

(Published in the Topeka Metro News March 5, 2012)

ORDINANCE NO. 19707

AN ORDINANCE introduced by Daniel R. Stanley, Interim City Manager, concerning adult care homes, single-family attached dwellings, and professional offices, amending City of Topeka Code § § 18.55.010, 18.55.080, 18.55.130, 18.65.030, 18.70.030, 18.75.030, 18.80.030, 18.90.010, 18.90.030, 18.90.040, 18.95.010, 18.95.030, 18.95.040, 18.100.030, 18.100.040, 18.105.030, 18.105.040, 18.110.030, 18.180.030, 18.180.040, 18.185.040 and 18.185.050 and specifically repealing said original sections.

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

Section 1. That section 18.55.080, “A” Definitions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

“A” definitions.

“Abandonment” means the relinquishment of property, or a cessation of the use of the property, for a period of one year (365 calendar days) or longer by the owner with the intention neither of transferring rights to the property to another owner nor of resuming the use of the property.

“Abutting” means having property or district lines in common; e.g., two lots are abutting if they have at least one property line in common.

“Accessory building or use” means a building or use which: (1) is subordinate to and serves a principal building or principal use; (2) is subordinate in area, extent, or purpose to the principal building or principal use served; (3) contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use; and (4) is located on the same zoning lot as the principal building or principal use.

“Addition” means any construction which increases the size of a building such as a porch, attached garage or carport or a new room or wing.

32 “Adjacent” means nearby, but not necessarily touching.

33 “Adult motion picture theater” means an enclosed building used for presenting filmed
34 material distinguished or characterized by an emphasis on matter depicting, describing
35 or relating to “specified sexual activities” or “specified anatomical areas” (as defined
36 herein) for observation by patrons therein.

37 “Agriculture” means land devoted to the production of plants, animals, fish, or
38 horticultural products, including but not limited to: forages, grains and feed crops; dairy
39 animals and dairy products; poultry and poultry products; beef, cattle, sheep, swine and
40 horses; aquaculture; trees and forest products; fruits, nuts and berries; vegetables; or
41 nursery, floral, ornamental and greenhouse products. Land devoted to agricultural use
42 shall not include those lands which are used for recreational purposes; suburban
43 residential acreages, rural homesites or farm homesites and yard plots whose primary
44 function is for residential or recreational purposes even though such properties may
45 produce or maintain some of those plants or animals listed in the foregoing definition.

46 “Alley” means a public thoroughfare which affords only a secondary means of access to
47 abutting property.

48 “Alteration” means any change or rearrangement in the supporting members of an
49 existing building, such as bearing walls, columns, beams, girders or interior partitions,
50 as well as any change in doors or windows, or any enlargement to or diminution of a
51 building or structure, whether horizontally or vertically, or the moving of a building or
52 structure from one location to another.

53 “Animal hospital (large)” means a premises where small and large animals are admitted
54 principally for examination, treatment, board, or care, by a doctor of veterinary medicine.

55 “Animal hospital (small)” means a building for the medical or surgical treatment of only
56 domestic animals.

57 “Antenna” means an exterior apparatus designed for transmitting or receiving television,
58 AM/FM radio, digital, microwave, cellular, telephone or similar forms of electronic
59 communication.

60 “Apartment hotel” means a building designed for or containing both apartments or suites
61 of rooms, which caters primarily to tenants with flexible occupancy duration needs.
62 Incidental businesses may be conducted only as a service for persons residing therein,
63 provided there is no entrance to such place(s) of business except from the interior of the
64 building.

65 Area. See “tract.”

66 “Assisted living facility” means a facility caring for 6 or more individuals unrelated to the
67 administrator, operator or owner who by choice or due to functional impairment, may
68 need personal care and/or supervised nursing care to compensate for activities of daily
69 living limitations. The facility includes individual living units or apartments for residents
70 and provides or coordinates a range of services including personal care or supervised
71 nursing care on a 24-hour-a-day basis for the support of resident independence. Skilled
72 nursing services are typically provided on an intermittent or limited term basis, or if
73 limited in scope, on a regular basis.

74 “Automobile or vehicle car wash” means a facility for the washing of motor vehicles.

75 “Automobile wrecking yard” means an area outside of a building where motor vehicles
76 are disassembled, dismantled, junked or wrecked, or where motor vehicles not in
77 operable condition or used parts of motor vehicles are stored.

Automotive Service Station.

“Type 1” means a facility which dispenses automotive fuels and oil together with the retail sales of incidental merchandise such as packaged beer, nonalcoholic beverages, ice, candy, cigarettes, snacks and convenience packaged foods. (Also known as “convenience stores with gas pumps.”)

“Type 2” means a facility which dispenses automotive fuels and oil together with replacement automotive parts such as fan belts, hoses, sparkplugs, tires and tubes, ignition parts, batteries, shock absorbers, fuses, etc., including incidental merchandise as defined above. Minor automotive services shall be permitted, which includes minor repair and replacement.

- (i) Lubrication.
- (ii) Tire repair.
- (iii) Brake repair and wheel balancing.
- (iv) Muffler and exhaust system repair.
- (v) Shock absorber replacement.
- (vi) Engine adjustment (tune-up).
- (vii) Replacement of pumps, cooling systems, generators, alternators, wires, starters, air conditioners, bearings, and other similar devices.
- (viii) Radio repair.
- (ix) Glass replacement.

(x) And other similar repair and replacement services normally deemed to be emergency and convenience services; however, the same shall not include drive train units such as the engine, transmission or drive components.

“Type 3” means a facility which may include those uses defined in types 1 and 2, and specifically includes repair, rebuilding and replacement of drive train units of automobiles, pickup trucks, street vans, motorcycles and racing vehicles.

“Awning” means a roof-like cover that is temporary in nature and projects from the wall of a building for the purpose of shielding a doorway or window from the elements.

Section 2. That section 18.55.080, “H” definitions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

“H” definitions.

“Habitable room” means a room in a dwelling unit designed to be used for living, sleeping, eating, or cooking, excluding bathrooms, closets, halls, storage and similar space.

“Handcrafts” means any occupation in which articles are fashioned totally or chiefly by hand with manual and often artistic skill involved, materials normally being leather, malleable metals, plastics, glass, fabrics or wood.

“Health care facility” means a facility or institution, whether public or private, principally engaged in providing services for health maintenance, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including, but not limited to, a general hospital, special hospital, mental hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, skilled nursing home, nursing home, intermediate care facility, tuberculosis hospital, chronic disease hospital, maternity hospital, outpatient clinic, dispensary, home health care agency, boarding home or other home for sheltered care, and bioanalytical laboratory or central services facility serving one or more such institutions but excluding institutions that provide healing solely by prayer.

“Health services” means establishments primarily engaged in furnishing medical, surgical or other services to individuals, including the offices of physicians, dentists and other health practitioners, medical and dental laboratories, outpatient care facilities, blood banks, and oxygen and miscellaneous types of medical supplies and services.

“Height of building” means the vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The reference datum shall be selected by either of the following, whatever yields a greater height of building:

(1) The elevation of the highest adjoining sidewalk or ground surface within a five-foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than 10 feet above lowest grade.

(2) An elevation 10 feet higher than the lowest grade when the sidewalk or ground surface described in subsection (1) of this definition is more than 10 feet above lowest grade.

The height of a stepped or terraced building is the maximum height of any segment of the building.

“Home care, type I” means a dwelling or portion thereof, and premises, operated and licensed in accordance with any and all applicable state and local requirements, where caring on a 24-hour-a-day basis for up to 8 individuals unrelated to the operator/owner and who due to functional impairment, need personal care and may need supervised nursing care to compensate for activities of daily living limitations.

“Home care, type II” means a dwelling or portion thereof, and premises, operated and licensed in accordance with any and all applicable state and local requirements, where caring on a 24-hour-a-day basis for up to 12 individuals unrelated to the operator/owner and who due to functional impairment, need personal care and may need supervised nursing care to compensate for activities of daily living limitations.

“Home occupation” means any activity carried out for gain by a resident conducted within the limitations and performance standards established by these regulations, as an accessory use in the resident’s dwelling unit.

“Hospital” means an institution providing health services, primarily for inpatients, and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, outpatient departments, training facilities, central service facilities and staff offices.

“Hotel” means a building or group of buildings offering transient lodging accommodations normally on a daily rate to the general public, where access to the rooms is made through a lobby, and with or without accessory uses, such as restaurants, meeting rooms, or recreational facilities.

Section 3. That section 18.55.130, “M” definitions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

“M” definitions.

“Manufacture” means to engage in the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins or liquors.

“Manufactured home” means a structure which is subject to the Federal Manufactured Home Construction and Safety Standards established pursuant to 42 U.S.C. Section 5403.

“Medical care facility, type I” means a dwelling-building or portion thereof, and premises, operated and licensed in accordance with any and all applicable state and local requirements, in which reception, accommodation, board, residential and personal care, nursing care (simple, supervised, or skilled) and treatment for profit or not-for-profit, is provided to a maximum of two individuals who are not acutely ill and not in need of hospital care, but who may require nursing care and domiciliary care; and who are unrelated by blood, adoption, or marriage to the caregivers, administrator or owner. Said facility may be staffed with licensed nursing personnel and other staff as required, and operate on a 24-hour-a-day basis.

183 “Medical care facility, type II” means a dwelling~~building~~ or portion thereof, and
184 premises, operated and licensed in accordance with any and all applicable state and
185 local requirements, ~~in which reception,~~ where accommodation, board, residential and
186 personal care, nursing care (simple, supervised, or skilled) ~~and treatment for profit or~~
187 ~~not for profit,~~ is provided to three (3) or more individuals who are not acutely ill and not
188 in need of hospital care, but who may require nursing care and domiciliary care due to
189 functional impairments typically caused by aging, mental retardation, or mental health
190 issues; and who are unrelated by blood, adoption, or marriage to the caregivers,
191 administrator or owner. Said facility may be staffed with licensed nursing personnel and
192 other staff as required, and operated on a 24-hour-a-day basis.

193 “Metes and bounds” means a system of describing and identifying land by measures
194 (metes) and direction (bounds) from an identifiable point of reference.

195 “Mobile home” means a manufactured structure constructed for dwelling purposes and
196 which is not subject to the Federal Manufactured Home Construction and Safety
197 Standards as established pursuant to 42 U.S.C. Section 5403. “Mobile homes” refer to
198 manufactured units built before June 15, 1976.

199 “Mobile home, ANSI certified” means a mobile home which has certification as being in
200 compliance with Parts B to E, inclusive, of the standard for mobile homes as developed
201 by the American National Standards Committee on Mobile Homes and Recreational
202 Vehicles and designated as ANSI No. A119.1 1975, all pursuant to the provisions of
203 K.S.A. 75-1220.

204 “Mobile home park” means a parcel or tract of land under single ownership which has
205 been planned and improved for the placement of mobile homes for dwelling purposes.

“Monopole tower” means a communication tower consisting of a single pole, constructed without guy wires and ground anchors.

“Mortuary” means a place for the storage of human bodies prior to burial or cremation.

“Motel” means a building or group of buildings offering transient lodging accommodations normally on a daily rate to the general public, where access to each room is provided directly by an exterior door, and with or without accessory uses, such as restaurants, meeting rooms, or recreational facilities.

“Museum” means an establishment operated as a repository or a collection of nature, scientific, or literary curiosities or objects of interest or works of art, not including the regular sale or distribution of the objects collected.

Section 4. That section 18.65.030, Use regulations, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Use regulations.

(a) Permitted Uses.

(1) Agricultural use of land for production, storage, processing, and associated activities for environmental and commercial purposes, all as defined by this division.

(2) Nurseries, greenhouses, orchards, tree farming, sawmills, and truck farms with road stands; however, any sales of products not raised or produced on the premises shall be clearly subordinate to sales of products raised or produced thereon.

(3) Detached single-family dwelling-building, for the purpose, use and occupancy of a family as defined herein. The dimensional requirement applicable to a residential-design manufactured home may be appealable to the ~~metro~~ board of zoning appeals.

(4) Group home.

(5) Public parks, playgrounds, trails, paths, recreational areas, golf courses, scenic and historic sites, and associated recreational and leisure facilities, including but not limited to shelters, pools, court games, maintenance structures and associated parking to the above uses.

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

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

(8) Public or private elementary and secondary school.

(9) Residential care facility, type I.

(10) Medical care facility, type I.

(11) Residential care facility, type II.

(12) Home care, type I.

(b) Provisional Uses.

(1) Day care facility, type I, subject to the requirements of Chapter 18.225 TMC.

(2) Religious assembly, subject to the requirements of Chapter 18.225 TMC.

(3) Golf course, country club, subject to the requirements of Chapter 18.225 TMC.

(c) Uses Permitted by Conditional Use Permit. The following uses may be granted a conditional use permit by the governing body provided by Chapter 18.215 TMC:

(1) Cemetery, subject to the requirements of Chapter 18.225 TMC.

(2) Public use facility.

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

(4) Television, radio and microwave transmission towers; telecommunication equipment; and accessory facilities other than those provided for elsewhere in this division as accessory to a permitted use or exempt as set forth by definition; and subject to the requirements of Chapter 18.250 TMC.

(5) Extraction, processing, storage, and sale of raw materials, including ore, minerals, sand, rock, stone, gravel, topsoil, fill dirt, and other materials delivered by quarry, mining, dredging, or stripping operations, subject to the requirements of Chapter 18.225 TMC.

(6) Cultural facility.

(7) Private airport, heliport, and landing strip.

(8) 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:

(i) Swimming.

(ii) Tennis.

(iii) Baseball and softball.

(iv) Batting cages.

(v) Golf driving range.

(vi) Riding academy.

(vii) Survival games.

(viii) Court and field games.

(ix) Horse, dog, and vehicle racing.

(x) Specifically not permitted under the provisions of this chapter are:

(A) Archery ranges.

(B) Gun target and practice shooting ranges.

- 295 (C) Hunting preserves.
- 296 (9) Retail sales of a nature clearly incidental and subordinate to, and
297 customary in connection with, a principal use.
- 298 (10) Food service facility, in which food and beverage is offered or
299 prepared for sale or for service with or without charge on the premises and
300 clearly incidental and subordinate to a principal use.
- 301 (11) Private or public utility structures facilitating the transmission,
302 distribution, and/or collection systems, including substations, distribution
303 stations, pump stations, reservoirs, towers, transmission equipment
304 buildings and similar such uses. Also a corporate office, or branch office
305 together with an operation and maintenance equipment storage facility
306 and other related equipment that is used exclusively by a private or public
307 utility entity.
- 308 (12) Community center.
- 309 (13) Common open space.
- 310 (14) Bed and breakfast home, subject to the requirements of Chapter
311 18.225 TMC.
- 312 (15) Bed and breakfast inn, subject to the requirements of Chapter
313 18.225 TMC.
- 314 (16) Reception, conference and assembly facility, subject to the
315 requirements of Chapter 18.225 TMC.
- 316 (17) Demolition landfill, subject to the requirements of Chapter 18.225
317 TMC.

- (18) Sanitary landfill; or commercial incinerator.
- (19) Grain or agricultural storage facility (nonfarm site).
- (20) Storage and retail sales of fertilizers, chemicals, insecticides, pesticides, and similar products used for the agricultural production of crops and/or livestock.
- (21) Game hunting and/or fishing preserve for commercial recreation purposes.
- (22) Commercial equine riding academies; training and boarding stable facilities.
- (23) Kennel and/or animal hospital (either large or small animal hospital as defined); provided, however, that all unenclosed structures containing animals, including exercise pens and buildings which do not prevent the extension of audible noise or odor, shall not be located closer than 750 feet to the boundary of a designated dwelling district nor within 200 feet of a subject conditional use boundary line.
- (24) Recreational vehicle short-term campgrounds.
- (25) Youth campgrounds and facilities to accommodate retreats for scouting, 4-H, and similar types of organizations.
- (26) Oil or gas well drilling.
- (27) Billboard and panel poster sign.
- (28) Group residence, general, subject to Chapter 18.225 TMC.
- (29) Group residence, limited, subject to Chapter 18.225 TMC.

(30) Nonresidential small wind energy system, subject to Chapter 18.265 TMC.

(31) Home care, type II.

(32) Assisted living facility.

Section 5. That section 18.70.030, 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 ~~buildings~~, for the purpose, use and occupancy of a family as defined herein. The dimensional requirement applicable to a residential design manufactured home may be appealable to the ~~metro~~-board of zoning appeals.

(2) Group home.

(3) Public parks, playgrounds, trails, paths, recreation areas, golf courses, scenic and historic sites, and associated recreational and leisure facilities, including but not limited to shelters, pools, court games, parking, and maintenance structures.

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

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

(6) Public or private elementary and secondary school.

(7) Residential care facility, type I.

(8) Medical care facility, type I.

(9) Residential care facility, type II.

(10) Home care, type I.

(b) Provisional Uses.

(1) Day care facility, type I, subject to the requirements of Chapter 18.225 TMC.

(2) Religious assembly, subject to the requirements of Chapter 18.225 TMC.

(3) Golf course, country club, subject to the requirements of Chapter 18.225 TMC.

(c) Uses Permitted by Conditional Use Permit. The following uses may be granted a conditional use permit by the governing body provided by Chapter 18.215 TMC:

(1) Cemetery, subject to the requirements of Chapter 18.225 TMC.

(2) Public use facility.

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

(4) Communication towers, telecommunication equipment and accessory facilities other than those provided for elsewhere in this division as exempt as set forth by definition; and subject to the requirements of Chapter 18.225 TMC.

(5) Extraction, processing, storage, and sale of raw materials, including ore, minerals, sand, rock, stone, gravel, topsoil, fill dirt, and other materials delivered by quarry, mining, dredging, or stripping operations, subject to the requirements of Chapter 18.225 TMC.

(6) Cultural facility.

(7) Private airport, heliport, and landing strip.

(8) 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:

(i) Swimming.

- 403 (ii) Tennis.
- 404 (iii) Baseball and softball.
- 405 (iv) Batting cages.
- 406 (v) Golf driving range.
- 407 (vi) Riding academy.
- 408 (vii) Survival games.
- 409 (viii) Court and field games.
- 410 (ix) Horse, dog, and vehicle racing.
- 411 (x) Specifically not permitted under the provisions of this chapter
- 412 are:
- 413 (A) Archery ranges.
- 414 (B) Gun target and practice shooting ranges.
- 415 (C) Hunting preserves.
- 416 (9) Retail sales of a nature clearly incidental and subordinate to, and
- 417 customary in connection with, a principal use.
- 418 (10) Food service facility, in which food and beverage is offered or
- 419 prepared for sale or for service with or without charge on the premises and
- 420 clearly incidental and subordinate to a principal use.
- 421 (11) Private or public utility structures facilitating the transmission,
- 422 distribution, and/or collection systems, including substations, distribution
- 423 stations, pump stations, reservoirs, towers, transmission equipment
- 424 buildings and similar such uses.
- 425 (12) Community center.

(13) Common open space.

(14) Bed and breakfast home, subject to the requirements of Chapter 18.225 TMC.

(15) Bed and breakfast inn, subject to the requirements of Chapter 18.225 TMC.

(16) Reception, conference and assembly facility, subject to requirements of Chapter 18.225 TMC.

(17) Demolition landfill, subject to the requirements of Chapter 18.225 TMC.

(18) Group residence, limited, subject to Chapter 18.225 TMC.

(19) Nonresidential small wind energy system, subject to Chapter 18.265 TMC.

(20) Home care, type II.

(21) Assisted living facility.

Section 6. That section 18.75.030, 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-building, for the purpose, use and occupancy of a family as defined herein. The dimensional requirement applicable to a residential-design manufactured home may be appealable to the ~~metro~~ board of zoning appeals.

(2) Group home.

(3) Public parks, playgrounds, trails, paths, recreation areas, golf courses, scenic and historic sites, and associated recreational and leisure facilities, including but not limited to shelters, pools, court games, maintenance structures and associated parking to the above uses.

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

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

(6) Public or private elementary and secondary school.

(7) Residential care facility, type I.

(8) Medical care facility, type I.

(9) Residential care facility, type II.

(10) Home care, type I.

(b) Provisional Uses.

(1) Day care facility, type I, subject to the requirements of Chapter 18.225 TMC.

(2) Religious assembly, subject to the requirements of Chapter 18.225 TMC.

(3) Golf course, subject to the requirements of Chapter 18.225 TMC.

(c) Uses Permitted by Conditional Use Permit. The following uses may be granted a conditional use permit by the governing body provided by Chapter 18.215 TMC:

(1) Public use facility.

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

(3) Cultural facility.

(4) Community center.

(5) Common open space.

(6) Recreation field, court, tract, 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:

(i) Swimming.

(ii) Tennis.

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

(8) 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.

(9) 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.

(10) Bed and breakfast home, subject to the requirements of Chapter 18.225 TMC.

(11) Bed and breakfast inn, subject to the requirements of Chapter 18.225 TMC.

(12) Reception, conference and assembly facility, subject to requirements of Chapter 18.225 TMC.

(13) Communication towers, telecommunication equipment and accessory facilities other than those provided for elsewhere in this division as exempt as set forth by definition; and subject to the requirements of Chapter 18.250 TMC.

(14) Group residence, limited, subject to Chapter 18.225 TMC.

(15) Nonresidential small wind energy system, subject to Chapter 18.265 TMC.

(16) Home care, type II.

(17) Assisted living facility.

515 Section 7. That section 18.80.030, Use regulations, of The Code of the City of
516 Topeka, Kansas, is hereby amended to read as follows:

517 **Use regulations.**

518 (a) Permitted Uses.

519 (1) Detached single-family dwelling~~-building~~, for the purpose, use and
520 occupancy of a family as defined herein. The dimensional requirement
521 applicable to a residential-design manufactured home may be appealable
522 to the ~~metro~~-board of zoning appeals.

523 (2) Group home.

524 (3) Public parks, playgrounds, trails, paths, recreation areas, golf
525 courses, scenic and historic sites, and associated recreational and leisure
526 facilities, including but not limited to shelters, pools, court games,
527 maintenance structures and associated parking to the above uses.

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

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

(6) Public or private elementary and secondary school.

(7) Residential care facility, type I.

(8) Medical care facility, type I.

(9) Residential care facility, type II.

(10) Home care, type I.

(b) Provisional Uses.

(1) Day care facility, type I, subject to the requirements of Chapter 18.225 TMC.

(2) Religious assembly, subject to the requirements of Chapter 18.225 TMC.

(3) Golf course, subject to the requirements of Chapter 18.225 TMC.

(c) Uses Permitted by Conditional Use Permit. The following uses may be granted a conditional use permit by the governing body provided by Chapter 18.215 TMC:

(1) Public use facility.

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

(3) Cultural facility.

(4) Recreation facility 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:

(i) Swimming.

(ii) 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 structure 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 Chapter 18.225 TMC.

(11) Bed and breakfast inn, subject to the requirements of Chapter 18.225 TMC.

(12) Reception, conference and assembly facility, subject to requirements of Chapter 18.225 TMC.

(13) Communication towers, telecommunication equipment and accessory facilities other than those provided for elsewhere in this division as exempt as set forth by definition; and subject to the requirements of Chapter 18.250 TMC.

(14) Group residence, limited, subject to Chapter 18.225 TMC.

(15) Nonresidential small wind energy system, subject to Chapter 18.265 TMC.

(16) Home care, type II.

(17) Assisted living facility.

Section 8. That section 18.90.010, Purpose—Intent, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Purpose – Intent.

This district is established to provide for the use of two-family and attached single-family dwellings together with specified accessory uses. The purpose of this district is intended to provide for a housing type and arrangement that is distinguished from the single-family detached dwellings and multi-family dwellings provided for elsewhere in these regulations. The location of this district is further intended to provide a transitional use between the single-family detached dwelling districts and other districts which are more intensive.

Section 9. That section 18.90.030, 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-building, for the purpose, use and occupancy of a family as defined herein. The dimensional requirement applicable to a residential-design manufactured home may be appealable to the ~~metro~~ board of zoning appeals.

(2) Two-family dwelling-building.

(3) Public parks, playgrounds, trails, paths, recreation areas, golf courses, scenic and historic sites, and associated recreational and leisure facilities, including but not limited to shelters, pools, court games, maintenance structures and associated parking to the above uses.

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

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

(6) Public or private elementary and secondary schools.

- 627 (7) Residential care facility, type I.
- 628 (8) Medical care facility, type I.
- 629 (9) Group home.
- 630 (10) Residential care facility, type II.
- 631 (11) Home care, type I.
- 632 (12) Single-family attached dwelling.
- 633 (b) Provisional Uses.
- 634 (1) Day care facility, type I, subject to the requirements of Chapter
- 635 18.225 TMC.
- 636 (2) Religious assembly, subject to the requirements of Chapter 18.225
- 637 TMC.
- 638 (3) Golf course, subject to the requirements of Chapter 18.225 TMC.
- 639 (4) Management and leasing offices and maintenance facility, subject
- 640 to the requirements of Chapter 18.225 TMC.
- 641 (c) Uses Permitted by Conditional Use Permit. The following uses may be
- 642 granted a conditional use permit by the governing body provided by Chapter 18.215
- 643 TMC:
- 644 (1) Bed and breakfast home, subject to the requirements of Chapter
- 645 18.225 TMC.
- 646 (2) Bed and breakfast inn, subject to the requirements of Chapter
- 647 18.225 TMC.
- 648 (3) Common open space.
- 649 (4) Community center.

- (5) Cultural facility.
- (6) Food service facility including vending machines, in which food and drink 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) Vehicle surface parking lot in association with a principal use.
- (8) 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.
- (9) Public use facility.
- (10) Reception, conference and assembly facility, subject to the requirements of Chapter 18.225 TMC.
- (11) Retail sales of a nature clearly incidental and subordinate to, and customary in connection with, a principal use.
- (12) Communication towers, telecommunication equipment and accessory facilities other than those provided for elsewhere in this division as exempt as set forth by definition; and subject to the requirements of Chapter 18.250 TMC.
- (13) Recreational 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:
- (i) Swimming.

(ii) Tennis.

(14) Group residence, limited, subject to Chapter 18.225 TMC.

(15) Nonresidential small wind energy system, subject to Chapter 18.265 TMC.

(16) Home care, type II.

(17) Assisted living facility.

Section 10. That section 18.90.040, Dimensional requirements, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Dimensional requirements.

(a) Minimum Lot Area and Maximum Intensity of Use.

(1) Single-family detached dwelling: 4,000 square feet.

(2) Two-family dwelling: 4,500 square feet.

(3) Single-family attached (both lots together): 4,500 square feet.

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

(b) Minimum Yard Requirements and Maximum Structure Height.

(1) Front yard: 25 feet.

(2) Side yard: five feet unless attached.

(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.

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

(6) Height: 45 feet.

Section 11. That section 18.95.010, Purpose, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Purpose – Intent.

This district is established to provide for the use of two-family dwellings, single-family attached dwellings, and multiple-family dwellings, containing not more than four dwelling units, together with specified accessory uses. This district is intended to provide a transitional use buffer in locations between the single- and two-family dwelling districts and other districts which are more intensive.

Section 12. That section 18.95.030, 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 ~~building~~, for the purpose, use and occupancy of a family as defined herein. The dimensional requirement applicable to a residential-design manufactured home may be appealable to the ~~metro~~ board of zoning appeals.

(2) Two-family dwelling ~~building~~.

(3) Three-family dwelling ~~building~~.

(4) Four-family dwelling ~~building~~.

(5) Public parks, playgrounds, trails, paths, recreation areas, golf courses, scenic and historic sites, and associated recreational and leisure facilities, including but not limited to shelters, pools, court games, maintenance structures and associated parking to the above uses.

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

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

(8) Public or private elementary and secondary schools.

(9) Residential care facility, type I.

(10) Medical care facility, type I.

(11) Group home.

(12) Residential care facility, type II.

(13) Home care, type I.

(14) Single-family attached dwelling.

(b) Provisional Uses.

(1) Day care facility, type I, subject to the requirements of Chapter 18.225 TMC.

(2) Religious assembly, subject to the requirements of Chapter 18.225 TMC.

(3) Golf course, subject to the requirements of Chapter 18.225 TMC.

(c) Uses Permitted by Conditional Use Permit. The following uses may be granted a conditional use permit by the governing body provided by Chapter 18.215 TMC:

(1) Bed and breakfast home, subject to the requirements of Chapter 18.225 TMC.

(2) Bed and breakfast inn, subject to the requirements of Chapter 18.225 TMC.

(3) Common open space.

(4) Community center.

(5) Cultural facility.

(6) Food service facility including vending machines, in which food and drink 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) Vehicle surface parking lot in association with a principal use.

(8) 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.

(9) Public use facility.

(10) Reception, conference and assembly facility, subject to the requirements of Chapter 18.225 TMC.

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

(12) Communication towers, telecommunication equipment and accessory facilities other than those provided for elsewhere in this division as exempt as set forth by definition; and subject to the requirements of Chapter 18.250 TMC.

(13) Recreational 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:

(i) Swimming.

(ii) Tennis.

(14) Group residence, limited, subject to Chapter 18.225 TMC.

(15) Nonresidential small wind energy system, subject to Chapter 18.265 TMC.

(16) Home care, type II.

(17) Assisted living facility.

Section 13. That section 18.95.040, Dimensional requirements, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Dimensional requirements.

(a) Minimum Lot Area and Maximum Intensity of Use.

(1) Single-family detached dwelling: 4,000 square feet.

(2) Two-family dwelling: 4,500 square feet.

(3) Three- and four-family dwellings: 4,356 square feet per dwelling unit.

(4) Single-family attached dwelling (both lots together): 4,500 square feet.

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

(b) Minimum Yard Requirements and Maximum Structure Height.

(1) Front yard: 25 feet.

(2) Side yard: five feet unless attached.

(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.

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

(6) Height: 45 feet.

807 Section 14. That section 18.100.030, Use regulations, of The Code of the City
808 of Topeka, Kansas, is hereby amended to read as follows:

809 **Use regulations.**

810 (a) Permitted Uses.

811 (1) Detached single-family dwelling~~-building~~, for the purpose, use and
812 occupancy of a family as defined herein. The dimensional requirement
813 applicable to a residential-design manufactured home may be appealable
814 to the ~~metro~~-board of zoning appeals.

815 (2) Two-family dwelling~~-building~~.

816 (3) Multiple-family dwelling~~-building~~.

817 (4) Boarding and lodging house.

818 (5) Public parks, playgrounds, trails, paths, recreation areas, golf
819 courses, scenic and historic sites, and associated recreational and leisure
820 facilities, including but not limited to shelters, pools, court games,
821 maintenance structures and associated parking to the above uses.

822 (6) Private parks, playgrounds, trails, paths, recreation areas, golf
823 courses, scenic and historic sites, common open space, and associated
824 recreational and leisure facilities, including, but not limited to, clubhouses,
825 shelters, pools, court games, parking, and maintenance structures, for use
826 by members and guests only, provided such facilities are developed in
827 conjunction with, and intended to serve, a recreational community and are
828 located and designated on either the recorded plat of subdivision or on an
829 approved planned unit development.

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

(8) Public or private elementary and secondary schools.

(9) Residential care facility, type II.

(10) Medical care facility, type I.

(11) Group home.

(12) Sorority or fraternity house.

(13) Group residence, limited, subject to Chapter 18.225 TMC.

(14) Residential care facility, type I.

(15) Home care, type I.

(16) Home care, type II.

(17) Assisted living facility.

(18) Single-family attached dwelling.

(b) Provisional Uses.

(1) Bed and breakfast home, subject to the requirements of Chapter 18.225 TMC.

(2) Bed and breakfast inn, subject to the requirements of Chapter 18.225 TMC.

(3) Day care facility, type I, subject to the requirements of Chapter 18.225 TMC.

(4) Day care facility, type II, subject to the requirements of Chapter 18.225 TMC.

(5) Religious assembly, subject to the requirements of Chapter 18.225 TMC.

(6) Golf course, subject to the requirements of Chapter 18.225 TMC.

(7) Vehicle surface parking lot in association with a principal use, subject to the requirements of Chapter 18.225 TMC.

(c) Uses Permitted by Conditional Use Permit. The following uses may be granted a conditional use permit by the governing body provided by Chapter 18.215 TMC:

(1) Community center.

(2) Cultural facility.

(3) 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.

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

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

(6) Public use facility.

(7) Reception, conference and assembly facility, subject to the requirements of Chapter 18.225 TMC.

(8) Recreation facility 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 and similar activities of like intensity:

(i) Swimming.

(ii) Tennis.

(9) Residential care facility, type III.

(10) Medical care facility, type II.

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

(12) Bed and breakfast inn.

(13) Communication towers, telecommunication equipment and accessory facilities other than those provided for elsewhere in this division as exempt as set forth by definition; and subject to the requirements of Chapter 18.250 TMC.

(14) Common open space.

(15) Correctional placement residence or facility, limited, subject to the requirements of Chapter 18.225 TMC.

(16) Group residence, general, subject to the requirements of Chapter 18.225 TMC.

(17) Nonresidential small wind energy system, subject to Chapter 18.265 TMC.

898 Section 15. That section 18.100.040, Dimensional requirements, of The Code
899 of the City of Topeka, Kansas, is hereby amended to read as follows:

900 **Dimensional requirements.**

901 (a) Minimum Lot Area and Maximum Intensity of Use.

902 (1) Single-family detached dwelling: 3,500 square feet.

903 (2) Two-family dwelling: 4,000 square feet.

904 (3) Single-family attached dwelling (both lots together): 4,000 square
905 feet.

906 (34) Multiple-family dwelling: 1,500 square feet per dwelling unit.

907 (45) Housing facility designed for congregate living or a dormitory type
908 dwelling, the occupancy shall not exceed the following:

909 (i) For the first occupant, 150 square feet of floor space and at
910 least 100 square feet of floor space for every additional occupant
911 thereof.

912 (ii) A total number of occupants equal to two times the number
913 of habitable rooms.

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

915 (b) Minimum Yard Requirements and Maximum Structure Height.

916 (1) Front yard: 25 feet.

917 (2) Side yard: five feet unless attached.

918 (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.

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

(6) Height: 50 feet.

Section 16. That section 18.105.030, 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~~-building~~, for the purpose, use and occupancy of a family as defined herein. The dimensional requirement applicable to a residential-design manufactured home may be appealable to the ~~metro~~-board of zoning appeals.

(2) Two-family dwelling~~-building~~.

(3) Multiple-family dwelling~~-building~~.

(4) Boarding and lodging house.

(5) Public parks, playgrounds, trails, paths, recreation areas, golf courses, scenic and historic sites, and associated recreational and leisure facilities, including but not limited to shelters, pools, court games, parking, and maintenance structures.

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

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

(8) Public or private elementary and secondary schools.

(9) Residential care facility, type III.

(10) Medical care facility, type I.

(11) Group home.

(12) Sorority or fraternity house.

(13) Group residence, limited, subject to Chapter 18.225 TMC.

(14) Residential care facility, type I.

(15) Residential care facility, type II.

(16) Home care, type I.

(17) Home care, type II.

964 (18) Assisted living facility.

965 (19) Single-family attached dwelling.

966 (b) Provisional Uses.

967 (1) Bed and breakfast home, subject to the requirements of Chapter
968 18.225 TMC.

969 (2) Bed and breakfast inn, subject to the requirements of Chapter
970 18.225 TMC.

971 (3) Day care facility, type I, subject to the requirements of Chapter
972 18.225 TMC.

973 (4) Day care facility, type II, subject to the requirements of Chapter
974 18.225 TMC.

975 (5) Religious assembly, subject to the requirements of Chapter 18.225
976 TMC.

977 (6) Golf course, subject to the requirements of Chapter 18.225 TMC.

978 (7) Vehicle surface parking lot in association with a principal use,
979 subject to the requirements of Chapter 18.225 TMC.

980 (c) Uses Permitted by Conditional Use Permit. The following uses may be
981 granted a conditional use permit by the governing body provided by Chapter 18.215
982 TMC:

983 (1) Apartment hotel.

984 (2) Bed and breakfast inn.

985 (3) Community center.

986 (4) Cultural facility.

- (5) Medical care facility, type II.
- (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) Vehicle surface parking lot and/or multilevel parking structure as specified by the application in association with a principal use.
- (8) 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.
- (9) Public use facility.
- (10) Reception, conference and assembly facility, subject to the requirements of Chapter 18.225 TMC.
- (11) Recreation facility 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 and similar activities of like intensity:
- (i) Swimming.
 - (ii) Tennis.
- (12) Community living facility, type I.
- (13) Retail sales of a nature clearly incidental and subordinate to, and customary in connection with, a principal use.

- 1009 (14) Communication towers, telecommunication equipment and
1010 accessory facilities other than those provided for elsewhere in this division
1011 as exempt as set forth by definition; and subject to the requirements of
1012 Chapter 18.250 TMC.
- 1013 (15) Common open space.
- 1014 (16) Correctional placement residence or facility, general, subject to the
1015 requirements of Chapter 18.225 TMC.
- 1016 (17) Correctional placement residence or facility, limited, subject to the
1017 requirements of Chapter 18.225 TMC.
- 1018 (18) Group residence, general.
- 1019 (19) Nonresidential small wind energy system, subject to Chapter
1020 18.265 TMC.

1021 Section 17. That section 18.105.040, Dimensional requirements, of The Code
1022 of the City of Topeka, Kansas, is hereby amended to read as follows:

1023 **Dimensional requirements.**

- 1024 (a) Minimum Lot Area and Maximum Intensity of Use.
- 1025 (1) Single-family detached dwelling: 3,500 square feet.
- 1026 (2) Two-family dwelling: 4,000 square feet.
- 1027 (3) Single-family attached dwelling (both lots together): 4,000 square
1028 feet.
- 1029 (34) Multiple-family dwelling: 600 square feet per dwelling unit.
- 1030 (45) Housing facility designed for congregate living or a dormitory type
1031 dwelling, the occupancy shall not exceed the following:

1032 (i) For the first occupant, 150 square feet of floor space and at
1033 least 100 square feet of floor space for every additional occupant
1034 thereof.

1035 (ii) A total number of occupants equal to two times the number
1036 of habitable rooms.

1037 (56) All other uses: 7,500 square feet.

1038 (b) Minimum Yard Requirements and Maximum Structure Height.

1039 (1) Front yard: 25 feet.

1040 (2) Side yard: five feet unless attached.

1041 (3) Rear yard: 25 feet.

1042 (4) If the recorded plat of subdivision provides for a greater minimum
1043 yard requirements than provided by this district, the provisions of the plat
1044 shall prevail.

1045 (5) The applicable side yard of a corner lot and the rear yard of a
1046 double frontage lot shall conform to the minimum front yard requirements
1047 of this district.

1048 (6) Height: 100 feet.

1049 Section 18. That section 18.110.030, Use regulations, of The Code of the City
1050 of Topeka, Kansas, is hereby amended to read as follows:

1051 **Use regulations.**

1052 (a) Permitted Uses.

1053 (1) Apartment hotel.

1054 (2) Multiple-family dwelling ~~building~~.

(3) Boarding and lodging house.

(4) Public parks, playgrounds, trails, paths, recreation areas, golf courses, scenic and historic sites, and associated recreational and leisure facilities, including but not limited to shelters, pools, court games, maintenance structures and associated parking to the above uses.

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

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

(7) Public or private elementary and secondary schools.

(8) Residential care facility, type III.

(9) Medical care facility, type I.

- 1076 (10) Accessory uses in conjunction with a multiple-family building
1077 containing a minimum of 50 dwelling units or a minimum of 50 permanent
1078 residential occupants:
- 1079 (i) Barbershop.
 - 1080 (ii) Beauty shop.
 - 1081 (iii) Laundry – dry cleaning pickup station.
 - 1082 (iv) Travel-tour agency.
 - 1083 (v) Restaurant.
 - 1084 (vi) Gift shop.
 - 1085 (vii) Such accessory uses shall comply with the following:
 - 1086 (A) Limited to the ground floor.
 - 1087 (B) No separate outside entrances.
 - 1088 (C) No external advertising of any type.
 - 1089 (D) Established for the primary convenience of the
1090 occupants therein.
 - 1091 (11) Sorority or fraternity house.
 - 1092 (12) Group residence, general, subject to the requirements of Chapter
1093 18.225 TMC.
 - 1094 (13) Group residence, limited, subject to the requirements of Chapter
1095 18.225 TMC.
 - 1096 (14) Residential care facility, type I.
 - 1097 (15) Residential care facility, type II.
 - 1098 (16) Home care, type I.

- 1099 (17) Home care, type II.
- 1100 (18) Assisted living facility.
- 1101 (b) Provisional Uses.
- 1102 (1) Bed and breakfast home, subject to the requirements of Chapter
- 1103 18.225 TMC.
- 1104 (2) Bed and breakfast inn, subject to the requirements of Chapter
- 1105 18.225 TMC.
- 1106 (3) Day care facility, type I, subject to the requirements of Chapter
- 1107 18.225 TMC.
- 1108 (4) Day care facility, type II, subject to the requirements of Chapter
- 1109 18.225 TMC.
- 1110 (5) Religious assembly, subject to the requirements of Chapter 18.225
- 1111 TMC.
- 1112 (6) Golf course, subject to the requirements of Chapter 18.225 TMC.
- 1113 (7) Vehicle surface parking lot in association with a principal use,
- 1114 subject to the requirements of Chapter 18.225 TMC.
- 1115 (c) Uses Permitted by Conditional Use Permit. The following uses may be
- 1116 granted a conditional use permit by the governing body provided by Chapter 18.215
- 1117 TMC:
- 1118 (1) Bed and breakfast inn.
- 1119 (2) Community center.
- 1120 (3) Cultural facility.
- 1121 (4) Medical care facility, type II.

- 1122 (5) Food service facility in which food and beverage is offered or
1123 prepared for sale or for service with or without charge on the premises and
1124 clearly incidental and subordinate to a principal use.
- 1125 (6) Vehicle surface parking lot and/or multilevel parking structure as
1126 specified in the application in association with a principal use.
- 1127 (7) Private or public utility structures facilitating the transmission,
1128 distribution, and/or collection systems, including substations, distribution
1129 stations, pump stations, reservoirs, towers, transmission equipment
1130 buildings and similar such uses.
- 1131 (8) Public use facility.
- 1132 (9) Reception, conference and assembly facility, subject to the
1133 requirements of Chapter 18.225 TMC.
- 1134 (10) Recreation field, court, track, or range in which the principal use is
1135 of an outdoor and unenclosed nature and which may include accessory
1136 and support facilities as an incidental and ancillary use. Permitted uses
1137 shall include the following activities and similar activities of like intensity:
- 1138 (i) Swimming.
- 1139 (ii) Tennis.
- 1140 (11) Retail sales of a nature clearly incidental and subordinate to, and
1141 customary in connection with, a principal use.
- 1142 (12) Community living facility, type I.

1143 (13) Communication towers, telecommunication equipment and
1144 accessory facilities other than those provided for elsewhere in this division
1145 as exempt as set forth by definition; and subject to the requirements of
1146 Chapter 18.250 TMC.

1147 (14) Common open space.

1148 (15) Correctional placement residence or facility, general, subject to the
1149 requirements of Chapter 18.225 TMC.

1150 (16) Correctional placement residence or facility, limited, subject to the
1151 requirements of Chapter 18.225 TMC.

1152 (17) Nonresidential small wind energy system, subject to Chapter
1153 18.265 TMC.

1154 Section 19. That section 18.180.030, Use regulations, of The Code of the City
1155 of Topeka, Kansas, is hereby amended to read as follows:

1156 **Use regulations.**

1157 (a) Permitted Principal Uses.

1158 (1) Human health care related facilities including the following:

1159 (i) Health care facility, health service establishment and
1160 hospital as defined by this division.

1161 (ii) Health care education, training and administrative facility.

1162 (iii) Health care office, clinic, laboratory and treatment facility.

1163 (iv) Health care testing and research.

- 1164 (v) Indoor facilities which are used primarily for physical
1165 exercise and therapy; health maintenance including fitness centers,
1166 spas, swimming pools, gymnasiums, game courts, lockers and
1167 training rooms.
- 1168 (vi) Public health agency.
- 1169 (vii) Pharmacy and drug sales.
- 1170 (viii) Orthopedic, medical appliance, equipment, prosthesis and
1171 supply sales and fitting.
- 1172 (ix) Optician and eyeglass sales.
- 1173 (x) Hearing aid evaluation, fitting and sales.
- 1174 (2) Associated uses to health care facilities as set forth below:
- 1175 (i) Funeral home or mortuary including the display and sale of
1176 products associated with the ceremonies, burial or cremation of the
1177 deceased; and crematorium.
- 1178 (ii) Parking lot and/or parking garage.
- 1179 (iii) Public parks, playgrounds, trails, paths, recreational areas,
1180 golf courses, scenic and historic sites, and associated recreational
1181 and leisure facilities, including but not limited to shelters, pools,
1182 court games, maintenance structures and associated parking to the
1183 above uses.
- 1184 (iv) Public or private elementary and secondary schools.
- 1185 (v) Reception, conference and assembly facility.
- 1186 (vi) Religious assembly.

- 1187 (vii) Crisis center, type I.
- 1188 (viii) Offices for conducting affairs of business, profession,
- 1189 service, or government.
- 1190 (3) Human habitation and dwelling facilities as set forth below:
- 1191 (i) Detached single-family dwelling~~building~~, for the purpose,
- 1192 use and occupancy of a family as defined herein. The dimensional
- 1193 requirement applicable to a residential-design manufactured home
- 1194 may be appealable to the ~~metro~~-board of zoning appeals.
- 1195 (ii) Two-family dwelling~~building~~.
- 1196 (iii) Multiple-family dwelling~~building~~.
- 1197 (iv) Boarding and/or lodging house.
- 1198 (v) Residential care facility, type III.
- 1199 (vi) Building used for student or faculty housing.
- 1200 (vii) Medical care facility, type I.
- 1201 (viii) Medical care facility, type II.
- 1202 (ix) Apartment hotel.
- 1203 (x) Community living facility, type I.
- 1204 (xi) Group home.
- 1205 (xii) Bed and breakfast inn.
- 1206 (xiii) Residential care facility, type I.
- 1207 (xiv) Residential care facility, type II.
- 1208 (xv) Home care, type I.
- 1209 (xvi) Home care, type II.

- 1210 (xvii) Assisted living facility.
- 1211 (xviii) Single-family attached dwelling.
- 1212 (4) Group residence, general.
- 1213 (5) Group residence, limited.
- 1214 (b) Permitted Incidental and Subordinate Uses.
- 1215 (1) Heliports, ambulance station, emergency transportation facility and
- 1216 terminal, provided such facilities are on-site with and ancillary in nature to
- 1217 a hospital.
- 1218 (2) Retail sales and/or service of a nature clearly incidental and
- 1219 subordinate to and customary in association with a principal use as
- 1220 provided in the human health care related facilities of the permitted
- 1221 principal uses of this district. Such incidental and subordinate uses shall
- 1222 only be permitted and located within a structure containing a recognized
- 1223 principal use; and may include the following:
- 1224 (i) Food and beverage preparation and sale.
- 1225 (ii) Floral and gift shop.
- 1226 (iii) Magazine, card and stationery shop.
- 1227 (iv) Beauty and barber shops.
- 1228 (c) Provisional Uses.
- 1229 (1) Day care facility, type II, subject to the requirements of Chapter
- 1230 18.225 TMC.

1231 (2) Vehicle surface parking lot in association with a principal use,
1232 subject to the requirements of Chapter 18.225 TMC, Additional
1233 Regulations.

1234 (d) Uses Permitted by Conditional Use Permit. The following uses may be
1235 granted a conditional use permit by the governing body provided by Chapter 18.215
1236 TMC:

1237 (1) Bed and breakfast home, subject to the requirements of Chapter
1238 18.225 TMC.

1239 (2) Bed and breakfast inn, subject to the requirements of Chapter
1240 18.225 TMC.

1241 (3) Ambulance station, emergency transportation facility and terminal
1242 as a principal use.

1243 (4) Commercial radio, television, broadcasting and/or receiving towers.

1244 (5) Community living facility, type II.

1245 (6) Private or public utility structures facilitating the transmission,
1246 distribution and/or collection systems, including substations, distribution
1247 stations, pump stations, reservoirs, towers, transmission equipment
1248 buildings and similar such uses.

1249 (7) Public use facility.

1250 (8) Television, radio and microwave transmission towers;
1251 telecommunication equipment; and accessory facilities other than those
1252 provided for elsewhere in this division as accessory to a permitted use or
1253 exempt as set forth by definition; and subject to the requirements of
1254 Chapter 18.250 TMC.

1255 (9) Vehicle surface parking lot and/or multilevel parking structure as
1256 specified by the application.

1257 (10) Correctional placement residence or facility, general, subject to the
1258 requirements of Chapter 18.225 TMC.

1259 (11) Correctional placement residence or facility, limited, subject to the
1260 requirements of Chapter 18.225 TMC.

1261 (12) Nonresidential small wind energy system, subject to Chapter
1262 18.265 TMC.

1263 Section 20. That section 18.180.040, Dimensional requirements, of The Code
1264 of the City of Topeka, Kansas, is hereby amended to read as follows:

1265 **Dimensional requirements.**

1266 (a) Minimum Lot Area and Maximum Intensity of Use.

1267 (1) Single-family detached dwelling: 3,000 square feet.

1268 (2) Two-family dwelling: 4,000 square feet.

1269 (3) Single-family attached dwelling (both lots together): 4,000 square
1270 feet.

1271 (~~34~~) Multiple-family dwelling: 400 square feet per dwelling unit.

(45) Every building site and/or zoning lot on which there is erected or converted a housing facility which is designed for congregate living or a dormitory-type dwelling the occupancy shall not exceed the following:

(i) For the first occupant, 150 square feet of floor space and at least 100 square feet of floor space for every additional occupant thereof.

(ii) A total number of occupants equal to two times the number of habitable rooms.

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

(b) Minimum Yard Requirements and Maximum Structure Height.

(1) Front yard: 25 feet.

(2) Side yard:

(i) Where building does not exceed 50 feet in height: five feet unless attached.

(ii) Where building exceeds 50 feet in height: 10 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.

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

(6) Height:

- 1295 (i) General or specialized hospital: 160 feet.
- 1296 (ii) Any other building or structure shall not exceed a height of
- 1297 100 feet, however, if located within 150 feet of the boundary of the
- 1298 district, it shall not exceed a height of 50 feet.

1299 Section 21. That section 18.185.040, User regulations for X-1 mixed use

1300 district, of The Code of the City of Topeka, Kansas, is hereby amended to read as

1301 follows:

1302 **Use regulations for X-1 mixed use district.**

- 1303 (a) Permitted Principal Uses.
- 1304 (1) Single- and two-family dwellings.
- 1305 (2) Three- and four-family dwellings.
- 1306 (3) Dwelling units as primary or accessory use.
- 1307 (4) Residential design manufactured home.
- 1308 (5) Group home.
- 1309 (6) Churches, places of worship or assembly.
- 1310 (7) Schools.
- 1311 (8) Community facilities.
- 1312 (9) Parks, recreation, and open space.
- 1313 (10) Residential care facility, type I.
- 1314 (11) Artisan and photography galleries, studios.
- 1315 (12) Automobile service station, type I.
- 1316 (13) Bed and breakfast establishments.
- 1317 (14) Child care centers.

- 1318 (15) Clubs and lodges.
- 1319 (16) Funeral homes.
- 1320 (17) Health clubs.
- 1321 (18) Offices, financial services, medical clinics.
- 1322 (19) Pet shops/small animal clinics.
- 1323 (20) Indoor recreation facilities.
- 1324 (21) Restaurants.
- 1325 (22) Retail establishments.
- 1326 (23) Service shops – personal/business.
- 1327 (24) Home care, type I.
- 1328 (b) Uses Permitted by Conditional Use Permit.
- 1329 (1) Multifamily dwellings, more than four units per building and/or more
- 1330 than 12 units per acre.
- 1331 (2) Boarding and lodging houses.
- 1332 (3) Public use facilities.
- 1333 (4) Residential care facility, type II.
- 1334 (5) Indoor amusement.
- 1335 (6) Automobile service station, type II.
- 1336 (7) Automobile service station, type III.
- 1337 (8) Bars and taverns.
- 1338 (9) Entertainment facilities/theaters (nonadult).
- 1339 (10) Farmer's markets.
- 1340 (11) Parking lots/garages (principal use).

- 1341 (12) Motor vehicle sales.
- 1342 (13) Research and development.
- 1343 (14) Group residence, limited, subject to Chapter 18.225 TMC.
- 1344 (15) Nonresidential small wind energy system, subject to Chapter
- 1345 18.265 TMC.
- 1346 (16) Home care, type II.
- 1347 (17) Assisted living facility.
- 1348 Section 22. That section 18.185.050, Use regulations for X-2 mixed use district,
- 1349 of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:
- 1350 **Use regulations for X-2 mixed use district.**
- 1351 (a) Permitted Principal Uses.
- 1352 (1) Single- and two-family dwellings.
- 1353 (2) Three- and four-family dwellings.
- 1354 (3) Dwelling units as primary or accessory use.
- 1355 (4) Residential design manufactured home.
- 1356 (5) Schools.
- 1357 (6) Community facilities.
- 1358 (7) Parks, recreation, and open space.
- 1359 (8) Artisan and photography galleries, studios.
- 1360 (9) Automobile service station, type I.
- 1361 (10) Automobile service station, type II.
- 1362 (11) Child care centers.
- 1363 (12) Clubs and lodges.

- 1364 (13) Funeral homes.
- 1365 (14) Health clubs.
- 1366 (15) Motor vehicle sales (size restrictions).
- 1367 (16) Offices, financial services, medical clinics.
- 1368 (17) Indoor recreation facilities.
- 1369 (18) Restaurants.
- 1370 (19) Retail establishments.
- 1371 (20) Service shops – personal/business.
- 1372 (21) Assembly without fabrication.
- 1373 (22) Fabrication of products allowed under I-1 light industrial district.
- 1374 (23) Distribution and processing.
- 1375 (24) Research and development.
- 1376 (25) Warehousing.
- 1377 (b) Uses Permitted by Conditional Use Permit. The following uses may be
- 1378 granted a conditional use permit by the governing body as provided by Chapter 18.215
- 1379 TMC.
- 1380 (1) Multifamily dwellings, more than four units per building and/or more
- 1381 than 12 units per acre.
- 1382 (2) Group homes.
- 1383 (3) Boarding and lodging houses.
- 1384 (4) Crisis centers.
- 1385 (5) Churches, places of worship or assembly.
- 1386 (6) Conference/convention center.

1387	(7)	Public use facilities.
1388	(8)	Residential care facility, type I.
1389	(9)	Residential care facility, type II.
1390	(10)	Amusement parks.
1391	(11)	Automobile service station, type III.
1392	(12)	Bars and taverns.
1393	(13)	Bed and breakfast establishments.
1394	(14)	Farmer's markets.
1395	(15)	Hotel, motel.
1396	(16)	Parking lots/garages (principal use).
1397	(17)	Pet shops/small animal clinics.
1398	(18)	Unenclosed, outdoor equipment/product storage.
1399	(19)	Correctional placement residence or facility, limited, subject to
1400		Chapter 18.225 TMC.
1401	(20)	Nonresidential small wind energy system, subject to Chapter
1402		18.265 TMC.
1403	<u>(21)</u>	<u>Home care, type I.</u>
1404	<u>(22)</u>	<u>Home care, type II.</u>
1405	<u>(23)</u>	<u>Assisted living facility.</u>

Section 23. That original §§ 18.55.010, 18.55.080, 18.55.130, 18.65.030, 18.70.030, 18.75.030, 18.80.030, 18.90.010, 18.90.030, 18.90.040, 18.95.010, 18.95.030, 18.95.040, 18.100.030, 18.100.040, 18.105.030, 18.105.040, 18.110.030, 18.180.030, 18.180.040, 18.185.040 and 18.185.050 of The Code of the City of Topeka, Kansas, are hereby specifically repealed.

Section 24. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 25. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 26. 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 February 28, 2012.

CITY OF TOPEKA, KANSAS

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk