

(Published in the Topeka Metro News July 18, 2011)

ORDINANCE NO. 19602

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., concerning the elimination of zoning districts RA-1 RURAL AGRICULTURE DISTRICT and D&O MULTIPLE-FAMILY DWELLING AND OFFICE DISTRICT, amending City of Topeka Code § 18.20.020, § 18.50.020, § 18.210.020 and § 5.40.100 and specifically repealing said original sections as well as repealing Chapter 18.60 and Chapter 18.120 in their entirety.

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

Section 1. That Chapter 18.60, RA-1 RURAL AGRICULTURE DISTRICT, § 18.60.010 through § 18.60.060, of The Code of the City of Topeka, Kansas, is hereby repealed in its entirety.

Section 2. That Chapter 18.120, D&O MULTIPLE-FAMILY DWELLING AND OFFICE DISTRICT, § 18.120.010 through § 18.120.070, of The Code of the City of Topeka, Kansas, is hereby repealed in its entirety.

Section 3. That section 18.20.020, District regulations, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

District regulations.

All signs listed hereafter are regarded as accessory structures as distinguished from off-premises billboard or poster panel signs which are regarded as a principal use in the districts in which allowed. All signs shall be located upon a lot, parcel or tract of land so as not to encroach upon a recorded easement or public dedicated right-of-way, except as may be provided by Chapters [5.150](#), [18.10](#), [18.15](#) and [18.25](#) TMC.

(a) Agricultural and Residential Districts. The following types of signs are permitted in the ~~RA~~, RR, R and M districts:

31 (1) Church or public building identification sign, not exceeding 25
32 square feet per sign face. Such sign may be lighted only if indirect lighting or
33 shaded lighting is used.

34 (2) Monument signs limited to the identification of a multifamily building
35 or complex, or residential subdivision. Such sign shall be limited to a maximum
36 sign area of 40 square feet and not more than five feet in height. Monument
37 signs shall be limited to two per public street, or designated private drive,
38 entrance into the subject development.

39 (3) Nameplate or flat wall signs (in the M-2 district) nonilluminated on
40 the face of the building which contain the name of the building only. Only one
41 such sign shall be permitted on one building, except where the building fronts two
42 principal streets, one such sign may be permitted on each front face of the
43 building.

44 (4) Nameplate or flat wall sign (in the M-3 and M-4 districts) may be
45 permitted where mounted on the face of the building and containing the name of
46 the building only. Such sign may be interior illuminated, limited to a maximum
47 sign area of 40 square feet.

48 (b) Office and Commercial Districts. The following types of signs are
49 permitted in the O&I and C districts:

50 (1) Church or public building identification sign (in the O&I-1, O&I-2,
51 O&I-3, and C-1 districts) shall be permitted not to exceed 25 square feet per sign
52 face. Such sign may be lighted only if indirect lighting or shaded lighting is used.

53 (2) Monument signs (in the O&I-1, O&I-2, O&I-3 and C-1 districts)

54 limited to a maximum sign area of two square feet per foot on lot frontage, not to
55 exceed a total of 100 square feet or 50 square feet per sign face, and limited to a
56 maximum height of five feet.

57 (3) Nameplate or flat wall sign where mounted on the face of the
58 building and containing the name of the building only. Such sign may be interior
59 illuminated, limited to a maximum sign area of 40 square feet.

60 (4) Advertising signs (in the C-2 district) relating to either the name of
61 the business or products sold therein. Such signs shall not contain more than
62 200 square feet per single sign face, and shall not exceed a height of 35 feet;
63 provided, however, that where such signs are within a 700-foot radius of the
64 intersection of the centerline of an interstate highway with any major street or
65 thoroughfare, as designated on the current adopted transportation plan, such
66 signs shall not exceed a height of 55 feet.

67 (5) Advertising signs (in the C-3, C-4 and C-5 districts) shall not
68 contain more than 300 square feet per single sign face and shall not exceed a
69 height of 55 feet.

70 (c) Industrial Districts. The following types of signs are permitted in the I
71 districts:

72 (1) Nameplate or flat wall sign where mounted on the face of the
73 building and containing the name of the building only. Such signs may be interior
74 illuminated, limited to a maximum sign area of 40 square feet.

75 (2) Monument signs limited to a maximum sign area of two square feet
76 per foot of lot frontage, not to exceed a total of 100 square feet or 50 square feet

per sign face, and limited to a maximum height of five feet.

(3) Advertising sign relating to either the name of the business or products sold therein. Such sign shall not contain more than 300 square feet per single sign face, and shall not exceed a height of 55 feet.

(d) University and Medical Service Districts. The following types of signs are permitted in the U-1 and MS-1 districts:

(1) Nameplate or flat wall signs, nonilluminated on the face of the building which contain the name of the building only.

(2) Monument signs limited to a maximum sign area of 40 square feet or 20 square feet per sign face, and limited to a height of five feet.

(e) Mixed Use Districts. The following types of signs are permitted in the X districts:

(1) Permanent Signs.

(i) A nonresidential property is permitted any combination of wall sign and/or projecting sign totaling 100 square feet per building face except in no case shall any individual wall sign exceed 70 square feet, nor projecting sign exceed 15 square feet in size. An exception to these size limitations may be made by the planning director in cases where it can be demonstrated that any proposed wall or projecting sign supports or restores the historical significance of a building. Wall signs shall not cover or obstruct any architectural features deemed integral to the historic appearance or character of the building. Such features shall include, but are not limited to, transom windows, detailed brick, tile, or shingles.

(ii) Properties are permitted one double-faced ground sign, which shall include portable signs, not to exceed 40 square feet per sign face, nor seven feet in height above grade.

(f) Conditional Use Permits. Uses permitted by conditional use permit shall be subject to the sign regulations of the district where permitted, or specifically reviewed and considered as part of the conditional use permit.

Section 4. That section 18.50.020, District classification, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

District classification.

For the purpose of regulating and restricting the location and use of buildings and the use of land including the height, density, intensity, bulk and area of yards and open space for dwellings, business, industry, conservation, floodplain or other purposes deemed necessary, the jurisdiction is hereby divided into the following districts:

~~RA-1 Rural agriculture district~~

RR-1 Residential reserve district

R-1 Single-family dwelling district

R-2 Single-family dwelling district

R-3 Single-family dwelling district

R-4 Manufactured home district

M-1 Two-family dwelling district

M-1a Limited multiple-family dwelling district

M-2 Multiple-family dwelling district

M-3 Multiple-family dwelling district

M-4 Multiple-family dwelling district

O&I-1 Office and institutional district

O&I-2 Office and institutional district

O&I-3 Office and institutional district

C-1 Commercial district

C-2 Commercial district

C-3 Commercial district

C-4 Commercial district

C-5 Commercial district

I-1 Light industrial district

I-2 Heavy industrial district

PUD Planned unit development district

U-1 University district

MS-1 Medical service district

E Multiple-family dwelling district

~~D&O Multiple-family and office district~~

X-1 Mixed use district

X-2 Mixed use district

X-3 Mixed use district

OS-1 Open space district

D-1 Downtown district

D-2 Downtown district

D-3 Downtown district

Section 5. 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.

(6) Private, noncommercial antenna and supporting structure when

used for amateur radio service; citizens band radio; a telecommunication device that receives only a radio frequency signal; a sole-source emitter with more than one kilowatt average output; and satellite receiving devices, provided they shall not be located in the area between the street and principal building nor within the required side yard.

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

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

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

(10) Private garages and carports.

(11) Private greenhouses or conservatories.

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

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

(14) Residential accessory storage buildings 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 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 30 days within a calendar year.

(2)(i) 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 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 six tons shall be parked or stored any place on a lot or tract of land within an R, M-1 or M-1a district.

(ii) 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.

(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:

(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.

- 224 (5) Employee recreational facilities.
- 225 (6) Flagpoles and statuary.
- 226 (7) Employee restaurants and cafeterias when located in the principal
- 227 building of the use served.
- 228 (8) Employee child care facilities.
- 229 (9) Storage and warehousing.
- 230 (10) Caretaker's or night watchmen's quarters.

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

232 section.

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

234 section.

235 (i) In the X-1, X-2 and X-3 districts: the accessory uses included in

236 subsections (b), (c), (d), (e) and (f) of this section shall be in compliance with any

237 applicable performance standards of the X mixed use districts.

238 Section 6. That section 5.40.100, Issuance or denial, of The Code of the City

239 of Topeka, Kansas, is hereby amended to read as follows:

240 **Issuance or denial.**

241 If the application for a license under this chapter is in proper form and

242 accompanied by the license fee as provided in this chapter, the city clerk shall, upon

243 approval of the police department, the health department and the city council, issue the

244 license provided in this chapter, except that in no event shall a license be issued to:

245 (a) A person who is not a resident of the city and who has not been a resident

246 of the city in good faith for a period of 30 days prior to filing the application;

(b) A person who is not of good character and reputation in the community of his residence;

(c) A person who is an illegal alien in the United States;

(d) A person who within five years immediately preceding the date of making application has been convicted of a felony or of any crime or offense involving moral turpitude;

(e) A copartnership unless one of the copartners is a resident of the city and unless all members of such copartnership shall otherwise be qualified to obtain a license; or

(f) To any person for the establishment or operation of a bathhouse or massage salon or employment therein in any district of the city zoned for ~~RA-1~~, RR-1, R-1, R-2, R-3, R-4, M-1, M-2, M-3, M-4, O&I-1, O&I-2, O&I-3, C-1, C-2, U-1, MS or PUD.

Section 7. That original § 18.20.020, § 18.50.020, § 18.210.020 and § 5.40.100 of The Code of the City of Topeka, Kansas, are hereby specifically repealed.

Section 8. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 9. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 10. 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 July 12, 2011.

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CITY OF TOPEKA, KANSAS

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk