

(Published in the Topeka Metro News August 29, 2011)

ORDINANCE NO. 19628

AN ORDINANCE introduced by Daniel R. Stanley, Acting City Manager, amending City of Topeka Code § 18.210.030 and 18.230.030, concerning setbacks and specifically repealing said original sections.

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

Section 1. That section 18.210.030, Accessory regulations, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Accessory regulations.

(a) Detached Accessory Uses and Buildings. In all districts, except as otherwise provided, detached accessory uses and buildings shall be subject to the following requirements:

(1) Time of Construction. No accessory building shall be constructed or established more than 120 days prior to the time of completion of the construction or establishment of the principal building or use to which it is an accessory.

(2) Setback from Property Lines. Except as otherwise provided, an accessory building shall be separated from lot lines in compliance with the following requirements:

(i) Accessory structures shall not be located within a required front yard ~~as established by the comprehensive zoning regulations for interior and corner lot street frontages; and further, except for roadside stands, garages and carports, accessory structures shall observe interior and corner lot street frontage~~ or beyond the front yard setbacks as

29 ~~established by~~face of the principal structure, whichever is more restrictive.
30 ~~In all instances~~However, a minimum setback of 20 feet from all street
31 rights-of-way shall be provided for roadside stands, garages and carports.
32 If, in the judgment of the planning director, construction of ~~an accessory~~
33 ~~building~~a roadside stand, garage or carport is compatible with the
34 neighborhood, in respect to availability of land for public sidewalks, right-
35 of-way needs, ~~other nonconforming structures within the block and the~~
36 location of ~~principal~~ structures within the block, then such construction
37 may occur ~~without regard to the~~with revised minimum setback(s) as
38 determined by the planning director. If more restrictive than provided
39 above, setbacks as set forth by plats of subdivision shall apply to any and
40 all accessory structures.

41 (ii) In residential districts an accessory building shall not be
42 located closer than three feet from a side lot line and five feet from a rear
43 lot line. An accessory building for a zero lot line dwelling shall comply with
44 the above requirements and shall not be located in the required 10-foot
45 side yard.

46 (iii) Setback from Alley. When a garage or carport is entered
47 directly from an alley, it shall not be located closer than 10 feet from the
48 alley right-of-way line.

49 (3) Setback from Principal Building. No portion of an accessory
50 building shall be located closer than six feet to the principal building or another
51 accessory building on the same lot. However, an unenclosed breezeway may be

52 extended between the principal structure and the accessory structure for the
53 purpose of providing a covered walkway. In no event shall the construction of a
54 covered walkway be deemed to join the principal and accessory structures into
55 one principal structure.

56 (4) Maximum Rear Yard Coverage. In residential districts, the
57 cumulative footprint of accessory buildings shall not occupy more than 30
58 percent of the required rear yard area.

59 (5) Maximum Height. Accessory buildings and structures in residential
60 districts shall not exceed the greater of the height of the principal building or 12
61 and one-half feet, but in no event shall the accessory structure exceed 20 feet in
62 height. In other districts, accessory buildings or structures shall not exceed the
63 maximum height permitted for a principal building.

64 (6) Reverse Corner Lot. On a reversed corner lot in a residential
65 district, and within 15 feet of any adjacent property to the rear in a residential
66 district, no detached accessory building or portion thereof located in a required
67 rear yard shall be closer to the side lot line abutting the street than a distance
68 equal to the least depth which would be required under this division for the front
69 yard on such adjacent property to the rear. Further, in the above instance, all
70 such accessory buildings shall meet the minimum side yard requirements of such
71 adjacent property which coincides with the side lot line or portion thereof of
72 property in any residential district.

73 (b) Attached Accessory Buildings. Attached accessory buildings shall be
74 located pursuant to the requirements for principal buildings. Attached garages and

carports shall be located on a lot so that a minimum 20-foot-length “aisle” between the building and the street right-of-way line is provided.

Section 2. That section 18.230.030, General yard requirements, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

General yard requirements.

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

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

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

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

120 planning director by filing an appeal to the planning commission within 10 days of
121 receiving written notification of the decision. Such appeal shall be made in writing to the
122 planning director and shall be considered by the planning commission at its next
123 regularly scheduled meeting.

124 (f) Front Yard Building Setbacks on Existing Lots of Record. An individual
125 ~~unimproved lot of record in the office of the Shawnee County register of deeds~~ may be
126 developed with revised minimum ~~irrespective of the~~ front yard setback requirements of
127 ~~the applicable zoning district,~~ as determined by the planning director, subject to the
128 following requirements:

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

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

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

139 (g) Platted Building and Setback Lines. If a recorded plat imposes a building
140 or setback line for a lot which is greater than the minimum front yard of the district in
141 which located, then notwithstanding any other provisions of this division, the minimum
142 setback shall be the setback as imposed by the plat.

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

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

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

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

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

Section 3. That original § 18.210.030 and § 18.230.030 of The Code of the City of Topeka, Kansas, are hereby specifically repealed.

Section 4. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 5. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 6. 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 August 23, 2011.

CITY OF TOPEKA, KANSAS

William W. Buntin, Mayor

ATTEST:

Brenda Younger, City Clerk