steel frame structure used to support telecommunications equipment.

“Laundromat (self-service)” means an establishment providing washing, drying and/or dry cleaning machines on the premises for rental use to the general public for family laundering or dry cleaning purposes.

“Laundry (commercial)” means an establishment where commercial laundry and/or dry cleaning work is undertaken.

“Library” means a place in which books, manuscripts, musical scores or other literary and artistic materials are kept for use and only incidentally for sale.

“Loading space” means an off-street space for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

“Lodginghouse” means a building where lodging only is provided for compensation to three or more, but not exceeding 20 persons, in contradistinction to hotels open to transients.

“Lot” means an area of land delineated on a subdivision plat as a separate and distinct parcel of land intended for the purpose of transfer of ownership and for individual building or use.

“Lot area” means the total horizontal area within the lot lines of a lot.

“Lot-by-lot development” means the conventional approach to development in which each lot is treated as a separate development unit conforming to all land use, density, and bulk requirements.

“Lot, corner” means a lot abutting upon two or more streets at their intersection.

“Lot coverage” means the percentage of a lot covered by parking lots, paved areas used for storing equipment or materials, loading/unloading areas, and buildings excluding their projecting roof eaves. Lot coverage does not include sidewalks, courtyards, landscaped areas, water bodies, and outdoor recreational areas such as pools and tennis courts.

“Lot depth” means the mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot lines.

“Lot, double frontage” means a lot having a frontage on two nonintersecting streets, as distinguished from a corner lot.

“Lot frontage” means the length of the front lot line measured at the street right-of-way line.

“Lot, interior” means any lot other than a corner lot or a double-frontage lot.

“Lot line, front” means the line separating the lot from the street.

“Lot line, rear” means the line ~~which most nearly qualifies as the line most distant and that is~~ opposite from the front lot line; or in the case of a corner lot it shall be the line opposite from one of the two front lot lines as determined pursuant to TMC 18.230.030 and shall be indicated on the site plan submitted by the property owner or general contractor for a building permit. ~~Where~~ Where the lot is irregularly shaped, the rear lot line shall be a line perpendicular to the mean direction of the side lot lines.

“Lot line, side” means any lot line other than a front lot line or a rear lot line.

“Lot lines” means the lines bounding a lot.

“Lot of record” means a lot which is part of a recorded subdivision plat or a parcel of land which has been recorded in the office of the Shawnee County register of deeds in

accordance with the city of Topeka subdivision regulations in effect at the time of the lot's creation.

"Lot, reversed corner" means a corner lot, the rear of which abuts the side of another lot.

"Lot width" means the distance between the side lot lines, measured along the setback line as established by this division, or if no setback line is established, the distance between the side lot lines measured along the street line.

Section 3. That section 18.55.250, Y definitions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

"Y" definitions.

"Yard" means an open space on the same lot with a building or building group lying between the front, rear, or side wall of a building and the nearest lot line, unoccupied from the grade upward except for building projections or for accessory buildings or structures permitted by this division.

"Yard, front" means a yard extending the full width of the lot on which a building is located and situated between the front lot line and line parallel thereto and passing through the nearest point of a building.

"Yard, rear" means a yard extending the full width of the lot on which a principal building is located and situated between the rear lot line and a line parallel thereto and passing through the nearest point of the principal building. On corner lots, the rear yard shall be ~~parallel to the front face of the principal structure and shall be indicated on the site plan as submitted by the property owner or general contractor~~ determined pursuant to TMC 18.230.030.

189 “Yard, required” means the open space between a lot line and the buildable area within
190 which no structure shall be located except as may be permitted under the provisions of
191 this division.

192 “Yard, side” means a yard on the same lot as a building situated between the side lot
193 line and a line parallel thereto and passing through the nearest point of a building, and
194 extending from the front yard to the rear yard; or in the case of a double frontage lot,
195 extending from one front yard to the second front yard.

196 Section 4. That original § 18.230.030, § 18.55.120, and § 18.55.250 of The
197 Code of the City of Topeka, Kansas, is hereby specifically repealed.

198 Section 5. This ordinance shall take effect and be in force from and after its
199 passage, approval and publication in the official City newspaper.

200 Section 6. This ordinance shall supersede all ordinances, resolutions or rules,
201 or portions thereof, which are in conflict with the provisions of this ordinance.

202 Section 7. Should any section, clause or phrase of this ordinance be declared
203 invalid by a court of competent jurisdiction, the same shall not affect the validity of this
204 ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

205 PASSED AND APPROVED by the Governing Body May 24, 2011.

206
207 CITY OF TOPEKA, KANSAS

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209 _____
210 William W. Bunten, Mayor

211 ATTEST:

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213 _____
214 Brenda Younger, City Clerk