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3 **ORDINANCE NO. 20500**

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5 AN ORDINANCE introduced by City Manager Dr. Robert M. Perez, concerning  
6 accessory dwelling units, amending §§ 18.55.010, 18.55.040,  
7 18.60.010 and 18.225.010 of the Topeka Municipal Code and  
8 repealing original sections.  
9

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

11 Section 1. That section 18.55.010, “A” definitions, of The Code of the City of  
12 Topeka, Kansas, is hereby amended to read as follows:

13 **“A” definitions.**

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

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

20 “Accessory building coverage ratio” means the cumulative area for the footprints  
21 of all accessory buildings compared to the footprint of the principal building.

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

27 “Accessory Dwelling Unit” or ADU means a single dwelling unit that is incidental  
28 to, subordinate to, and located on the same zoning lot as the principal building. The

29 ADU may either be integrated into or added on to the principal dwelling or established  
30 as a detached accessory dwelling building.

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

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

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

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

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

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

53 building or structure from one location to another.

54 “Animal care and services, type I” means a facility where medical and/or pet  
55 grooming services are provided within an enclosed building to common household pets.

56 “Animal care and services, type II” means a facility where the following services  
57 are provided for animals: (1) medical services within an enclosed building; (2) pet day  
58 care; and (3) indoor kenneling for overnight stays.

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

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

67 Area. See “tract.”

68 “Artisan manufacturing” means the production and assembly of finished products  
69 or component parts, typically by hand, and including design, processing, fabrication,  
70 assembly, treatment, and packaging of finished products. Typical artisan manufacturing  
71 trades include, but are not limited to: food and bakery products; nonalcoholic  
72 beverages; printmaking; leather products; jewelry and clothing/apparel; metal work;  
73 woodwork; furniture; and glass or ceramic production. Artisan manufacturing differs  
74 from other forms of manufacturing as it is substantially limited in the scale of production  
75 and is controlled in a manner such that it shall not cause noise, odor, or detectable  
76 vibration onto any neighboring property.

77 “Assisted living facility” means a facility caring for six or more individuals  
78 unrelated to the administrator, operator or owner who, by choice or due to functional  
79 impairment, may need personal care and/or supervised nursing care to compensate for  
80 activities of daily living limitations. The facility includes individual living units or  
81 apartments for residents and provides or coordinates a range of services including  
82 personal care or supervised nursing care on a 24-hour-a-day basis for the support of  
83 resident independence. Skilled nursing services are typically provided on an intermittent  
84 or limited term basis, or if limited in scope, on a regular basis.

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

87 “Automobile wrecking and/or salvage yard” means an area not enclosed within a  
88 building which is maintained, operated, or used for the storing, keeping, buying, or  
89 selling of junk as defined in Chapter 5.135 TMC where motor vehicles, heavy  
90 appliances, or machinery not in operable condition is disassembled, dismantled, junked,  
91 stored, wrecked, or parts thereof are bought and/or sold.

92 *Automotive Service Station.*

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

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

- 101 repair and replacement.
- 102 (i) Lubrication.
- 103 (ii) Tire repair.
- 104 (iii) Brake repair and wheel balancing.
- 105 (iv) Muffler and exhaust system repair.
- 106 (v) Shock absorber replacement.
- 107 (vi) Engine adjustment (tune-up).
- 108 (vii) Replacement of pumps, cooling systems, generators, alternators, wires,  
109 starters, air conditioners, bearings, and other similar devices.
- 110 (viii) Radio repair.
- 111 (ix) Glass replacement.
- 112 (x) And other similar repair and replacement services normally deemed to be  
113 emergency and convenience services; however, the same shall not include drive train  
114 units such as the engine, transmission or drive components.

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

118 “Awning” means a roof-like cover that projects from the wall of a building to shield  
119 a doorway, walkway, or window from inclement weather or the sun. Awnings are often  
120 made of fabric or flexible material supported by a rigid frame and may be retracted into  
121 the face of the building.

122 Section 2. That section 18.55.040, “D” definitions, of The Code of the City of  
123 Topeka, Kansas, is hereby amended to read as follows:

124 **“D” Definitions.**

125 “Day care” means providing various levels of some or all of the following care as  
126 well as those services generally so associated, to individuals for less than 24 hours a  
127 day: food and dietetic services; transportation, social, recreational, educational and  
128 activity arrangements; watchful and protective oversight; and supervision.

129 “Day care facility, type I” means a structure inhabited as a dwelling unit or portion  
130 thereof, and premises, operated and licensed in accordance with any and all applicable  
131 State and local requirements and conducted in the resident’s dwelling unit in which care  
132 is provided for profit or not for profit, to children and/or adults on a regular schedule for  
133 less than 24 hours a day to a maximum of 12 persons.

134 “Day care facility, type II” means a structure or portion thereof, and premises,  
135 operated and licensed in accordance with any and all applicable State and local  
136 requirements, in which care is provided for profit or not for profit, to children and/or  
137 adults on a regular schedule for less than 24 hours a day, and which may be operated  
138 as a secondary and/or ancillary use to a primary or principal use, such as, but not  
139 limited to, a place of worship, community center, library, or private business, and  
140 associated with that activity.

141 Demolition Landfill. See “landfill, demolition.”

142 “Density” means the number of dwelling units per acre.

143 “Developer” means the legal or beneficial owner or owners of a lot or of any land  
144 included in a proposed development including the holder of an option or contract to  
145 purchase, or other persons having enforceable proprietary interests in such land.

146 “Development” means the division of a parcel of land into two or more parcels;  
147 the construction, reconstruction, conversion, structural alteration, relocation or  
148 enlargement of any structure; any mining, excavation, landfill or land disturbance and

149 any use or extension of the use of land.

150 “Director” means the Director of Planning and Development or designee.

151 “Disability (or handicap)” with respect to a person means:

152 (1) A physical or mental impairment which substantially limits one or more of  
153 such person’s major life activities;

154 (2) A record of having such an impairment; or

155 (3) Being regarded as having such an impairment.

156 Such term does not include current, illegal use or addiction to a controlled  
157 substance, as defined in Section 102 of the Controlled Substance Act (21 U.S.C.  
158 Section 802).

159 “District” means any section of the jurisdiction for which the regulations governing  
160 the use of buildings and premises or the height and area of buildings are uniform.

161 “District map” means the boundaries of the zoning districts as they presently exist  
162 or as they may from time to time be amended as shown upon the district map on file in  
163 the office of the Planning Director, which boundaries shall have the same force and  
164 effect as though fully set forth or described herein.

165 “Domestic animal” means small animals that are customarily kept for personal  
166 use or enjoyment such as, but not limited to, dogs, cats, tropical birds, rabbits and  
167 rodents.

168 “Dormitory” means a building or part of a building operated by an institution and  
169 containing a room or rooms forming one or more habitable units which are used or  
170 intended to be used by residents of the institution for living and sleeping, but not for  
171 cooking or eating purposes.

172 “Drinking establishment” means premises which may be open to the general

173 public, where alcoholic liquor by the individual drink is sold.

174 “Driveway” means a paved surface designed to provide vehicular access to a  
175 parking area.

176 “Dwelling” means a building or portion thereof, used exclusively for residential  
177 occupancy, including one-family, two-family and multiple-family dwellings, but not  
178 including hotels, motels, boarding houses, house trailers and mobile homes.

179 ~~“Dwelling, accessory” means an independent, detached dwelling unit having the~~  
180 ~~defining characteristics of a dwelling unit but, in addition, being secondary to a primary~~  
181 ~~dwelling located on the same lot of record and containing a maximum of 600 square~~  
182 ~~feet, not including garage.~~

183 “Dwelling, attached” means a one-family dwelling attached to two or more one-  
184 family dwellings by common vertical walls.

185 “Dwelling, detached” means a dwelling which is designed to be and is  
186 substantially separate from any other structure or structures except accessory buildings.

187 “Dwelling, multiple-family” means a building or portion thereof used for  
188 occupancy by three or more families living independently of each other, and doing their  
189 own cooking in the building, including apartments, group houses, and row houses.

190 “Dwelling, row house or townhouse” means one of a series of three or more  
191 attached dwelling units separated from one another by continuous vertical party walls  
192 without openings from basement floor to roof.

193 “Dwelling, single-family” means a building designed and/or used exclusively for  
194 residential purposes for one family only and containing not more than one unit, including  
195 site-built homes and residential-design manufactured homes, but not including house  
196 trailers and mobile homes as defined by this chapter.

197           “Dwelling, single-family attached” means a one-family dwelling attached to one  
198 other one-family dwelling by a common vertical wall that is unpierced and located along  
199 its common property line, and each dwelling located on a separate lot.

200           “Dwelling, single-family detached” means a dwelling which is designed for and  
201 occupied by not more than one family and surrounded by open space or yards and  
202 which is not attached to any other dwelling by any means.

203           “Dwelling, two-family (duplex)” means a structure on a single lot containing two  
204 dwelling units, each of which is totally separated from the other by an unpierced wall  
205 extending from ground to roof or an unpierced ceiling and floor extending from exterior  
206 wall to exterior wall, except for a common stairwell exterior to both dwelling units.

207           “Dwelling unit” consists of one or more rooms, including a bathroom and  
208 complete kitchen facilities, which are arranged, designed or used as living quarters for  
209 one family or household.

210           Section 3. That sections 18.60.010, Use Tables, of The Code of the City of  
211 Topeka, Kansas, is hereby amended to read as follows:

212           **Use Tables.**

		APPROVAL LEVELS																								
		● = Allowed Use																								
		S = Allowed per Special Use Requirments under Chapter 18.225 TMB																								
		S/C = If unable to meet Special Use Requirements, may apply for CUP																								
		C = Conditional Use Poermit (CUP) approved by Governing Body																								
# = See Definition in Chapter 18.55 TMC		See Design Standards for X and D Districts																								
Use	Description	R-1/R-2/R-3 Single Family Dwelling	R-4 Manufactured Homes	M-1 Two Family Dwelling	M-1a Limited Multiple Family Dwelling	M-2 Multiple Family Dwelling	M-3 Multiple Family Dwelling	O&I-1 - Office And Institutional	O&I-2 - Office And Institutional	O&I-3 - Office And Institutional	C-1 Commercial	C-2 Commercial	C-3 Commercial	C-4 Commercial	I-1 Light Industrial	I-2 Heavy Industrial	U-1 University	MS-1 Medical Service	X-1 Mixed Use	X-2 Mixed Use	X-3 Mixed Use	D-1 Downtown Mixed Use	D-2 Downtown Mixed Use	D-3 Downtown Mixed Use	RR-1 Residential Reserve	OS-1 Open Space
Residential		Districts																								
Dwelling, Detached Single-Family #		●	-	●	●	●	●	-	-	-	-	-	-	-	-	-	-	●	●	●	●	-	●	-	●	●
Dwelling, Attached Single-Family #		-	-	●	●	●	●	-	-	-	-	-	-	-	-	-	-	●	●	●	●	-	●	-	-	-
Dwelling, Two-Family # (Duplex)		-	-	●	●	●	●	-	-	-	-	-	-	-	-	-	-	●	●	●	●	-	●	-	-	-
Dwelling, Three/Four-Family	includes 3-4 unit row or town houses #	-	-	-	●	●	●	-	-	-	-	-	-	-	-	-	-	●	●	●	●	-	●	-	-	-
Dwelling, Multiple-Family #	structure with at least 5 units	-	-	-	-	●	●	-	-	-	-	-	-	-	-	-	-	●	C	C	●	S	●	●	-	-
Dwelling, Accessory #	secondary to primary dwelling, not exceeding <del>600</del> 800 sq. ft.	S/C		●	●	●	●												●	●	●	●				

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Section 4. That section 18.225.010, Special Use Requirements, of The Code

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

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**Special Use Requirements.**

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The special uses identified in the use matrix table at TMC 18.60.010 are subject

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to the additional requirements of this chapter. In case of any conflict between the

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regulations of the district in which the use is allowed and the additional regulations of

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this chapter, the most restrictive regulations shall govern:

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(a) *Automobile or Vehicle Dealership.* This use includes the sales, leasing, and

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service of vehicles and trailers having a gross vehicle weight rating over 12,000 pounds,

223 watercraft, recreational vehicles, heavy construction equipment, and agricultural  
224 equipment.

225 (1) Ancillary towing services and body shops are permitted. Storage of  
226 damaged vehicles needing body shop repairs shall only be stored in rear yards  
227 or screened from view from public roadways and screened from abutting  
228 residentially zoned properties. Automotive wrecking and dismantling for salvage  
229 purposes are prohibited. Each disabled vehicle is limited to 30 days of on-site  
230 storage.

231 (2) The inventory of vehicles for sale, lease, or service shall be parked  
232 only on paved areas and shall not displace the minimum required number of off-  
233 street parking spaces.

234 (3) A solid, opaque screen, fence or sight-prohibitive landscaping shall be  
235 provided along lot lines adjoining residential property at a height of not less than  
236 six feet except in front yards where it may be reduced to three feet or replaced  
237 with shrubs designed to grow two to three feet in height.

238 (4) Automobile dealerships shall have frontage on a roadway designated  
239 as an arterial roadway by the Shawnee County functional classification of  
240 roadways map.

241 (b) *Automobile or Vehicle Car Wash Facility.*

242 (1) All washing facilities shall be within the interior of the structure or  
243 beneath a roofed area.

244 (2) Vacuum, automatic air drying, and similar facilities shall not be located  
245 in such a manner that will restrict the orderly ingress to the facility.

246 (3) The washing facility shall be set back a minimum of 50 feet from any

247 public street.

248 (4) All accesses, drives and off-street parking spaces shall be in  
249 accordance with the parking standards.

250 (5) The traffic circulation plan for the facility shall be subject to the  
251 approval of the Traffic Engineer or authorized designee of the Public Works  
252 Department.

253 (6) A solid, opaque screen, fence or sight-prohibitive landscaping shall be  
254 provided along lot lines adjoining residential property at a height of not less than  
255 six feet except in front yards where it may be reduced to three feet or replaced  
256 with shrubs designed to grow two to three feet in height.

257 (c) *Automobile Sales*. Except in the C-4 commercial district, ancillary uses for a  
258 body shop and automotive service station Type 3 are prohibited unless a conditional  
259 use permit is secured.

260 (1) Automobile sales, leasing, and service of vehicles are restricted to  
261 automobiles, pickup trucks, motorcycles and other vehicles that do not exceed a  
262 gross vehicle weight rating of 12,000 pounds in the C-3 district.

263 (2) The inventory of vehicles for sale, lease, or service shall be parked  
264 only on paved areas and shall not displace the minimum required number of off-  
265 street parking spaces.

266 (3) A solid, opaque screen, fence or sight-prohibitive landscaping shall be  
267 provided along lot lines adjoining residential property at a height of not less than  
268 six feet except in front yards where it may be reduced to three feet or replaced  
269 with shrubs designed to grow two to three feet in height.

270 (d) *Automotive Service Station*.

271 (1) *Type 1.* A facility which dispenses automotive fuels and oil with or  
272 without retail sales of incidental merchandise such as packaged beer,  
273 nonalcoholic beverages, ice, candy, cigarettes, snacks and convenience  
274 packaged foods.

275 (2) *Type 2.* A facility which may include those uses defined in Type 1 and  
276 specifically includes replacement of automotive parts including but not limited to  
277 fan belts, hoses, sparkplugs, tires and tubes, ignition parts, batteries, shock  
278 absorbers, and fuses. A Type 2 facility is limited to servicing automobiles,  
279 pickups, motorcycles and other vehicles having a gross vehicle weight rating of  
280 12,000 pounds or less. The following automotive services shall be permitted in a  
281 Type 2 facility:

282 (i) Lubrication.

283 (ii) Tire repair and replacement.

284 (iii) Brake repair and wheel balancing and alignment.

285 (iv) Muffler and exhaust system repair and replacement.

286 (v) Shock absorber and strut replacement.

287 (vi) Engine adjustment (tune-up).

288 (vii) Replacement of pumps, cooling systems, generators, alternators,  
289 wires, starters, air conditioners, bearings and other similar devices.

290 (viii) Radio, GPS, rear cameras, and similar electronics installation and  
291 repair.

292 (ix) Glass replacement.

293 (x) Trailer hitch and wiring installation and repair.

294 (xi) And other similar repair and replacement services normally deemed to

295 be emergency and convenience services; however, the same shall not include  
296 drive train units such as the engine, transmission or drive components.

297 (3) *Type 3.* A facility which may include those uses defined in Types 1 and  
298 2, and specifically includes repair, rebuilding and replacement of drive train units of  
299 automobiles, pickup trucks, motorcycles, trailers, and other vehicles.

300 (4) For Types 1, 2, and 3 a solid, opaque screen, fence or sight-prohibitive  
301 landscaping shall be provided along lot lines adjoining residential property at a  
302 height of not less than six feet except in front yards where it may be reduced to  
303 three feet or replaced with shrubs designed to grow two to three feet in height.

304 (e) *Automobile or Vehicle Tow Lot and Body Shop.* This use includes body  
305 repair of vehicles and trailers having a gross vehicle weight rating over 12,000 pounds,  
306 watercraft, recreational vehicles, heavy construction equipment, and agricultural  
307 equipment. Facilities shall meet the following standards:

308 (1) Storage of damaged vehicles requiring repairs shall only be parked on  
309 surfaces meeting City standards in rear yards or screened from view from public  
310 roadways.

311 (2) Vehicle wrecking and dismantling for salvage purposes are prohibited.

312 (3) Each disabled vehicle is limited to 30 days of on-site storage.

313 (4) A solid, opaque screen, fence or sight-prohibitive landscaping shall be  
314 provided along lot lines adjoining street rights-of-way and residential property at a  
315 height of not less than six feet except in front yards where it may be reduced to  
316 three feet or replaced with shrubs designed to grow two to three feet in height.

317 (f) *Cemetery.*

318 (1) *Areas.* Any cemetery established after the effective date of the

319 ordinance codified in this division shall be located on a site containing not less  
320 than 20 acres.

321 (2) *Setback.* All structures including but not limited to a mausoleum,  
322 permanent monument or maintenance building shall be set back not less than 30  
323 feet from any property line or street right-of-way line and all graves or burial lots  
324 shall be set back not less than 30 feet from any property line or street right-of-  
325 way line.

326 (3) A cemetery shall have the principal entrance or entrances on a major  
327 traffic thoroughfare designated as a collector or arterial roadway on the Shawnee  
328 County functional classification of roadways map, with ingress and egress so  
329 designed as to minimize traffic congestion.

330 (4) All on-site private drive locations and their widths shall be reviewed by  
331 the Traffic Engineer or designee of the Department of Public Works in respect to  
332 providing efficient vehicular access and traffic flow; and to minimize vehicle  
333 conflict with pedestrians. Development of the cemetery shall not commence until  
334 approval of the aforementioned drive locations and their widths has been  
335 secured.

336 (g) *Community Gardens.*

337 (1) All community gardens shall be allowed only after the owner or  
338 applicant has registered the community garden with the Planning Department  
339 and has paid a fee of \$50.00. The Planning Director shall adopt administrative  
340 procedures necessary to govern the registration requirements and ensure  
341 compliance with the requirements.

342 (2) Community gardens shall be the primary use of the lot. The gardens

343 may be divided into plots for cultivation by one or more individuals and/or groups  
344 or may be cultivated by individuals and/or groups collectively.

345 (3) Fences are allowed subject to a fence permit and compliance with  
346 TMC 18.210.040. In R and M districts, the minimum front yard setback for the  
347 district shall act as the front face of the principal structure.

348 (4) Sales and operation of mechanical equipment shall occur only  
349 between 8:00 a.m. and 8:00 p.m. For Type 1 gardens, sales of produce grown on  
350 site are permissible; provided, that all stands and displays are removed at or  
351 before 8:00 p.m.

352 (5) Cultivation equipment shall not exceed the size of a compact utility  
353 tractor and its accessories.

354 (6) The cultivated area shall have a minimum setback of three feet from  
355 all property lines. Crops planted in any minimum front yard setback are limited to  
356 those that will grow to a height of four feet or less (e.g., four feet maximum in the  
357 front 30 feet).

358 (7) Dead garden plants shall be removed regularly and no later than  
359 November 30th of each year.

360 (8) Weeds, grass, undergrowth and uncultivated plants shall not exceed a  
361 height of 12 inches.

362 (9) Compost bins shall be set back at least 10 feet from all side and rear  
363 property lines and 25 feet from the front property line. Compost bins shall be  
364 screened and maintained in such a manner as to not attract insects, vermin,  
365 reptiles and other animals. Appropriate best management practices shall be used  
366 to minimize odor.

367 (10) The site shall be designed and maintained so that no water,  
368 fertilizers, or pesticides drain onto adjacent property.

369 (11) The entire site shall be maintained in a manner, including noise and  
370 odors, so that it complies with Chapter 8.60 TMC.

371 (12) Signage is limited to one permanent identification sign per property  
372 frontage consisting of up to 10 square feet per sign face and temporary signs are  
373 allowed in accordance with TMC 18.10.170.

374 (13) Orchards and tree farms shall meet the front yard setback for their  
375 zoning district and shall be set back at least 15 feet from all other property lines,  
376 with the measurements based on the nearest part of the trees' canopies.

377 (14) Accessory structures for Type I community gardens are limited to the  
378 following standards:

379 (i) Accessory structures may include storage buildings,  
380 greenhouses, high tunnels and hoop houses maintained in good condition.

381 (ii) Maximum height of 12.5 feet.

382 (iii) Maximum lot coverage for structures shall be calculated based  
383 on the cultivated area for the community garden, including pathways.  
384 Maximum lot coverage for structures shall be 10 percent or less than 150  
385 square feet, whichever is greater.

386 (iv) Storage buildings are limited to less than 150 square feet and  
387 may only be used for storing garden equipment and materials used on  
388 site.

389 (v) Each structure shall meet the required setbacks from property  
390 lines as outlined in TMC 18.60.020. If the area of cultivated land exceeds

391 one acre, a 50-foot setback is required between properties with existing  
392 dwelling units and any cultivated area or accessory structures.

393 (15) Accessory structures for Type II community gardens are limited to the  
394 following standards:

395 (i) In addition to Type I standards, Type II permitted accessory  
396 structures include: garden sales stands, other buildings for storage,  
397 structures for cold storage and processing of garden products, and  
398 buildings for aquaculture, aquaponics, and hydroponics.

399 (ii) Maximum lot coverage for structures is 30 percent of the site  
400 area designated for the community garden (cultivated area and pathways).

401 (iii) Accessory structures 150 square feet or greater are permitted,  
402 subject to required building permits.

403 (16) If one or more of the requirements cannot be met, a person may apply  
404 for a conditional use permit pursuant to Chapter 18.215 TMC.

405 (h) *Day Care Facility, Type I.*

406 (1) An on-site automobile drop-off/pickup area for a minimum of two  
407 vehicles shall be provided for a facility which only has street frontage on a major  
408 traffic thoroughfare as designated by the transportation plan; and said drop-  
409 off/pickup shall be in accordance with any applicable provisions of said plan.

410 (2) Playground equipment or structures shall not be permitted to be  
411 located in a required yard adjacent to a public street.

412 (i) *Day Care Facility, Type II.*

413 (1) An on-site automobile drop-off/pickup area for a minimum of two  
414 vehicles shall be provided for a facility which only has street frontage on a

415 roadway that is classified as a collector or arterial roadway on the Shawnee  
416 County functional classification of roadways map; and said drop-off/pickup shall  
417 be provided in accordance with any applicable provisions of said plan.

418 (j) *Demolition Landfill.*

419 (1) The applicant shall submit documentation showing compliance with all  
420 licenses or permits required by the State Department of Health and Environment  
421 prior to construction and within 30 days of renewal of any State licenses and  
422 permits. The site shall maintain a neat appearance along all public road  
423 frontages and along all property boundaries abutting residential zoning districts.

424 (k) *Dwelling Units on Main Floor.* Dwelling units located on main floors shall  
425 meet the following requirements:

426 (1) The units must be subordinate in area or location to nonresidential  
427 uses on the main floor; or

428 (2) The units shall be allowed in structures that were originally built for  
429 use as dwelling units, the structure has been used historically for dwelling units,  
430 or the dwelling units were converted from hospital, school, or hotel rooms.

431 (l) *Extraction, Processing, Storage and Sale of Raw Materials, Including Ore,*  
432 *Minerals, Sand, Rock, Stone, Gravel, Topsoil, Fill Dirt, and Other Materials Delivered by*  
433 *Quarry, Mining, Dredging, or Stripping Operations.* In addition to the standard  
434 application components required of an applicant to petition for a conditional use permit,  
435 a request for the subject use shall identify the specific raw material and type of  
436 operation under consideration and, furthermore, shall include the below-listed additional  
437 information, plans and data:

438 (1) *Site Plan.* A site plan prepared by a registered civil engineer, drawn to

439 scale on a sheet measuring 24 inches by 36 inches in size and including the  
440 following:

441 (i) Contour intervals: two feet for slopes 30 percent or less; 10 feet  
442 for greater slopes when map scale is one inch equals 100 feet.

443 (ii) Contour intervals: two feet for slopes 20 percent or less; 10 feet  
444 for greater slopes when map scale is one inch equals 200 feet.

445 (iii) Identify name, grade, right-of-way and street width of existing  
446 and proposed streets extending through or adjacent to the site.

447 (iv) Identify width and purpose of easements extending through or  
448 adjacent to the site.

449 (v) Identify natural land features including but not limited to  
450 watercourses and drainageways, floodplains, rock outcropping, springs,  
451 wooded areas, etc.

452 (vi) Identify manmade features such as buildings and other  
453 structures, dams, dikes and impoundments of water.

454 (vii) Identify all of the above-noted adjacent land features within  
455 300 feet of the site. In addition, show all platted subdivision lots and metes  
456 and bounds parcels.

457 (viii) Show location of at least five borings, which show depths to  
458 groundwater.

459 (ix) Provide a cross-section to illustrate physical conditions of the  
460 site. Show vertical scale equal to, or in exaggeration of, horizontal scale.

461 (2) *Development Plan*. A development plan prepared in the same manner  
462 as the site plan and including the following:

- 463 (i) North point, scale and date.
- 464 (ii) Extent of area to be excavated.
- 465 (iii) Location, dimension and intended use of proposed structures.
- 466 (iv) Location of all areas on the property subject to inundation or  
467 flood hazard, and the location, width, and directions of flow of all  
468 watercourses and flood control channels that may be affected by the  
469 excavation.
- 470 (v) Benchmarks.
- 471 (vi) Typical cross-section, at sufficient intervals, showing the extent  
472 of overburden, extent of sand and gravel deposits or rock, and the water  
473 table.
- 474 (vii) Identification of processing and storage areas, the boundaries  
475 of which to be shown to scale.
- 476 (viii) Proposed fencing, gates, parking areas and signs.
- 477 (ix) Sequences of operation showing approximate areas involved  
478 shall be shown to scale and serially numbered with a description of each.
- 479 (x) Ingress/egress roads including on-site haul roads and proposed  
480 surface treatment and means to limit dust.
- 481 (xi) A map showing access routes between the property and the  
482 nearest arterial road.
- 483 (xii) Location of screening berms shall be shown to scale, and  
484 notes shall be provided indicating when they will be used as reclamation  
485 material. In the same manner overburden storage areas shall be identified  
486 and noted.

487 (xiii) Proposed location of settling basins and process water ponds.

488 (xiv) Site drainage features shall also be shown and flow direction  
489 indicated.

490 (3) A restriction of use statement, which shall include:

491 (i) The approximate date of commencement of the excavation and  
492 the duration of the operation.

493 (ii) Proposed hours of operation and days of operation.

494 (iii) Estimated type and volume of the excavation.

495 (iv) Method of extracting and processing, including the disposition  
496 of overburden or top soils.

497 (v) Equipment proposed to be used in the operation of the  
498 excavation.

499 (vi) Operating practices proposed to be used to minimize noise,  
500 dust, air contaminants, and vibration.

501 (vii) Methods to prevent erosion and pollution of surface or  
502 underground water.

503 (4) *Reclamation Plan*. A reclamation plan prepared in the same manner as  
504 the site plan and including the following:

505 (i) A statement of planned reclamation, including methods of  
506 accomplishment, phasing, and timing.

507 (ii) A plan indicating: the final grade of the excavation; any water  
508 features included in the reclamation and methods planned to prevent  
509 stagnation and pollution; landscaping or vegetative planting; and areas of  
510 cut or fill. This plan, if clearly delineated, may be included with the site

511 plan. For quarry applications, the final grade shall mean the approximate  
512 planned final grade.

513 (iii) A phasing plan, if the excavation of the site is to be  
514 accomplished in phases. This plan shall indicate the area and extent of  
515 each phase and the approximate timing of each phase.

516 (iv) The method of disposing of any equipment or structures used  
517 in the operation of the excavation upon completion of the excavation.

518 (v) Show location of any proposed streets within the reclaimed  
519 area and their connection to present public streets beyond.

520 (vi) Show location of any lakes, ponds, or streams proposed within  
521 the reclaimed area and their connections to streams or drainageways  
522 beyond.

523 (vii) Show areas where vegetation is to be established, and  
524 indicate types of vegetative cover.

525 (m) *Golf Course – Country Club.*

526 (1) A golf course or country club shall be established on a minimum  
527 contiguous area of 20 acres and shall consist of a minimum of nine holes.

528 (2) Vehicular access to a golf course or country club may ingress/egress  
529 directly to a local street provided the local street intersects with a roadway that is  
530 classified as a collector or arterial roadway on the Shawnee County functional  
531 classification of roadways map; and further provided, that said points of  
532 ingress/egress are located within 300 feet of the centerline of the aforementioned  
533 thoroughfare.

534 (3) All patron parking lots, clubhouses and recreational facilities, other

535 than those for golf, shall be located a minimum distance of 500 feet from all  
536 property boundaries of the golf course or country club.

537 (4) All maintenance facilities and employee parking lots shall be located a  
538 minimum distance of 200 feet from all property boundaries of the golf course or  
539 country club.

540 (5) If one or more of the requirements cannot be met, a person may apply  
541 for a conditional use permit pursuant to Chapter 18.215 TMC.

542 (n) *Indoor Gun Range.*

543 (1) A building for the safe discharge of firearms shall meet the following  
544 requirements:

545 (i) The building shall be designed so that discharged ammunition  
546 does not escape the confines of the building.

547 (ii) Discharge noise does not adversely impact neighboring  
548 properties.

549 (iii) The building shall be located at least 200 feet from any  
550 residentially zoned property.

551 (2) If one or more of the requirements cannot be met, a person may apply  
552 for a conditional use permit pursuant to Chapter 18.215 TMC.

553 (o) *Outdoor Storage of Nonmerchandise.* When storage is located in a yard that  
554 abuts or is located across the street from residentially zoned property it shall be  
555 screened from public view by a solid, opaque screen, fence or sight-prohibitive  
556 landscaping of not less than six feet in height, except in front yards where it may be  
557 reduced to three feet or replaced with shrubs designed to grow two to three feet in  
558 height. If storage is adjacent to driveways or intersections, screening may be reduced to

559 comply with sight distance triangles, as outlined in TMC 12.20.020.

560 (p) *Reception, Conference and Assembly Facility.*

561 (1) As an independent principal use within any subdistrict of the  
562 residential dwelling and multiple-family dwelling districts, the facility shall be  
563 located only within a structure that exists on the date of the adoption of these  
564 regulations, except for the RR-1 district; and further, vehicle parking lots shall not  
565 be permitted within the established front yard setback.

566 (2) All applications requesting a conditional use permit shall include and  
567 address the following considerations in respect to:

568 (i) Maximum occupant load at any one time.

569 (ii) Presentation of a plan of operation which shall include:

570 (A) Days of the week and hours of operation in which the  
571 facility will function.

572 (B) Any permitted outdoor activities.

573 (C) Supervision of guests and arrangements for  
574 enforcement of any provisions of the conditional use permit.

575 (iii) Any proposed screening, buffering, or landscape plan.

576 (iv) On-site vehicle parking and ingress/egress plan.

577 (v) Address the general applicability of building, life safety, and  
578 associated codes and standards to the facility.

579 (3) All activities of the facility as a conditional use permit shall be by  
580 prearranged lease, contract, or agreement and therefore the facility shall not be  
581 open to the general public.

582 (q) *Recycling Depot.* Recycling depots shall meet the following requirements:

583 (1) Limited to the collection, storage and processing of metal, glass or  
584 plastic food or beverage containers and paper resources as an initial phase of a  
585 recycling process.

586 (2) The recycling process shall be limited to the volume reduction of such  
587 materials by mechanical and hand sorting methods only.

588 (3) All storage and processing operations in conjunction therewith shall be  
589 contained within the principal structure.

590 (r) *Religious Assembly.*

591 (1) Vehicular access to a facility of religious assembly may ingress/egress  
592 directly to a local street, provided said local street intersects with a major traffic  
593 thoroughfare as designated on the transportation plan; and further provided, that  
594 said points of ingress/egress are located within 300 feet of the centerline of the  
595 aforementioned thoroughfare.

596 (2) If one or more of the requirements cannot be met, a person may apply  
597 for a conditional use permit pursuant to Chapter 18.215 TMC.

598 (s) *Relocation, Remodeling or Rebuilding of Legal Nonconforming Billboards.* No  
599 application for a conditional use permit to relocate, remodel, or rebuild an existing legal  
600 nonconforming billboard shall be approved unless the Governing Body, upon  
601 recommendation by the Planning Commission, shall determine that the proposed  
602 billboard is appropriate in the location proposed based upon its consideration of the  
603 standards set forth below.

604 (1) This subsection shall apply only to existing legal nonconforming  
605 billboards presently located within the C-4 commercial district. In seeking a  
606 conditional use permit, the applicant shall specify the location, size, height and

607 area of the existing billboard proposed to be removed.

608 (2) The structural members of all billboard materials shall be constructed  
609 entirely of noncombustible materials excepting only the sign face, ornamental  
610 molding and platform and shall be installed only on single-pole structures.

611 (3) The proposed relocated sign shall not be larger than the existing  
612 billboard proposed to be removed, but not to exceed 750 square feet including  
613 extensions; nor shall such relocated sign have more than two sign faces.

614 (4) No billboard to be relocated shall be erected upon the roof of any  
615 building or attached to any building.

616 (5) No billboard to be relocated shall be set back less than 20 feet from  
617 any public right-of-way line.

618 (6) No billboard to be relocated shall be either less than 1,320 feet from  
619 any other such sign on the same street or closer than a 400-foot radius on  
620 different streets.

621 (7) No billboard to be relocated shall be less than 200 feet from any  
622 underpass, overpass or bridge structure.

623 (8) No billboard to be relocated shall be placed within 300 feet of a  
624 residential dwelling, which fronts on the same street right-of-way, nor within 500  
625 feet of any religious assembly or public or private elementary or secondary  
626 school on the same street.

627 (9) No billboard shall result in the loss or damage of natural, scenic, or  
628 historic features of significant importance; and shall be constructed and operated  
629 with minimal interference of the use and development of neighborhood property.

630 (10) No billboard shall be so designed to include the vertical stacking of

631 billboards on the sign pole. Each billboard shall be comprised of a single sign  
632 face oriented in a given direction. This provision does not preclude double-sided  
633 billboards where arranged back to back on the sign pole.

634 (t) *Manufactured Home*. A manufactured home for the purpose, use and  
635 occupancy of a family shall meet the following requirements:

636 (1) The manufactured home shall have a minimum dimension of 14 body  
637 feet in width for the principal structure.

638 (2) The manufactured home shall be secured to the ground on a  
639 permanent foundation.

640 (3) The undercarriage of the manufactured home shall be completely  
641 screened from view by the foundation or skirting, such skirting to be of material  
642 harmonious to the unit structure and installed within 10 days of unit placement.

643 (4) The manufactured home shall have the towing apparatus, wheels,  
644 axles, and transporting lights removed.

645 (5) The manufactured home shall have an exterior facade of vinyl or wood  
646 siding, stone, brick, or other nonmetallic material.

647 (6) The roof of the manufactured home shall be double pitched and have  
648 a nominal vertical rise of three inches for each 12 inches of horizontal run, and  
649 shall be covered with material that is residential in appearance, including but not  
650 limited to wood, asphalt, composition or fiberglass shingles, but excluding  
651 corrugated aluminum, corrugated fiberglass, or corrugated metal roofing material.  
652 The roof shall have a minimum eave projection or overhang of 10 inches on at  
653 least two sides, which may include a four-inch gutter.

654 (u) *Retail Merchandise Outdoor Display*. Items for sale that are displayed

655 outside buildings, exclusive of very large items such as vehicles and construction  
656 materials, shall meet the following standards:

657 (1) The display area shall not exceed 50 percent of the first floor area of  
658 the business.

659 (2) Screening shall be provided between the merchandise being stored  
660 and residentially zoned properties when the merchandise is located in a side or  
661 rear yard next to residentially zoned properties. Merchandise shall not be stacked  
662 higher than the screening in this area.

663 (3) The inventory of vehicles and equipment for sale, lease, or service  
664 shall not displace the minimum required number of off-street parking spaces.

665 (4) In D and X districts, retail merchandise outdoor display areas shall  
666 occur only during normal business hours. The outdoor display area shall provide  
667 adequate pedestrian clearance and shall not obstruct vehicular or pedestrian  
668 circulation.

669 (v) *Self-Storage, Type I.* An indoor storage facility for individuals and small  
670 businesses shall meet the following specific requirements:

671 (1) Any new building shall have exterior design characteristics similar to  
672 retail buildings in the area.

673 (2) Only one large common dock/garage door opening shall be allowed  
674 per building and shall not face any street frontage unless appropriately screened.

675 (3) All items being stored must be inside of an enclosed building.

676 (4) No business activity shall be conducted in the individual storage units.

677 (5) No living quarters are allowed within the individual units but the overall  
678 premises may have one dwelling unit for the caretaker.

679 (6) The storage of hazardous, toxic, or explosive substances is prohibited.

680 (w) *Animal Care and Services, Type I.*

681 (1) Medical treatment or care of large animals such as horses, cattle,  
682 sheep, goats, swine, etc., shall not be permitted on the premises.

683 (2) Medical treatment or care shall be provided only within the confines of  
684 an enclosed building or structure.

685 (3) The building or structure shall be constructed in such a manner as to  
686 prevent audible noise and/or odor from adversely impacting adjoining properties.

687 (x) *Television, Radio, and Microwave Transmission Towers –*  
688 *Telecommunication Equipment – Accessory Facilities.* In addition to the standard  
689 application components required of an applicant to petition for a conditional use permit,  
690 a petition for a conditional use permit for the subject use shall include:

691 (1) A site plan or plans drawn to scale of one inch equals 30 feet or larger  
692 and identifying the site boundary; tower(s); guy wire anchors; existing and  
693 proposed structures; vehicular parking and access; existing vegetation to be  
694 retained, removed, or replaced; and uses, structures, and land use designations  
695 on the site and abutting parcels.

696 (2) A plan drawn to scale showing any proposed landscaping, including  
697 species type, size, spacing, and other features.

698 (3) The applicant shall provide written communications obtained from the  
699 Federal Communications Commission and the Federal Aviation Administration  
700 indicating whether the proposed tower complies with applicable regulations  
701 administered by that agency or that the tower is exempt from those regulations. If  
702 each applicable agency does not provide a requested statement after the

703 applicant makes a timely, good-faith effort to obtain it, the application is  
704 complete. The applicant shall send a subsequently received agency statement to  
705 the Planning Director.

706 (4) The applicant shall demonstrate that the tower complies with any  
707 applicable provisions of the airport hazard zone regulations if the tower site is  
708 located within the hazard zone as established by said regulations.

709 (y) *Vehicle Surface Parking Lot.*

710 (1) The parking lot site shall be of like district zoning classification as that  
711 of an associated principal use or that of a less restrictive district. The parking lot  
712 site shall not be separated from the associated principal use by an intervening  
713 zoning district of a more restrictive classification.

714 (2) The parking lot site shall not be separated from an associated  
715 principal use by an intervening public street right-of-way classified as a collector  
716 or arterial roadway on the Shawnee County functional classification of roadways  
717 map.

718 (3) The nearest point of a parking lot site to the nearest point of the  
719 building served by the parking lot shall not be greater than 500 feet.

720 (4) If one or more of the requirements cannot be met, a person may apply  
721 for a conditional use permit pursuant to Chapter 18.215 TMC.

722 (z) *Short-Term Residential Rental, Type I.*

723 (1) *Specific Requirements.* Each short-term residential rental, type I shall  
724 meet all of the following requirements unless waived as part of the conditional  
725 use permit process:

726 (i) The primary entrance to all rooms accessible to guests shall be

727 within the dwelling. An original secondary exterior entrance opening onto a  
728 porch or balcony or from a basement unit is allowed.

729 (ii) The exterior of the dwelling and premises shall outwardly  
730 remain and appear to be a dwelling giving no appearance of a business  
731 use.

732 (iii) Individual guestrooms shall not contain cooking facilities.

733 (iv) The short-term residential rental, type I shall not be used for  
734 weddings, receptions, large parties or gatherings, business meetings, or  
735 similar activities.

736 (v) Signage shall comply with the sign regulations applicable to  
737 residential uses.

738 (vi) Only retail sales of a nature clearly incidental and subordinate  
739 to the primary use of the premises as a short-term residential rental  
740 establishment shall be permitted.

741 (vii) Parking shall comply with the parking requirements of  
742 Chapter 18.240 TMC.

743 (viii) Parking of commercial vehicles by transient guests is not  
744 permitted.

745 (ix) In nonresidential zoning districts, the dwelling containing the  
746 short-term residential rental shall conform to the use standards of  
747 TMC 18.60.010 or be a legal nonconforming use.

748 (x) The trash and recycling receptacles shall be of sufficient size  
749 and number to accommodate all refuse generated by the owner-occupant  
750 and the guests.

751 (xi) Outdoor activities shall not produce any excessive,  
752 unnecessary, unusual or loud noises which: (A) create a nuisance; or (B)  
753 interfere with the use or enjoyment of property of any person of  
754 reasonable sensibilities.

755 (2) *Administrative Permit.* Upon receipt of an application and payment of  
756 permit fee to be determined by the Director, the Director will determine whether  
757 the application meets the requirements in this subsection (z). Upon approval, the  
758 Director will issue the permit and notify owners of all parcels adjacent to the  
759 subject property of the issuance of the permit. The administrative permit shall be  
760 valid for two years and may be renewed upon a finding of compliance with the  
761 requirements and payment of a fee to be determined by the Director. The  
762 Director may deny an application, revoke, or suspend a permit for failure to  
763 comply with this subsection (z). The applicant or permit holder may appeal the  
764 Director's determination to the Board of Zoning Appeals. An administrative permit  
765 is not required if a conditional use permit is granted.

766 (3) *Conditional Use Permit.* In the event that a person cannot meet the  
767 requirements of  
768 subsections (z)(1)(i) through (z)(1)(vi) or (z)(1)(viii) through (z)(1)(x) of this  
769 section, such person may apply for a conditional use permit pursuant to  
770 Chapter 18.215 TMC.

771 (aa) *Short-Term Residential Rental, Type II.*

772 (1) *Specific Requirements.* Each short-term residential rental, type II shall  
773 meet all of the following requirements unless waived as part of the conditional  
774 use permit process:

775 (i) The primary entrance to all rooms accessible to guests shall be  
776 within the dwelling. An original secondary exterior entrance opening onto a  
777 porch or balcony or from a basement unit is allowed.

778 (ii) The exterior of the dwelling and premises shall outwardly  
779 remain and appear to be a dwelling giving no appearance of a business  
780 use.

781 (iii) Individual guestrooms shall not contain cooking facilities.

782 (iv) The short-term residential rental, type II shall not be used for  
783 weddings, receptions, large parties or gatherings, business meetings, or  
784 similar activities.

785 (v) Signage shall comply with the sign regulations applicable to  
786 residential uses.

787 (vi) Only retail sales of a nature clearly incidental and subordinate  
788 to the primary use of the premises as a short-term residential rental shall  
789 be permitted.

790 (vii) Parking shall comply with the parking requirements of  
791 Chapter 18.240 TMC.

792 (viii) Parking of commercial vehicles by transient guests is not  
793 permitted.

794 (ix) Any short-term residential rental, type II in an R, M-1, or M-1a  
795 district established after March 1, 2021, shall be no closer than 500 feet  
796 from another short-term residential rental, type II or short-term residential  
797 rental, type III in an R, M-1, or M-1a district.

798 (x) In nonresidential zoning districts, the dwelling containing the

799 short-term residential rental shall conform to the use standards of  
800 TMC 18.60.010 or be a legal nonconforming use.

801 (xi) The trash and recycling receptacles shall be of sufficient size  
802 and number to accommodate all refuse generated by the guests.

803 (xii) Outdoor activities shall not produce any excessive,  
804 unnecessary, unusual or loud noises which: (A) create a nuisance; or (B)  
805 interfere with the use or enjoyment of property of any person of  
806 reasonable sensibilities.

807 (2) *Administrative Permit.* Upon receipt of an application and payment of  
808 permit fee to be determined by the Director, the Director will determine whether  
809 the application meets the requirements in this subsection (aa). Upon approval,  
810 the Director will issue the permit and notify owners of all parcels adjacent to the  
811 subject property of the issuance of the permit. The administrative permit shall be  
812 valid for two years and may be renewed upon a finding of compliance with the  
813 requirements and payment of a fee to be determined by the Director. The  
814 Director may deny an application, revoke, or suspend a permit for failure to  
815 comply with this subsection (aa). The applicant or permit holder may appeal the  
816 Director's determination to the Board of Zoning Appeals. An administrative permit  
817 is not required if a conditional use permit is granted.

818 (3) *Conditional Use Permit.* In the event that a person cannot meet the  
819 requirements of subsections (aa)(1)(i) through (aa)(1)(vi) or (aa)(1)(viii) through  
820 (aa)(1)(xi) of this section, such person may apply for a conditional use permit  
821 pursuant to Chapter 18.215 TMC.

822 (bb) *Short-Term Residential Rental, Type III.*

823 (1) *Specific Requirements.* A conditional use permit is required for each  
824 short-term residential rental, type III in the zoning districts designated in  
825 TMC 18.60.010. In those districts where a conditional use permit is required or  
826 where specific use requirements are imposed, the following standards shall apply  
827 unless waived as part of the conditional use process:

828 (i) The short-term residential rental, type III shall be operated within  
829 the single-family dwelling and not in any accessory structure.

830 (ii) The primary entrance to all rooms accessible to guests shall be  
831 within the dwelling. An original secondary exterior entrance opening onto a  
832 porch or balcony or from a basement unit is allowed.

833 (iii) The exterior of the dwelling and premises shall outwardly  
834 remain and appear to be a dwelling giving no appearance of a business  
835 use.

836 (iv) Individual guestrooms shall not contain cooking facilities.

837 (v) Signage shall be regulated by the sign regulations except as  
838 allowed or restricted by conditional use permit.

839 (vi) Only retail sales of a nature clearly incidental and subordinate  
840 to the primary use of the premises as a short-term residential rental shall  
841 be permitted.

842 (vii) Parking shall comply with the parking requirements of  
843 Chapter 18.240 TMC.

844 (viii) Parking of commercial vehicles by transient guests is not  
845 permitted.

846 (ix) The trash and recycling receptacles shall be of sufficient size

847 and number to accommodate all refuse generated by the guests.

848 (x) Outdoor activities shall not produce any excessive,  
849 unnecessary, unusual or loud noises which: (A) create a nuisance; or (B)  
850 which interfere with the use or enjoyment of property of any person of  
851 reasonable sensibilities.

852 (xi) Social events such as weddings, receptions, parties, business  
853 engagements or similar activities may be accommodated in conjunction  
854 with a short-term residential rental, type III, subject to the following  
855 requirements:

856 (A) The scheduling and conduct of social events shall be  
857 incidental and subordinate to the principal use of the premises.

858 (B) All scheduled events shall be by prearranged contract or  
859 agreement. Such events shall not be open to the general public.

860 (C) Social events shall be restricted to between the hours of  
861 9:00 a.m. and 11:00 p.m.

862 (D) *Parking for Social Events.* Off-street parking for event  
863 guests shall meet the same number requirements as required by  
864 TMC 18.240.030 for religious assembly or cultural facilities.

865 (2) *Conditional Use Permit.* In the event that a person cannot meet the  
866 requirements of  
867 subsections (bb)(1)(i) through (bb)(1)(vi) or (bb)(1)(viii), (bb)(1)(ix),  
868 or (bb)(1)(xi) of this section, such person may apply for a conditional use permit  
869 pursuant to Chapter 18.215 TMC.

870 (cc) *Management/Leasing Office and Maintenance Facility.*

871 (1) A facility for leasing, managing and/or maintaining a residential  
872 community shall meet the following requirements:

873 (i) The proposed facility shall be located within the boundaries of  
874 and operate exclusively in association with a legally described residential  
875 community consisting of rental housing units. Activity not associated with  
876 the management of the residential community or that serves the residents  
877 of the community shall not be permitted within the facility.

878 (ii) The proposed facility shall be comparable in design,  
879 construction, materials, siding and roofing to the rental units located within  
880 the residential community.

881 (iii) All materials, equipment and supplies shall be maintained  
882 within the facility or within a detached accessory structure that is  
883 comparable in size and design to other detached accessory structures  
884 located within the residential community.

885 (iv) A building sign is limited to one wall-mounted identification sign  
886 not exceeding six square feet.

887 (2) If one or more of the requirements cannot be met, a person may apply  
888 for a conditional use permit pursuant to Chapter 18.215 TMC.

889 (dd) *Automobile Rental Establishments.*

890 (1) Automobiles, pickup trucks, motorcycles and other vehicles shall not  
891 exceed a gross vehicle weight rating of 12,000 pounds in the C-2 district.

892 (2) No automobile sales and/or long-term leasing of vehicles exceeding  
893 six months shall be permitted.

894 (3) No on-site vehicle maintenance or mechanical service shall be

895 permitted except to clean and prepare a vehicle for rental.

896 (4) No gasoline service shall be provided on site.

897 (5) No exterior storage or display of products, materials, supplies or  
898 equipment shall be permitted except for the rental vehicles.

899 (6) The inventory of rental vehicles shall be parked only on paved areas  
900 and shall not displace the required number of off-street parking spaces to be  
901 provided.

902 (7) A solid, opaque screen, fence or sight-prohibitive landscaping shall be  
903 provided along lot lines adjoining residential property at a height of not less than  
904 six feet except in front yards where it may be reduced to three feet or replaced  
905 with shrubs designed to grow two to three feet in height.

906 (ee) *Group Residence, General – Group Residence, Limited – Correctional*  
907 *Placement Residence or Facility, General – Correctional Placement Residence or*  
908 *Facility, Limited – Home Care, Type II.* In considering an application for a conditional  
909 use permit for a correctional placement residence or facility, general; a correctional  
910 placement residence or facility, limited; home care, type II; a group residence, general;  
911 or a group residence, limited, the Planning Commission and Governing Body will give  
912 consideration to the following criteria:

913 (1) The conformance of the proposed use to the comprehensive plan and  
914 other adopted planning policies.

915 (2) The character of the neighborhood including but not limited to: land  
916 use, zoning, density (residential), architectural style, building materials, height,  
917 structural mass, siting, open space and floor-to-area ratio (commercial and  
918 industrial).

919 (3) The zoning and uses of nearby properties, and the extent to which the  
920 proposed use would be in harmony with such zoning and uses.

921 (4) The suitability of the property for the uses to which it has been  
922 restricted under the applicable zoning district regulations.

923 (5) The length of time the property has remained vacant as zoned.

924 (6) The extent to which approval of the application would detrimentally  
925 affect nearby properties.

926 (7) The extent to which the proposed use would substantially harm the  
927 value of nearby properties.

928 (8) The extent to which the proposed use would adversely affect the  
929 capacity or safety of that portion of the road network influenced by the use, or  
930 present parking problems in the vicinity of the property.

931 (9) The extent to which the proposed use would create excessive air  
932 pollution, water pollution, noise pollution or other environmental harm.

933 (10) The economic impact of the proposed use on the community.

934 (11) The gain, if any, to the public health, safety and welfare due to denial  
935 of the application as compared to the hardship imposed upon the landowner, if  
936 any, as a result of denial of the application.

937 (ff) *Mobile Retail Vendors.* Mobile retail vendors are allowed in zoning districts  
938 where retail sales are permitted per TMC 18.60.010 or where allowed by ordinance.

939 (gg) *Micro-Alcohol Production in X-2 and X-3 and D Districts.*

940 (1) Micro-breweries are limited to 5,000 barrels per year.

941 (2) Tap rooms and tasting rooms are permitted as an accessory  
942 use and shall be located near the streetfront side of the building.

943 (3) Any portion of the building that fronts a public street shall have a  
944 storefront facade and include windows and door openings along the street  
945 frontage.

946 (4) The area of the building used for manufacturing, processing, brewing,  
947 fermenting, distilling, or storage shall be above or below the ground floor or  
948 located to the rear of the building or otherwise subordinate in area and extent.

949 (hh) *Artisan Manufacturing.*

950 (1) The area used for production and assembly shall be limited to no  
951 more than 80 percent of the gross floor area of the principal structure and shall  
952 not exceed a total of 6,000 square feet.

953 (2) All activities and equipment associated with all aspects of artisan  
954 manufacturing shall be confined to the interior of structures located on the  
955 property.

956 (3) In C-1, X-3, D-1 and D-2 districts, artisan manufacturing occurring on  
957 the ground level within a designated district classification must retain the front  
958 portion of the ground level to serve as a storefront entrance to a showroom, retail  
959 space, office use, or permitted residential use, consistent with the general  
960 character of the adjacent properties.

961 (4) The production process shall not produce offensive chemical odors,  
962 dust, vibration, noise, or other offensive external impacts that are detectable  
963 beyond the boundaries of the subject property.

964 (5) Retail sales of the product produced on site are allowed. On-site retail  
965 sales of other nonrelated products are permitted.

966 (ii) *Drive-Up/Drive-Through Facilities.*

967 (1) In D and X districts, the drive-up window, menu boards and all lanes  
968 needed for vehicle stacking shall be located to the rear or side of the principal  
969 building.

970 (2) In D and X districts, the drive-up window facility shall be secondary  
971 and subordinate in size to the principal uses of the structure in which the drive-up  
972 facility is located.

973 (3) All lanes used for ingress, stacking, service, and egress shall be  
974 integrated safely and effectively with circulation and parking facilities.

975 (4) Ingress and egress shall be designed to minimize potential conflicts  
976 with vehicular, pedestrian, and bicycle traffic.

977 (5) The location and design of the drive-up facility shall minimize blank  
978 walls on street-facing exteriors of the building and disruption of existing or  
979 potential retail and other active ground floor uses.

980 (6) Approval of a traffic impact analysis by the City Traffic Engineer may  
981 be required.

982 (7) The principal use of the building is allowed in the zoning district.

983 (jj) *Building, Construction, and Mechanical Contractor Office – Contractor*  
984 *Yards.* Outdoor storage associated with a contractor office or contractor yard, when  
985 located along a lot line adjoining a visible public street or in a yard that abuts a  
986 residential use or mixed use zoning district, shall be screened from public view by a  
987 solid, opaque screen, fence or sight-prohibitive landscaping of not less than six feet in  
988 height. If storage is adjacent to driveways or intersections, screening may be reduced to  
989 comply with sight distance triangles, as provided in TMC 12.20.020.

990 (kk) *Small Cell Wireless Facilities (SCWFs).*

991 (1) *Application.* An applicant for placement of an SCWF shall submit site  
992 plans, elevation drawings and structural calculations prepared by a professional  
993 engineer licensed by the State of Kansas. The drawings must depict  
994 transmission equipment, power source, electrical service pedestal and any  
995 associated access or utility easements and setbacks.

996 (2) *Right-of-Way.* If placement is sited in public right-of-way, the applicant  
997 will execute a license agreement with the City.

998 (3) *Compliance with Aesthetic Requirements.* The proposed SCWF shall  
999 comply with the City of Topeka/Shawnee County Small Cell Wireless Facilities  
1000 General Design and Aesthetic Requirements posted on the City's website.

1001 (II) *Warehouse, Storage, Distribution Facilities.*

1002 (1) Any new warehouse, storage, or distribution facility shall be in an  
1003 existing building. Minor additions are limited to expansions of 10 percent or less  
1004 to the existing building.

1005 (2) Only one large common dock/garage door opening shall be allowed  
1006 per building facade facing a public street; or, if the building contains existing large  
1007 door openings on facade facing street, no more than one additional large door is  
1008 permitted.

1009 (3) All items being stored must be inside of an enclosed building.

1010 (mm) *Accessory Dwelling Unit (ADU).*

1011 (1) Generally. A single ADU is permitted as an accessory use to the  
1012 principal dwelling and allowed subject to satisfying these standards.

1013 (2) ADUs are classified into the following types:

1014 (i) Integrated Accessory Dwelling (Conversion or addition within or

1015 onto principal dwelling).

1016 (ii) Detached Accessory Dwelling (Conversion or new construction

1017 of detached building).

1018 (3) Purpose.

1019 (i) Create new housing units while preserving the character of

1020 single-family detached residential neighborhoods.

1021 (ii) Allow more efficient use of the City's existing housing stock,

1022 infrastructure, and services, and preserve open space.

1023 (iii) Provide a mix of housing types in a traditional neighborhood

1024 setting and accommodate non-traditional living environments while

1025 respecting the scale, location and design of the principal single-family

1026 dwelling.

1027 (iv) Provide a broader range of accessible and affordable

1028 housing to promote aging in place.

1029 (4) Standards.

1030 (i) Applicable to ADUs with approval level "S/C" in TMC

1031 18.60.010, Use Tables.

1032 (ii) Detached Accessory Dwellings shall contain no more than

1033 800 square feet, exclusive of garages attached to the accessory dwelling,

1034 or 50% of the gross floor area of the principal dwelling, whichever is less.

1035 (iii) Integrated Accessory Dwellings.

1036 (A) Shall contain no more than 800 square feet and shall

1037 not exceed 80% of the area of the principal dwelling.

1038 (B) Shall be separated from the principal dwelling by a

1039 wall, floor, or ceiling and have a separate entrance from the  
1040 exterior.

1041 (C) Shall be designed and constructed in a manner  
1042 integrated with the architecture of the principal dwelling.

1043 (D) For means of accessing the ADU, exterior stairways  
1044 may be located on either the side or rear of the primary dwelling.  
1045 The stairway shall not be located on any street facing façade.

1046 (E) The windows for the integrated ADU, if visible from  
1047 the street, shall match those in the principal dwelling in proportion  
1048 and orientation.

1049 (F) Eaves shall project from the building wall the same  
1050 distance as the eaves on the rest of the principal dwelling.

1051 (G) Shall not have a new, exclusive or separate entrance,  
1052 visible from the street, on the same street-facing building elevation  
1053 as the principal dwelling.

1054 (iv) Second-story additions for detached garages must comply  
1055 with the standards for detached accessory dwellings and the height  
1056 standards for detached accessory buildings in TMC 18.60.020.

1057 (5) Owner Occupancy Required. Either the accessory dwelling unit or  
1058 the principal dwelling unit shall be occupied by an owner of record of the  
1059 property.

1060 (6) Building design guidelines for all types of ADUs:

1061 (i) The exterior finish material shall be visually compatible in  
1062 type, size and placement with the exterior finish material of the principal

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- dwelling.
- (ii) The roof pitch shall be similar or compatible with the predominant roof pitch of the principal dwelling.
- (iii) Trim on edges of elements on the addition shall be similar or compatible with in type, size and location as the trim used on the rest of the principal dwelling.
- (iv) Windows shall match those in the principal dwelling in proportion and orientation.
- (v) Eaves shall project from the building wall the same distance as the eaves on the rest of the principal dwelling.
- (vi) If the ADU is converted from an existing detached building, the exterior shall be modified to the greatest extent possible to match or be comparable to the principal dwelling.
- (7) Parking Standards.
- (i) One off-street parking space on a hard surface meeting City of Topeka standards shall be provided in addition to the off-street parking required for the principal dwelling.
- (ii) For lots with a single street frontage of less than 100 feet, additional off-street parking and driveway access for the accessory dwelling shall be from the existing parking and driveway access. Lots abutting an alley may provide parking access to the ADU from the alley.
- (iii) For corner lots or lots with alley access, off-street parking and driveway access shall be either be:
- (A) Integrated with existing parking and driveway access;

1087                                    or  
1088                                    (B) Provided on the street frontage other than where the  
1089                                    parking and driveway access for the principal dwelling is located: or  
1090                                    provided from the alley.

1091                                    (8) Existing buildings with legal nonconforming setbacks may be  
1092                                    converted to ADUs provided building codes are met.

1093                                    (9) ADUs shall comply with applicable building codes and dimensional  
1094                                    standards in TMC 18.60.020 and 18.230 of the Zoning Code unless stated  
1095                                    otherwise in these standards.

1096                                    (10) Upon review of an application for a building permit that includes  
1097                                    information as determined by the Planning & Development Director, the Director  
1098                                    will determine whether the application meets the requirements of the TMC  
1099                                    18.225.010.

1100                                    (11) Addressing. The property owner shall make arrangements with the  
1101                                    Planning & Development Department to obtain a separate address or unit  
1102                                    number for purposes of mail delivery to the accessory dwelling unit.

1103                                    (12) ADUs that do not meet standards in above paragraphs 4, 5, and 6  
1104                                    may be approved by Conditional Use Permit (CUP) in accordance with Chapter  
1105                                    18.215.

1106                                    Section 5. That original §§ 18.55.010, 18.55.040, 18.60.010, and 18.225.010  
1107 of The Code of the City of Topeka, Kansas, are hereby specifically repealed.

1108                                    Section 6. This ordinance shall take effect and be in force from and after its  
1109 passage, approval and publication in the official City newspaper.

1110                                    Section 7. This ordinance shall supersede all ordinances, resolutions or rules,

1111 or portions thereof, which are in conflict with the provisions of this ordinance.

1112 Section 8. Should any section, clause or phrase of this ordinance be declared  
1113 invalid by a court of competent jurisdiction, the same shall not affect the validity of this  
1114 ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

1115 PASSED AND APPROVED by the Governing Body on July 30, 2024.

1116 CITY OF TOPEKA, KANSAS  
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1121 \_\_\_\_\_  
1122 Michael A. Padilla, Mayor

1123 ATTEST:

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1125 Brenda Younger, City Clerk  
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