CITY OF TOPEKA

TITLE 18
OF THE MUNICIPAL CODEBOOK
and items specifically related to Planning

TOPEKA PLANNING DEPARTMENT
620 SE Madison Street, Unit 11
Topeka, Kansas  66607-1118
This document contains bookmarks
Chapter 2.60
LANDMARKS COMMISSION

Sections:
2.60.010 Topeka landmarks commission – Created.
2.60.020 Topeka landmarks commission – Functions.

Cross References: Boards, commissions and committees, TMC 2.05.010 et seq.; planning department, TMC 2.25.210; historic preservation, Chapter 18.255 TMC.

The following sections refer to landmarks commission responsibilities: Funds, TMC 3.25.100; historic preservation, Chapter 18.255 TMC.

2.60.010 Topeka landmarks commission – Created.

There is created and established a commission to be known as the “Topeka landmarks commission.”

(a) Scope of Duties. The Topeka landmarks commission shall advise the city council on historic assets and safeguard the architectural and cultural heritage of the community through the preservation of local historic landmarks and local historic districts. The Topeka landmarks commission may carry out these duties through the identification, documentation and designation of local historic landmarks; development and implementation of a historic preservation plan; administration of ordinances governing the designation, alteration and removal of local historic landmarks; assistance with educational and incentive programs, economic development and tourism, and coordination of public and private historic preservation activities.

(b) Members. The Topeka landmarks commission shall be composed of nine members. The nine members shall be appointed by the mayor with approval of the city council and will serve without compensation. The Topeka landmarks commission membership shall be comprised of people who have a demonstrated interest in historic preservation through their community and/or professional involvements. The members of the commission shall be drawn from such backgrounds as architecture, history, landscape architecture, architectural history, planning, archaeology, urban design, neighborhood and community development, geography, real estate, law, finance, building trades or related areas. A minimum of four members shall be preservation related professionals.

(c) Terms. The terms shall be for a three-year period commencing on January 1st and terminating on December 31st. No member shall serve beyond the end of his or her appointed term. Upon expiration of a term, the position shall remain vacant until a successor is appointed.

(d) Officers. The Topeka landmarks commission shall elect a chairperson and one vice-chairperson from its members.

(e) Meetings. The Topeka landmarks commission shall meet at least once each month, with additional meetings upon call by the chairperson or upon petition of a majority of the members. All meetings shall be open to the public and notification shall be provided in the official newspaper, and to those who request notification. Unless otherwise required herein, five members present shall constitute a quorum for the transaction of business.

(f) Ex Officio Members. The following may serve on the Topeka landmarks commission as ex officio members:
(1) The director or designee of the development services office;

(2) The director or designee of the city planning department.

(g) Jurisdiction. The chapter shall apply to the city of Topeka.

(h) Committees and Subcommittees. The Topeka landmarks commission may establish through its bylaws committees, including a design review committee, as deemed necessary or convenient to carry out the various functions and duties of the commission. Such committees or subcommittees may include any person appointed by the chairperson and may meet upon such schedule and for such purposes as established by the commission.

(i) Staff of the Topeka Landmarks Commission. The Topeka landmarks commission shall receive such staff support as directed by the city administration. (Ord. 19901 § 1, 5-6-14.)

Cross References: City council – mayor, Chapter 2.15 TMC.

2.60.020 Topeka landmarks commission – Functions.

The Topeka landmarks commission shall have the following functions:

(a) Administer the identification, documentation and designation of local historic landmarks and local historic districts.

(b) Determine whether certain buildings, structures, land areas, and interiors (only for local historic landmarks and with owner consent) should be designated as local historic landmarks or local historic districts.

(c) Administer certificate of appropriateness reviews according to design review guidelines to determine whether to grant or deny approval of proposed undertakings.

(d) Review and comment on projects which may pose a threat to a recorded archaeological site as designated by the city or the Kansas State Historical Office.

(e) May apply for or suggest sources of funds for preservation, acquisition, and restoration activities.

(f) May implement incentive programs for preservation.

(g) May recommend acquisition of historic assets to the council.

(h) Review annually the status of designated local historic landmarks and local historic districts.

(i) Prepare and adopt a historic preservation plan as an element for inclusion in the city’s comprehensive plan and review and update the plan as needed. The plan may reference a list of historic assets.

(j) Implement a receivership program for conservation easement donations for the purpose of historic preservation. Such easements shall be held by the city and monitored by the Topeka landmarks commission.

(k) Recommend programs and legislation to the city council to encourage historic preservation.

(l) Assist in the preparation of national and/or state register nominations, upon request of the property owner.

(m) Upon request of the property owner, render advice and provide guidance with respect to any proposed work on a historic asset.
(n) Adopt and implement design review guidelines for local historic landmarks and local historic districts.

(o) Review nominations of properties within the city proposed for inclusion in the National Register of Historic Places.

(p) Create and maintain a list of individuals and organizations that request, in writing, to be advised of actions related to local historic landmarks and local historic districts.

(q) Provide a quarterly report to the council listing approved and rejected certificates of appropriateness for local historic landmarks and local historic districts.

(r) Provide design review guidelines to owners of local historic landmarks and owners of property located within a local historic district. (Ord. 1990 § 2, 5-6-14.)


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Chapter 2.45 BOARD OF ZONING APPEALS

Sections:
2.45.010 Topeka board of zoning appeals.
2.45.020 Composition – Appointment.
2.45.030 Terms of members.
2.45.040 Meetings.
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2.45.060 Records.
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2.45.110 Findings.
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2.45.130 Exceptions.
2.45.140 Variances not allowed.
2.45.150 Recording with register of deeds.

Cross References: Boards, commissions and committees, TMC 2.05.010 et seq.; zoning code, TMC Title 18, Division 4.

The following sections refer to board of zoning appeals responsibilities: Planning commission, TMC 2.65.160; manufactured homes and trailers, TMC 14.65.090; floodplain management, TMC 17.30.240, 17.30.250; signs, TMC 18.10.110, 18.15.010, 18.15.070; zoning code, TMC 18.50.120, 18.205.070, 18.205.080, 18.220.050, 18.230.030, 18.235.050, 18.240.020.

2.45.010 Topeka board of zoning appeals.

There is hereby created a Topeka board of zoning appeals, hereinafter referred to as the board of zoning appeals. (Ord. 18288 § 2, 7-13-04. Code 1995 § 48-34.00.)

2.45.020 Composition – Appointment.

The board of zoning appeals shall consist of seven members appointed by the mayor. None of the members shall hold any other public office by the city except that two members may be members of the Topeka planning commission. The appointees shall reside inside the corporate area of the city of Topeka. (Ord. 18288 § 3, 7-13-04; Ord. 17156 § 7, 8-12-97. Code 1995 § 48-34.01.)

Cross References: City council – mayor, Chapter 2.15 TMC; planning commission, Chapter 2.65 TMC.

2.45.030 Terms of members.

The members first appointed shall serve respectively for terms of one, two or three years, divided equally or as nearly equally as possible between the members. Thereafter, members shall be appointed for terms of three years each. Vacancies shall be filled by appointment for the unexpired term. The members shall serve without compensation. (Ord. 18288 § 4, 7-13-04. Code 1995 § 48-34.02.)
2.45.040 Meetings.

The board of zoning appeals shall at its regular meeting in January of each year elect one of its members as chairperson and vice-chairperson. The planning director, or designee, shall act as secretary for the board of zoning appeals. The board of zoning appeals shall adopt its own rules, consistent with the authority granted herein. The board of zoning appeals shall cause records of its meeting to be kept which records contain evidence presented, findings by the board of zoning appeals, decisions of the board of zoning appeals and the vote on each appeal case. Meetings shall be scheduled by the chairperson on a monthly basis. (Ord. 18288 § 5, 7-13-04. Code 1995 § 48-34.03.)


2.45.050 Powers and duties – Generally.

The board of zoning appeals shall administer the details of appeals from or other matters referred to it regarding the application of the zoning regulations in accordance with the general rules set forth in TMC Title 18, Division 4, including the power to hear and determine appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of the zoning regulations and to permit exceptions to, or variations from, TMC Title 18, Division 4, in the classes of cases or situations, in accordance with the purpose, conditions and procedures specified in TMC Title 18, Division 4. In addition, the board of zoning appeals shall have power to hear and determine appeals from any person whose application for a permit to hang, erect or locate a sign under adopted sign regulations relating to size, height, and illumination has been denied or an appeal by any person desiring to appeal from any decision of the code enforcement director in the enforcement of the city sign regulations. (Ord. 18288 § 6, 7-13-04; Ord. 17742 § 1, 10-16-01. Code 1995 § 48-34.04.)

Cross References: Building code enforcement division, Chapter 2.50 TMC.

2.45.060 Records.

Records of all official actions of the board of zoning appeals shall be filed with the planning department and shall be a public record. (Ord. 18288 § 7, 7-13-04. Code 1995 § 48-34.05.)


2.45.070 Notice of appeal.

Appeals to the board of zoning appeals may be taken by any person aggrieved or by any governmental body affected by any officer administering the provisions of TMC Title 18, Division 4, or the provisions of the city sign regulations. Such appeal shall be taken within 30 calendar days of the decision by filing a notice of appeal specifying the grounds thereof and the payment of the filing fee. Said notice of appeal and payment of the filing fee shall be made in the planning department. (Ord. 18288 § 8, 7-13-04. Code 1995 § 48-34.06.)


2.45.080 Appeal stays proceedings.

An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies under oath to the board of zoning appeals that a stay would cause imminent threat to life or property. In such case, proceedings shall not be stayed otherwise than by appropriate injunctive relief granted by a court of competent jurisdiction. (Ord. 18288 § 9, 7-13-04. Code 1995 § 48-34.07.)

2.45.090 Notice and hearing.
The board of zoning appeals shall fix the time for the hearing of the appeal, give notice of the time, place and subject in such hearing by publishing the same once in the official city newspaper at least 20 days prior to the date fixed for the hearing and by mailing a copy of the notice to each party to the appeal. Notice of appeal as provided for herein shall also be mailed to adjoining property owners, if any, by first class mail. Ownership of adjoining properties shall be established by the records of the register of deeds office, Shawnee County. Failure by any party or adjoining property owner to receive notice shall not invalidate the appeal proceedings. Upon the hearing, any party may appear in person or by agent or by attorney. (Ord. 18288 § 10, 7-13-04. Code 1995 § 48-34.08.)

2.45.100 Variances/authority.

The board of zoning appeals may in specific cases authorize a variance from the specific terms of TMC Title 18, Division 4, which will not be contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of TMC Title 18, Division 4, will in an individual case result in unnecessary hardship; and provided, that the spirit of TMC Title 18, Division 4, shall be observed, public safety and welfare secured and substantial justice done. Such variance shall not permit either directly or indirectly any use, including defined types of signs, not otherwise permitted by each district’s use regulations. In no event shall the board of zoning appeals vary or otherwise grant appeals from building and setback lines shown on a recorded plat of subdivision unless done so in accordance with the findings set forth in this chapter. (Ord. 18288 § 11, 7-13-04. Code 1995 § 48-34.09.)

2.45.110 Findings.

Before a variance may be granted, the board of zoning appeals shall find that all of the following conditions have been met:

(a) That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district and is not created by an action of the property owner or the applicant;

(b) That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;

(c) That the strict application of the provisions of TMC Title 18, Division 4, of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;

(d) That the variance desired will not adversely affect the public health, safety, morals, order, convenience, property or general welfare; and

(e) That granting the variance desired will not be opposed to the general spirit and intent of TMC Title 18, Division 4.

The secretary of the board of zoning appeals shall cause all variances which are granted by the board of zoning appeals to be filed of record with the register of deeds office, Shawnee County, Kansas. (Ord. 18288 § 12, 7-13-04; Ord. 16754 § 29, 9-13-94. Code 1995 § 48-34.10.)

2.45.120 Conditions.

The board of zoning appeals may impose such conditions on a variance as are necessary to accomplish the purposes of the zoning regulations, to prevent or minimize adverse impacts upon the public and neighborhoods, and to ensure compatibility of the site with its surroundings. These conditions may include but
are not limited to limitations on size, bulk and location; standards for landscaping, buffering and screening; lighting and adequate ingress and egress; and guarantees of performance. (Ord. 18288 § 13, 7-13-04. Code 1995 § 48-34.11.)

### 2.45.130 Exceptions.

The board of zoning appeals shall have the power to permit the following exceptions to the district regulations set forth in TMC Title 18, Division 4, by the issuance of a permit maintaining conditions governing design, construction or operation of the exception so as to adequately safeguard the health, safety and welfare of the occupants of adjoining and surrounding property:

(a) The reconstruction of a nonconforming building which has been damaged by explosion, fire, act of God or public enemy to the extent of less than 50 percent of its fair market value where the board finds some compelling necessity requiring a continuance of the nonconforming use and the primary purpose of continuing the nonconforming use is not to continue a monopoly. (Ord. 18288 § 14, 7-13-04. Code 1995 § 48-34.12.)

### 2.45.140 Variances not allowed.

In exercising its authority, the board of zoning appeals shall not grant a variance that would create any of the following effects:

(a) The effect of the variance on the specific property would adversely affect the land use pattern as outlined by any city land use plan or policy.

(b) The variance would be a material detriment to the public welfare or create injury to the use, enjoyment or value of property in the vicinity.

(c) The variance is not the minimum variance that will relieve the proven hardship.

(d) The variance would allow a use not allowed in the permitted zoning district in which the parcel is located.

(e) The variance will relieve the applicant of conditions or circumstances that are caused by the illegal subdivision of land, which subdivision of land caused the property to be unusable for any reasonable development under the existing regulations.

(f) The variance is grounded solely upon the opportunity to make the property more profitable or to reduce expense to the owner.

(g) The variance will modify one or more conditions imposed by the governing body as part of a conditional use permit or planned unit development. (Ord. 19691 § 8, 1-17-12.)

### 2.45.150 Recording with register of deeds.

The secretary of the board of zoning appeals shall cause all variances which are granted by the board of zoning appeals to be filed of record with the register of deeds. (Ord. 18288 § 16, 7-13-04. Code 1995 § 48-34.14.)

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Chapter 2.65

TOPEKA PLANNING COMMISSION

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Cross References: Boards, commissions and committees, TMC 2.05.030 et seq.; planning department, TMC 2.25.210; comprehensive plan, Chapter 18.05 TMC.

The following sections refer to planning commission responsibilities: Planning department, TMC 2.25.210; board of zoning appeals, TMC 2.45.020; buffer areas, TMC 17.10.080; comprehensive metropolitan plan, Chapter 18.05 TMC; subdivisions, TMC 18.30.040, 18.35.070, 18.35.080, 18.35.110, 18.35.120, 18.35.140, 18.35.150, 18.35.160, 18.35.170, 18.35.210, 18.35.230, 18.35.240, 18.35.250, 18.40.020, 18.40.030, 18.40.050, 18.40.070, 18.40.110, 18.40.130, zoning code, TMC 18.185.070, 18.190.040, 18.190.050, 18.190.060, 18.190.070, 18.190.080, 18.200.090, 18.205.030, Chapters 18.215, 18.225 and 18.245 TMC, TMC 18.250.020, 18.255.060, 18.255.070, 18.255.120, 18.270.030, 18.270.060, 18.270.070.

State Law References: Planning and zoning, K.S.A. 12-701 et seq.

Editor’s Note: At the editor’s discretion the title of this chapter has been changed from “Metropolitan Planning Commission” to “Topeka Planning Commission” to conform to the provisions of Ord. No. 18094.

2.65.010 Created.

There is hereby created and established a body which shall be known as the new Topeka planning commission, in place of and instead of the body heretofore known as the Topeka planning commission. The new Topeka planning commission shall assume all powers, duties, responsibilities and functions provided by the laws of the state and resolutions and ordinances of the city. Such body shall be referred to as the Topeka planning commission. (Ord. 18442 § 2, 5-24-05; Ord. 18094 § 1, 9-23-03; Code 1981 § 33-17. Code 1995 § 110-26.)
2.65.020 Composition – Appointments – Terms.

(a) Membership Generally. The Topeka planning commission shall consist of nine members who shall be appointed and have the terms of service as follows:

The mayor shall solicit nominations from the city council for the appointment of nine members to the Topeka planning commission. All nominations shall be approved by the city council. At least 30 days prior to presenting a nomination to the council, the mayor shall notify councilmembers of vacancies occurring on the Topeka planning commission, shall solicit nominations from the council for filling such positions, and shall appoint members to the Topeka planning commission from those nominated by the council. At least six but not more than seven persons shall reside within the corporate boundaries of the city. In addition, at least two, but not more than three, persons shall reside outside of the corporate limits but within the city's three-mile extraterritorial jurisdiction.

(b) Terms. Of the members of the Topeka planning commission first appointed, three members shall serve one-year terms, three members shall serve two-year terms and three members shall serve three-year terms. The mayor with the consent of the city council shall determine the terms of each appointed member. Members shall not serve beyond the end of their appointed terms. Upon expiration of a term the position shall remain vacant until a successor is appointed. Persons appointed to the Topeka planning commission may be reappointed for one additional three-year term. No person shall be permitted to serve more than two full consecutive terms as a commission member. A period of at least three years shall lapse prior to a former member being eligible for reappointment.

(c) Qualifications of Members.

   (1) No full- or part-time benefit eligible employee of the city of Topeka or Shawnee County may be appointed as a member of the Topeka planning commission.

   (2) Not more than three planning commissioners may be full- or part-time benefit eligible employees of a federal or state agency, or a separate political or taxing subdivision of the state, or full- or part-time benefit eligible employees of agencies or organizations funded wholly or substantially by the city of Topeka or Shawnee County.

   (3) At least six of the planning commissioners shall be appointed from the private sector. At least three of the six commissioners appointed from the private sector shall be currently licensed or engaged in or have substantial past experience in the following fields or professions: licensed professional engineer, licensed landscape architect, licensed architect, certified planner, registered land surveyor, licensed contractor, developer or other experienced professional working in a field related to planning or land development.

(d) Compensation, Removal. Members appointed to the Topeka planning commission shall serve without compensation. Members may be removed without cause by a vote of two-thirds majority of the council. Members may be removed for cause by a majority vote of the council. Removal for cause shall include but not be limited to the following reasons: failure to attend four planning commission meetings in one calendar year or failure to attend three consecutive commission meetings in one calendar year. In the case of death, incapacity, resignation or disqualification of any member of the Topeka planning commission, the mayor, with consent of the city council, shall appoint another person to serve for the unexpired term of the deceased, incapacitated, resigned or disqualified member.
At least 30 days prior to presenting a nomination to the council, the mayor shall notify councilmembers of vacancies occurring on the Topeka planning commission. The mayor shall solicit nominations from the city council for filling such positions, and shall appoint members to the Topeka planning commission from those nominated by the city council. All appointments shall be approved by the city council. (Ord. 18442 § 1, 5-24-05; Ord. 18382 § 39, 1-25-05; Ord. 18125 § 1, 11-18-03; Ord. 18094 § 2, 9-23-03; Ord. 17156 § 1, 8-12-97; Ord. 16414 § 2(33-19), 2-12-92. Code 1995 § 110-27.)

**Cross References:** City council – mayor, Chapter 2.15 TMC.

### 2.65.030 Organization and transition.

The Topeka planning commission members shall be appointed within 30 days after the effective date of the ordinance codified in this chapter. The first meeting of the Topeka planning commission shall be set in accordance with the provisions contained in TMC 2.65.050, as amended. The provisions of K.S.A. 12-745 and amendments thereto shall apply to the Topeka planning commission with regard to meetings, officers and bylaws.

All ordinances, to the greatest extent practical including, but not limited to, ordinances adopting the comprehensive land use plan, subdivision regulations and comprehensive zoning code, resolutions, policies, rules and regulations now in force and effect within the city of Topeka and its extraterritorial jurisdiction at the time the ordinance codified in this chapter is effective which are not inconsistent with the provisions of this chapter shall remain in force and effect until amended or repealed as may be provided by law. (Ord. 18442 § 3, 5-24-05; Ord. 18094 § 3, 9-23-03; Code 1981 § 33-21. Code 1995 § 110-28.)

### 2.65.040 Officers.

The Topeka planning commission shall, from its membership, elect a chairperson and vice-chairperson. The terms of such officers shall be for one year or until their successors shall have been duly elected and qualified. The initial officers shall serve until the first regularly scheduled meeting in January. The terms of all subsequent officers shall be for a period of one year, and they shall be elected and take office annually at the first regularly scheduled meeting in January of each year thereafter. (Ord. 18094 § 6, 9-23-03; Code 1981 § 33-25. Code 1995 § 110-32.)

**State Law References:** Planning commission officers, K.S.A. 12-745.

### 2.65.050 Meetings.

(a) The Topeka planning commission shall convene for its first meeting at such time and place as shall be fixed by the city manager of the city, and shall thereupon proceed to organize and elect officers and fix and determine times and places of future meetings, which meetings shall not be less frequent than four times a year.

(b) Special meetings of the Topeka planning commission may be called by the chairperson, or, if absent, by the vice-chairperson, on not less than three days’ notice, such notice to be by mail at the address given to the secretary of the Topeka planning commission by each member.

(c) The Topeka planning commission shall adopt bylaws to implement the provisions of this chapter in accordance with state law, a certified copy to be filed with the city council. (Ord. 18382 § 40, 1-25-05; Ord. 18094 § 8, 9-23-03; Ord. 17156 § 4, 8-12-97; Code 1981 § 33-27. Code 1995 § 110-34.)

**State Law References:** Meetings, K.S.A. 12-745.
2.65.060 Quorum.

A quorum of the Topeka planning commission shall consist of five members. Except as otherwise provided by state law requiring a higher number of affirmative votes, any matter requiring that a recommendation be made to the city council shall require the affirmative votes of not less than a majority of the membership of the Topeka planning commission. The secretary shall record all votes taken by name, indicating whether the member voted in the affirmative or negative or abstained, and a copy of such record shall be transmitted to the city council following each meeting of the Topeka planning commission. The planning director shall serve as secretary to the Topeka planning commission. The secretary shall cause a proper record to be kept of all the proceedings of the Topeka planning commission. (Ord. 19167 § 1, 9-30-08. Code 1995 § 110-35.)


2.65.070 Conflict of interest.

Should any member of the Topeka planning commission have an interest, pecuniary or otherwise, in any matter to be considered by the Topeka planning commission, the member shall be deemed to have a conflict of interest and shall be disqualified from considering, debating, discussing and voting on said matter. Failure to disclose a conflict of interest or refrain from considering a matter for which the member has a conflict of interest shall be cause for removal from the Topeka planning commission. (Ord. 18094 § 10, 9-23-03; Code 1981 § 33-29. Code 1995 § 110-36.)

2.65.080 Dismissal for absence from meetings.

When any member of the Topeka planning commission shall have been absent from three or more consecutive regular meetings within any 12-month period without having been previously excused by the chairperson, the chairperson shall cause to be prepared and forwarded to the city council a report thereof with an explanation of the circumstances. The city council may, within its discretion, dismiss the member and appoint a replacement for the unexpired term of the dismissed member. (Ord. 18094 § 11, 9-23-03; Code 1981 § 33-30. Code 1995 § 110-37.)

Cross References: City council – mayor, Chapter 2.15 TMC.

2.65.090 Functions – Authority and jurisdiction.

(a) The Topeka planning commission shall have such powers and duties as may be prescribed by law from time to time. The Topeka planning commission shall have the authority prescribed to a planning commission in Chapter 12, Article 7 K.S.A. and amendments thereto except as otherwise provided in this chapter. As a primary function, the Topeka planning commission shall have the responsibility for the adoption and recommendation to the city council of the comprehensive metropolitan plan to guide the orderly growth and harmonious development of the Topeka metropolitan area. The comprehensive metropolitan plan shall consist of, but not be limited to, the elements described in TMC 18.05.020. The Topeka planning commission shall recommend appropriate legislative, administrative or budgetary actions necessary for the governing body to implement the comprehensive metropolitan plan on or before May 1st of each year.

(b) The Topeka planning commission shall have jurisdiction over all planning, zoning and platting matters which arise within the corporate boundaries of the city of Topeka and shall also have jurisdiction over all planning, zoning and platting matters which arise within three miles of the city’s corporate boundaries. (Code 1981 § 33-32. Code 1995 § 110-39.)

2.65.100 Authority of governing bodies.

All recommendations of the Topeka planning commission shall be forwarded to the Topeka city council for final determination as may be required by law. (Code 1981 § 33-34. Code 1995 § 110-41.)

Cross References: City council – mayor, Chapter 2.15 TMC.

2.65.110 Planning department.

(a) Created. There is hereby established and created the Topeka planning department, which shall act as the staff of the Topeka planning commission. The director of such department shall be known as the planning director and shall be hired by the city manager.

(b) Planning Director. The planning director shall have a master’s degree from a college or university in city or regional planning or other related field, plus five years of planning experience.

(c) Upon the direction of the Topeka planning commission, the planning department shall be responsible for preparing, developing, directing, implementing and administering short and long range planning programs to ensure the orderly growth and harmonious development of the city, and the city’s three-mile extraterritorial jurisdiction and promote efficient use of city resources in compliance with ordinances, resolutions, statutes, policies and procedures pertaining to land use, development, zoning, and economic development. The planning director shall advocate for and monitor the implementation of the comprehensive metropolitan plan and facilitate the update of the comprehensive metropolitan plan annually.

(d) The planning director shall actively participate in the development and update of the capital improvement programs for the city.

(e) The Topeka planning department shall provide the city council such advice as appropriate regarding all proposed annexations in conformance with the provisions of Chapter 12, Article 5 of the Kansas Statutes Annotated and amendments thereto. (Ord. 18477 § 14, 7-12-05; Ord. 18125 § 3, 11-18-03; Ord. 18094 § 16, 9-23-03; Ord. 17156 § 6, 8-12-97; Code 1981 § 33-35. Code 1995 § 110-42.)


2.65.120 Comprehensive metropolitan plan and the continuing planning process.

(a) The Topeka planning commission shall require the planning department to formulate a comprehensive metropolitan plan with the public input received through a continuing planning process. The planning department shall prepare the comprehensive metropolitan plan in accordance with the provisions of this chapter. The planning department shall seek advice from the general public and individuals with knowledge of and an interest in the elements contained in TMC 18.05.020.

(b) The Topeka planning commission shall require the planning department to annually update relevant elements of the comprehensive metropolitan plan and present such updates to the Topeka planning commission for adoption and recommendation to the governing body, and publish all or parts thereof. Such adoption and recommendation shall take place on or before May 1st of each year. In the preparation of the comprehensive metropolitan plan, the planning department may make or cause to be made careful and comprehensive surveys and studies of present conditions and trends of future growth of the metropolitan area. The plan shall be made and used for the general purpose of building and accomplishing an orderly growth and harmonious development or redevelopment of the metropolitan area and its environs which will, in accordance with present and future needs, best promote the health, safety, order, convenience, prosperity and general welfare, as well as efficiency and economy in the process of development or redevelopment, including, but not
limited to, adequate provisions for traffic, the promotion of safety from fire or other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public requirements. The public hearing and the manner of adoption of the comprehensive metropolitan plan shall conform with the statutory requirements contained in K.S.A. 12-747, and amendments thereto. (Ord. 18125 § 4, 11-18-03; Ord. 18094 § 17, 9-23-03; Code 1981 § 33-36. Code 1995 § 110-43.)


2.65.130 Capital improvements and plan review.

In accordance with K.S.A. 12-748(b) the Topeka planning commission shall review the city's capital improvement program to ensure that it is consistent with the comprehensive metropolitan plan. The Topeka planning commission shall then submit its findings to the governing body as to whether such plans and programs or projects are consistent with the comprehensive metropolitan plan. (Ord. 18125 § 5, 11-18-03; Ord. 18094 § 18, 9-23-03; Code 1981 § 33-37. Code 1995 § 110-44.)

Cross References: City council – mayor, Chapter 2.15 TMC.

State Law References: Public facility construction, K.S.A. 12-748.

2.65.140 Regulations as to filing of plats.

Whenever the Topeka planning commission shall have adopted a major street plan and shall have filed a certified copy of such plan with the city council, then no plat of a subdivision of land lying within the city for which such major street plan has been prepared, or within the city's three-mile extraterritorial jurisdiction, shall be filed or recorded until it shall have been approved by such Topeka planning commission and city council and such approval entered in writing upon the plat by the chairperson and secretary of the commission, the mayor and city clerk of the city; provided, that the Topeka planning commission shall adopt rules and regulations governing the subdivision of land within the city and the city's three-mile extraterritorial jurisdiction, which rules and regulations shall be subject to approval by the city council. Such rules and regulations shall provide for the orderly growth and harmonious development of the city and its environs; the proper location and width of streets; building lines; open spaces; safety and recreational facilities; and the avoidance of congestion of population, including minimum width, depth and area of lots. Such rules and regulations shall also include the extent to which, and the manner in which, streets shall be graded and improved, and shall also include the extent to which water, sewer and other utility mains and piping or connections or other physical improvements shall be installed. Before the adoption of the subdivision rules and regulations or any amendment thereof, a public hearing shall be held thereon by the Topeka planning commission in conformance with the requirements of K.S.A. 12-749 and amendments thereto. (Ord. 18125 § 6, 11-18-03; Ord. 18094 § 19, 9-23-03; Code 1981 § 33-38. Code 1995 § 110-45.)

Cross References: City council – mayor, Chapter 2.15 TMC; city clerk, TMC 2.25.110.


2.65.150 Issuance of building permits restricted – Plats, dedications and deeds endorsed before filing.

No building permit shall be issued for the construction of any structure that is located upon any lot, tract or
parcel of land located in the area governed by the existing or subsequent subdivision regulations that has not been divided, subdivided, resubdivided or replatted in accordance with said subdivision regulations and the rules and regulations by the Topeka planning commission and city council. No such plat, replat, dedication or deed of any street or public way shall be filed with the register of deeds as provided by law until such plat, replat, dedication or deed shall have endorsed on it the fact that it has been submitted first to the Topeka planning commission and by the Topeka planning commission to the city council and has been duly approved by the city council. (Ord. 18125 § 7, 11-18-03; Ord. 18094 § 20, 9-23-03; Code 1981 § 33-39. Code 1995 § 110-46.)

Cross References: City council – mayor, Chapter 2.15 TMC.


2.65.160 Building or setback lines.

Whenever the plan for a major street system has been adopted and properly filed, the city council, upon recommendation of the Topeka planning commission, is hereby authorized and empowered to establish, regulate and limit, by ordinance, building or setback lines on such existing and proposed major streets or highways, and to prohibit any new building being located within such building or setback lines, in the corporate limits of the city. The council shall provide for the method by which this section shall be enforced. The board of zoning appeals, or other similar board in any city which has established such board having power to make variances or exceptions in zoning regulations, shall have the power to modify or vary the setback regulations in specific cases, in order that unwarranted hardship, which constitutes a complete deprivation of use as distinguished from merely granting a privilege, may be avoided, yet the intended purpose of the regulations shall be strictly observed and the public welfare and safety protected. Setback regulations shall not be adopted, changed or amended until a public hearing by the council has been held thereon, and 20 days' prior notice of the time and place of such hearing shall have been published in the official city newspaper. The powers of this section shall not be exercised so as to deprive the owner of any existing property of its use or maintenance for the purpose to which it is then lawfully devoted. (Ord. 18094 § 21, 9-23-03; Code 1981 § 33-40. Code 1995 § 110-47.)

Cross References: City council – mayor, Chapter 2.15 TMC; board of zoning appeals, Chapter 2.45 TMC.


2.65.170 Effect on inspection department.

Nothing contained in this chapter shall be construed to change the present functions, duties and jurisdiction of the inspection department of the city. (Ord. 18094 § 22, 9-23-03; Code 1981 § 33-41. Code 1995 § 110-48.)

2.65.180 Severability.

If any part or parts of this chapter shall be held unconstitutional, invalid, or otherwise unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this chapter. (Ord. 18125 § 8, 11-18-03; Ord. 18094 § 32, 9-23-03. Code 1995 § 110-51.)

2.65.190 Saving clause.

If this chapter or any part thereof shall be held or determined to be unconstitutional, illegal, ultra vires or void, the same shall not be held or construed to change or annul any provisions of this chapter which may be legal or lawful; and in the event this chapter or any part thereof shall be held unconstitutional, illegal, ultra vires or void, the same shall not affect any action theretofore taken by the Topeka planning commission as theretofore

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Chapter 12.60
VACATING STREETS, ALLEYS AND EASEMENTS

Sections:
12.60.010 Petition.
12.60.020 Vacating by ordinance.
12.60.030 Vacating by platting.

Cross References: Planning, Chapters 2.65 and 18.05 TMC.

12.60.010 Petition.
(a) Petition Requirements. A petition to vacate any street, alley or public reservation, including but not limited to public easements, dedicated building setback lines, access control, and additions or parts thereof, shall include the following:

(1) A completed application form provided by the planning department.

(2) An acknowledgment executed by any adjoining property owner that such property owner has no objection to the petition.

(3) A sufficient survey, diagram, drawing, or description of the street, alley, easement, or other public reservation that is the subject of the petition.

(4) A filing fee of $250.00.

(b) Filing of Petition – Review. The petition and all required information, including the filing fee, shall be submitted to the planning department. The planning department shall review the petition and solicit comment from applicable city/county departments and public utility agencies with respect to reserving public service interests as authorized by state law.

(c) Notice. Upon finding the petition to be in compliance with the petition requirements, the planning director shall give notice of the same by a publication for two consecutive weeks in the official city newspaper. The notice shall describe the property fully, specifying the certain date and naming the day on which the petition will be presented to the governing body for a hearing thereon, and that at such time and place all persons interested can appear and be heard. Furthermore, the planning department shall notify by mail all property owners affected by the proposed vacation of the date of the hearing thereon, and that at such time and place all persons interested can appear and be heard. The planning department shall transmit a report and recommendation, including the comments of applicable utilities and agencies, to the city clerk for presentation to the governing body. (Ord. 19816 § 1, 5-7-13.)


12.60.020 Vacating by ordinance.
(a) As provided by K.S.A. 12-505, if the city council determines that the petition should be granted, the city council shall order by appropriate ordinance that such vacation be made. Said order may include the reservation to the city and the owners of any lesser property rights for public utilities, rights-of-way and easements for public service facilities.
(b) The petition shall not be granted if a written objection thereto is filed with the city clerk at the time of or before the hearing by any owner or adjoining owner who would be a proper party to the petition but has not joined therein.

(c) Upon adoption and publication of any vacation order by ordinance, the city clerk shall certify a copy of such order to the register of deeds for recording.

(d) When any street or alley is vacated it shall revert to the owners of land adjoining on each side in the proportion in which it was originally dedicated or taken, except in cases where such street or alley may have been dedicated or taken for public use in a different proportion, in which case it shall revert to the adjoining land in the same proportion as it was dedicated or taken. (Code 1981 § 40-223. Code 1995 § 130-477.)

**Cross References:** City council – mayor, Chapter 2.15 TMC; city clerk, TMC 2.25.110.

12.60.030 **Vacating by platting.**

Any street, alley or easement may be vacated without further proceedings upon the filing with the register of deeds of any plat or replat which has been approved in the manner prescribed by TMC Title 18, Division 3, on subdivision regulations. (Code 1981 § 40-225. Code 1995 § 130-478.)

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Title 18

COMPREHENSIVE PLAN – SIGNS – SUBDIVISIONS – ZONING

Chapters:

Division 1. Comprehensive Plan

18.05 Comprehensive Metropolitan Plan

Division 2. Signs

18.10 General Provisions
18.15 Administration and Enforcement
18.20 District Regulations
18.25 Requirements for Specific Types of Signs

Division 3. Subdivisions

18.30 General Provisions
18.35 Platting
18.40 Design Standards
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Division 4. Zoning Code

18.50 General Provisions
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18.60 Use Tables – Density/Dimensional Standards
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18.125 O&I-1 Office and Institutional District
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18.140 C-1 Commercial District
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Chapter 18.05

COMPREHENSIVE METROPOLITAN PLAN

Sections:
18.05.010 Plan required.
18.05.020 Content of plan.
18.05.030 Adoption of statement of goals.
18.05.040 Procedure for adoption.
18.05.050 Effect of adoption.

Cross References: Planning commission, Chapter 2.65 TMC; community development, Chapters 2.105 and 3.40 TMC; vacating streets, alleys and easements, TMC 12.60.010 et seq.; buildings and building regulations, TMC Title 14; construction adjacent to flood control levies, TMC 17.20.010 et seq.; floodplain management, TMC 17.30.010 et seq.; subdivisions, TMC Title 18, Division 3; comprehensive zoning regulations, TMC Title 18, Division 4; Forbes Field and Philip Billard Airport hazard zoning, TMC 18.205.010 et seq.


18.05.010 Plan required.
The Topeka planning commission shall be responsible for the adoption and recommendation to the city council of a comprehensive metropolitan plan for the city of Topeka and the city’s three-mile extraterritorial jurisdiction. The content, procedures, approval process, and updating of said comprehensive metropolitan plan shall be the same as provided in K.S.A. 12-747 and 12-748 and amendments thereto except as otherwise provided in this chapter. (Ord. 18125 § 10, 11-18-03; Ord. 18094 § 25, 9-23-03; Code 1981 § 33-51. Code 1995 § 110-71.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.05.020 Content of plan.
The comprehensive metropolitan plan shall comply with K.S.A. 12-741, et seq., and amendments thereto and shall consist of plan elements in such descriptive form, written and/or graphic, as may be appropriate to prescribe the goals, objectives, policies, standards and guidelines for the orderly and balanced future economic, social, physical, environmental and fiscal development of the metropolitan area. The plan therefore shall include the elements contained in K.S.A. 12-747 and amendments thereto, and may include, but shall not be limited to, the following elements:

(a) A statement of goals consistent with this chapter which shall describe the purpose, the desires, the aims, the condition and the state of the community to be achieved in the future as a result of the continuous planning process.

(b) A future land use plan and growth management element which shall designate the projected future general distribution, location and extent, and intensity of uses of land for housing, business, industry, agriculture, recreation, conservation, public or community facilities, and other public/private uses of land throughout the metropolitan area.

(c) A transportation or circulation plan element which shall consist of the types, locations and extent of existing and projected major transportation routes and network, including routes and facilities for the various modes of transportation throughout the metropolitan area.

(d) A public/community facilities element which shall include the location, type, extent and distribution of existing and projected major facilities which are essential to accommodate the orderly growth and harmonious development of the metropolitan area. This plan element shall include such facilities as water, sewer, drainage, solid waste, utilities (electric, gas, telephone and communications), libraries, hospitals, public buildings, schools and educational institutions, airports, and other facilities as may be deemed necessary.

(e) An open space, parks and recreation plan element which shall include the location, type and extent of existing and projected open space and recreational facilities to accommodate the projected orderly growth and harmonious development of the metropolitan area.
(f) A housing plan element which shall include the standards, principles, extent and location guidelines to meet the housing needs of the orderly growth and harmonious development of the metropolitan area.

(g) A conservation and preservation plan element which shall include the standards, principles, extent and provisions to protect natural resources, together with identified structures and places deemed to be historically significant to the metropolitan area.

(h) Economic development element which shall include strategies for fostering new investments in targeted businesses and expanded tax base. It shall also address regional economic development strategies and programs for retention and expansion of existing businesses and industries.

(i) Public safety element which shall include strategies that reflect standards for a livable and safe community.

(j) Facility system plan element including, but not limited to, developing strategies for waste management, pedestrian trails and transportation.

(k) Neighborhood plans for all geographic subareas of Topeka. Such areas shall be determined by the Topeka planning commission.

(l) An intergovernmental coordination element which shall include a description of the relationships and a statement of the principles and guidelines to be followed in accomplishing the coordination of the comprehensive metropolitan plan with the plans of other units of local government providing public services but not having regulatory authority over the use of land.

(m) A capital improvement plan element which shall describe the public facilities to be provided, together with the justification, the priority of need, the timetable for accomplishment, and the anticipated public expenditures required. This element shall consist of an annual element and a five-year element and shall be adopted annually. Such public projects and related financial plans shall be consistent with and implement the goals, policies, objectives and programs of the comprehensive metropolitan plan.

(n) An implementation plan element which shall include the legal framework, regulatory controls, budgetary requests, land use policies and management procedures to be followed in implementing the comprehensive metropolitan plan.

(o) Any other element deemed necessary to the proper orderly growth and harmonious development or redevelopment of the planning jurisdiction. (Ord. 18125 § 11, 11-18-03; Ord. 18094 § 26, 9-23-03; Code 1981 § 33-52. Code 1995 § 110-72.)

18.05.030 Adoption of statement of goals.
The Topeka planning commission shall prepare and adopt, prior to the preparation or adoption of the remaining plan elements, a statement of goals element of the plan, which shall be submitted to the city council. The statement of goals shall act as a guide for the preparation of the remaining plan elements and as an aid to the subsequent implementation of the plan. All remaining elements of the plan shall then be prepared with a view towards carrying out the statement of goals. (Ord. 18094 § 28, 9-23-03; Code 1981 § 33-54. Code 1995 § 110-74.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.05.040 Procedure for adoption.
(a) Upon the adoption of the statement of goals by the Topeka planning commission and the city council, the Topeka planning department shall proceed with the preparation of the remaining plan elements. Upon the completion of each plan element, the Topeka planning commission and city council shall review the plan element in whole or in part, and recommend its adoption with or without amendment or revisions as the case may be. Such plan elements shall not be made a part of the comprehensive metropolitan plan unless the Topeka planning commission has adopted and the city council have certified such plan elements.

(b) The Topeka planning commission or city council may initiate an amendment, revision or change to any plan element or part thereof at any time. Amendments shall be considered and adopted in the same manner and pursuant
to the same procedure as for the initial adoption of the plan. (Ord. 18094 § 29, 9-23-03 Code 1981 § 33-55. Code 1995 § 110-75.)

**Cross References:** City council – mayor, Chapter 2.15 TMC; planning department, TMC 2.30.090.

**18.05.050 Effect of adoption.**
Upon the adoption and certification of the comprehensive metropolitan plan by the city council, all land development regulations, including the zoning ordinance, subdivision regulations, major street plan, regulation of public improvements, facilities and utilities, and all or any governmental actions relating to land use and development approvals, shall be intended to carry out the purpose and intent of the comprehensive metropolitan plan as adopted. (Ord. 18125 § 12, 11-18-03; Ord. 18094 § 30, 9-23-03; Code 1981 § 33-56. Code 1995 § 110-76.)
Division 2. Signs

Cross References: Businesses, TMC Title 5; sign erectors, Chapter 5.150 TMC; advertising, Chapter 9.10 TMC; buildings and building regulations, TMC Title 14; comprehensive zoning regulations relating to signs, TMC 18.20.010 et seq.

Chapter 18.10

GENERAL PROVISIONS

Sections:
18.10.010 Defined.
18.10.020 Classification.
18.10.030 Ascertainment of dimensions.
18.10.040 Wind pressure – Anchorage.
18.10.050 Illumination.
18.10.060 Obstruction of doors, windows and fire escapes.
18.10.070 Interference with or similarity to traffic signals prohibited.
18.10.080 Unsafe signs.
18.10.090 Zoning.
18.10.100 Maintenance and removal.
18.10.110 Removal of signs.
18.10.120 Fines and cost of sign removal.
18.10.130 Revocation of permits.

18.10.010 Defined.

For the purpose of this division, the term “sign” means and includes any electronic sign, signboard, billboard, posterboard, transparency, banner, panel poster, bulletin, sign device, any announcement, decoration, demonstration, display or insignia used to advertise or to promote the interest of any person wherein the same is placed, out of doors, upon buildings or structures or upon constructed surfaces detached from or attached to or supported by buildings, other structures or the ground, and shall also include the sign supports and appurtenances necessary thereto. The provisions of this division shall not apply to signs located on governmental or school property where the primary purpose and function of the sign is to convey messages of public rather than commercial interest or for keeping score at athletic events. (Ord. 19736 § 1, 5-22-12.)

Cross References: Definitions generally, TMC 1.10.020.

18.10.020 Classification.

For the purpose of this division, signs are hereby classified as follows:

(a) Electronic message center signs (EMCs);

(b) Wall signs;

(c) Ground signs, including portable;

(d) Billboards or panel posters;

(e) Roof signs;

(f) Projecting signs; and

(g) Temporary signs. (Ord. 19830 § 1, 7-16-13.)

18.10.030 Ascertainment of dimensions.

In all cases the size, dimensions, elevations and projection of signs erected, located or suspended under the provisions of this division shall be ascertained as follows:

(a) The size and dimension by measuring from edge to edge thereof, including ornamentation;

(b) The elevation by measuring from the sidewalk to the lowest edge thereof, including ornamentation; and
(c) The projection by measuring from the lot line or face of building wall to the outer edge thereof, including ornamentation. (Code 1981 § 39-85. Code 1995 § 118-3.)

18.10.040 Wind pressure – Anchorage.
Every sign must be constructed and braced to withstand a horizontal wind pressure of 30 pounds for every square foot of surface exposed. Every sign attached to a building shall be securely attached by iron or metal anchors, bolts, supports, chains, stranded cables or steel rods. All such sign supports, braces and anchors shall be kept in good repair and, unless galvanized, shall be painted once every two years. With the exception of plain signs, small wall bulletins and transparencies, bolts securing the main support of a sign to a wall shall pass entirely through the wall. In lieu of the above, bolts may be tapped into steel I beams. (Code 1981 § 39-62. Code 1995 § 118-4.)

18.10.050 Illumination.
(a) Except for an EMC, no sign shall be illuminated other than by electricity, and all signs so illuminated shall be constructed entirely of incombustible material except the insulation thereof and approved plastics for sign faces.

(b) All wiring, sockets, receptacles, switches, conductors and their supports shall be constructed and installed in accordance with the electrical code of the city and shall be subject to the inspection and approval of the city electrical inspector. (Ord. 19830 § 2, 7-16-13.)

18.10.060 Obstruction of doors, windows and fire escapes.
No sign shall be so erected or placed so as to obstruct the doors and windows of any building or otherwise prevent free ingress or egress to or from any window, door or fire escape; nor shall any sign be attached in any form, shape or manner to any part of a fire escape. (Code 1981 § 39-64. Code 1995 § 118-6.)

18.10.070 Interference with or similarity to traffic signals prohibited.
No sign shall be hung, installed or supported in any manner, on or off of a building, which will in any way hinder or conflict with traffic signals, and no sign shall be permitted which will tend to impersonate or create a similarity to any traffic regulatory device or emergency vehicle lights. All flashing signs being like or similar to flashing traffic signs or flashing signs in the streets to indicate construction work shall be removed. (Code 1981 § 39-65. Code 1995 § 118-7.)

18.10.080 Unsafe signs.
The public works director, planning director or their designees shall notify the owner or person maintaining any sign which has become insecure or in danger of falling, or is otherwise unsafe, that such sign is unsafe. Upon receipt of such notice, the owner or person maintaining the sign shall proceed immediately to place the sign in a safe and secure manner and condition as approved by the public works director, planning director or their designees or the owner shall have the sign removed. (Ord. 17906 § 1, 10-15-02; Code 1981 § 39-66. Code 1995 § 118-8.)

Cross References: Planning department, TMC 2.30.090; public works department, TMC 2.30.110.

18.10.090 Zoning.
Every sign shall be subject to the provisions of TMC Title 18, Division 4, with respect to location, setback from lot lines of the premises upon which located, size and height. (Code 1981 § 39-67. Code 1995 § 118-9.)

18.10.100 Maintenance and removal.
All signs shall be maintained in good condition. A sign with missing or visibly damaged face panels, exposed internal lights and related internal hardware, visible deteriorating paint and rust, or structural damage that may be hazardous to the public is not in good condition and shall be repaired or be removed within a reasonable time as determined by the planning director or designee. (Ord. 20062 § 1, 4-18-17.)

Cross References: Planning department, TMC 2.30.090.

18.10.110 Removal of signs.
(a) Any sign placed on private property in violation of any provision of this division or any other chapter of the code of the city may be removed and impounded by the public works director, planning director or their designees. The public works director, planning director or their designees shall prepare a written notice specifying the violation involved which shall also state that if the sign is not removed or the violation not corrected within three days, the sign shall be impounded. Additionally, the notice shall inform the recipient that he or she may appeal the violation to
the board of zoning appeals. If the violation is not corrected within the stated time period, the sign shall be removed by the public works director, planning director or their designees. The city will hold the sign(s) for 10 business days. After at least 10 business days of storage, the city shall have the sign properly disposed. Prior to the expiration of the 10-business-day period the owner of the sign may secure its return upon the payment of any fines and the removal and storage fee.

(b) Any sign placed on city property, city right-of-way, and city easements, in violation of any provision of this division or any other chapter of the code of the city, may be immediately removed and impounded by the public works director, planning director or their designees. The public works director, planning director or their designees shall prepare a written notice specifying the violation involved for which the sign has been impounded. Additionally, the notice shall inform the recipient that he or she may appeal the violation to the board of zoning appeals. After at least 10 business days of storage, the city shall have the sign properly disposed. Prior to the expiration of the 10-business-day period the owner of the sign may secure its return upon the payment of any fines and the removal and storage fee.

(c) Notwithstanding the above, the public works director, planning director or their designees may cause immediate removal of a dangerous or defective sign which poses an immediate threat or hazard to person or property. The public works director, planning director or their designees shall prepare a written notice specifying the violation involved for which the sign has been impounded. Additionally, the notice shall inform the recipient that he or she may appeal the violation to the board of zoning appeals. After at least 10 business days of storage, the city shall have the sign properly disposed. Prior to the expiration of the 10-business-day period the owner of the sign may secure its return upon the payment of any fines and the removal and storage fee.

(d) Any notice of a violation shall be served by certified mail, personal delivery or posting in a conspicuous place upon the property. This notice may be served upon the owner of the sign, holder of the sign permit, or an employee or representative of the permittee and the owner of the property upon which the sign is located or owner of property adjacent to the city right-of-way on which it is located as shown on the records of the register of deeds. (Ord. 17906 § 3, 10-15-02; Ord. 17083 § 1, 2-11-97. Code 1995 § 118-11.)

Cross References: Planning department, TMC 2.30.090; public works department, TMC 2.30.110; board of zoning appeals, Chapter 2.45 TMC.

### 18.10.120 Fines and cost of sign removal.

(a)(1) It shall be unlawful to violate TMC 18.10.110(a). Further, each violation of TMC 18.10.110(a) shall be subject to an administrative monetary penalty in the amount of $50.00 levied by the public works director, planning director or their designee. Every day of violation shall be a separate and distinct offense.

(2) The fine may be collected from the property owner, sign owner, or permittee. If the property owner or permittee fails to pay the fine, such fine shall be certified to the city clerk, who shall assess the costs as a special assessment against the lot or parcel of land upon which the sign was located in the manner provided by law.

(3) Notwithstanding the foregoing, the public works director, planning director or their designees may, in addition to imposing an administrative monetary penalty, cause an individual violation of TMC 18.10.110(a) to be prosecuted in municipal court.

(b) Any sign removed by the public works director, planning director or their designees may be disposed of in any reasonable manner deemed appropriate by the city. The following fee schedule for removal and storage of unauthorized or hazardous signs is hereby established:

1. **Routine removal, each:** $30.00.
2. **Removal requiring special equipment or extra labor:** Actual cost of removal.

The fee may be collected from the property owner, sign owner, or sign permittee. If the property owner, sign owner, or permittee fails to pay the authorized fee, such fee shall be certified to the city clerk, who shall assess the costs as a special assessment against the lot or parcel of land upon which the sign was located in the manner provided by law. (Ord. 17982 § 1, 3-25-03; Ord. 17906 § 4, 10-15-02; Ord. 17083 § 2, 2-11-97. Code 1995 § 118-12.)
Cross References: City clerk, TMC 2.30.010; planning department, TMC 2.30.090; public works department, TMC 2.30.110.

18.10.130 Revocation of permits.
The public works director, planning director or their designees may revoke any sign permit under the provisions of this division or order the removal of any sign for any of the following reasons:

(a) Whenever a permit holder is convicted of a violation of any of the provisions of this division or any other ordinance relating to signs;

(b) Whenever a permit holder is convicted of any violation of any condition on which the permit was based;

(c) Whenever any false statement or misrepresentation has been made on the application on which the issuance of the permit was based;

(d) Whenever the sign owner has failed to maintain a sign in conformance with this division or any other ordinance relating to signs;

(e) Whenever the owner obtains a change in the zoning of the lot and the existing sign becomes nonconforming.
(Ord. 17906 § 5, 10-15-02; Ord. 17083 § 3, 2-11-97. Code 1995 § 118-13.)

Cross References: Planning department, TMC 2.30.090; public works department, TMC 2.30.110.
Chapter 18.15

ADMINISTRATION AND ENFORCEMENT

Sections:

Article I. Generally

18.15.010 Interpretation by board of zoning appeals.
18.15.020 Insurance.

Article II. Permit

18.15.030 Required.
18.15.040 Exemptions.
18.15.050 Application.
18.15.060 Fees.
18.15.070 Appeals.

Article I. Generally

18.15.010 Interpretation by board of zoning appeals.
The board of zoning appeals may interpret the provisions of this division to cover a special case if it appears that
the provisions of this division do not definitely cover a situation propounded or if by the strict enforcement of this

Cross References: Board of zoning appeals, Chapter 2.45 TMC.

18.15.020 Insurance.
Any person desiring to erect or hang a sign to advertise the business of such person in the city shall furnish to the
city the evidence of public liability insurance as required in TMC 5.150.040, which instrument shall be subject to the
approval of the city attorney, and which policy of insurance shall be kept in full force and effect for such time as
such sign remains in place. (Ord. 17906 § 6, 10-15-02; Code 1981 § 39-5. Code 1995 § 118-37.)

Cross References: City attorney, TMC 2.30.070.

Article II. Permit

18.15.030 Required.
(a) No sign subject to the provisions of this division shall hereafter be hung or erected until after a permit to hang,
erect or locate such sign has been obtained from the public works director or his or her designees.

(b) No additional billboard or panel poster type signs subject to the provisions of this division shall hereafter be
hung or erected and no permits for additional billboards or panel posters shall be issued by the public works director
or his or her designees following the effective date of this section; provided, that this provision shall not prevent the
necessary maintenance and/or repair of existing billboards or panel posters.

(c) No sign erected or constructed prior to the effective date of this section for which a permit was required for
original construction shall be relocated, rebuilt or remodeled without coming into compliance with the provisions of
this division and until after a permit granting permission for such relocation, rebuilding or remodeling has been
obtained from the public works director or his or her designees. A permit for a new billboard or panel poster type
sign shall not be issued until verification that an existing billboard or panel poster type sign has been removed. A
new billboard or panel poster sign shall comply with the provisions of this division for new signs, including
construction type, distance requirements and zoning.

(d) Permits issued under this division shall become null and void after a period of 90 days from the date of issuance
unless work is commenced towards the completion of the structural elements of the sign. One extension of time may
be granted for good cause shown by the public works director or his or her designees upon written request of the applicant. (Ord. 17906 § 7, 10-15-02; Ord. 16971 § 1, 6-25-96; Code 1981 § 39-42. Code 1995 § 118-56.)

**Cross References:** Public works department, TMC 2.30.110.

### 18.15.040 Exemptions.
A personal announcement sign may be erected or located for a period not to exceed 14 days without obtaining a permit and shall be considered exempt from zoning use regulations; notwithstanding the foregoing, no personal announcement sign shall be placed on city property, city right-of-way or city easements. For purposes of this exemption, a “personal announcement sign” is a sign not to exceed 24 square feet in display area and eight feet in height which depicts an individualized event, including, but not limited to, such events as anniversaries, births, weddings and birthdays, but under no circumstances including events of a commercial nature. Provided further, personal announcement signs shall not in any event be lighted. (Ord. 17906 § 8, 10-15-02; Code 1981 § 39-43. Code 1995 § 118-57.)

### 18.15.050 Application.
No permit shall be issued by the public works director or his or her designees until an application has been filed in the director’s office showing the plans and specifications, including stress diagrams or tabulated stresses, dimensions, materials and details of construction, together with complete details showing methods of anchoring proposed signs. (Ord. 17906 § 9, 10-15-02; Code 1981 § 39-44. Code 1995 § 118-58.)

**Cross References:** Public works department, TMC 2.30.110.

### 18.15.060 Fees.
Any person desiring a permit under the provisions of this division shall, at the time of receiving such permit, pay to the city the fees required as follows:

(a) Wall sign or nonfreestanding sign: $30.00.

(b) Freestanding sign: $60.00.

(c) Any advertising sign affixed to a trailer which is used solely for the transportation of the advertising sign and is not designed to carry any other load, a fee of $10.00 per year per sign. This fee will allow the sign to be placed by the owner for a period of one year from date of issue at locations which comply with sign location requirements, when prior notice of the proposed location is given to the building code enforcement division and approval given by that division. (Ord. 18292 § 16, 7-20-04; Ord. 16396 § 1(39-45), 11-26-91. Code 1995 § 118-59.)

**Cross References:** Building code enforcement division, Chapter 2.50 TMC.

### 18.15.070 Appeals.
Any person whose application for a permit to hang, erect or locate an advertising sign has been denied by the public works director or his or her designee, or any person desiring to appeal from any decision of the public works director, planning director or their designees in the enforcement of the city sign regulations which shall specifically include a decision to remove, fine or otherwise cite an individual or business for an improperly located sign, may appeal to the board of zoning appeals by serving written notice on the public works director, planning director or their designees. Such notice shall be at once transmitted by the public works director, planning director or their designees to the chairperson of the board of zoning appeals who shall then arrange for a hearing thereon. (Ord. 17906 § 10, 10-15-02; Code 1981 § 39-3. Code 1995 § 118-60.)

**Cross References:** Planning department, TMC 2.30.090; public works department, TMC 2.30.110; board of zoning appeals, Chapter 2.45 TMC.
Chapter 18.20

DISTRICT REGULATIONS

Sections:
18.20.010 Scope – Intent.
18.20.020 District regulations.

Cross References: Advertising, Chapter 9.10 TMC; signs, Chapters 5.150, 18.10, 18.15 and 18.25 TMC.

18.20.010 Scope – Intent.
The provisions of this chapter shall govern the placement and use of privately owned outdoor signs together with their appurtenant and auxiliary apparatus. Unless specifically restricted or prohibited herein, these regulations do not preclude the erection or placement of signs otherwise regulated by Chapters 5.150, 18.10, 18.15 and 18.25 TMC. No sign shall be erected, enlarged, constructed, reconstructed or otherwise altered without first obtaining a separate sign permit from the appropriate city or county building official. The types of signs permitted by district is nonappealable. (Ord. 18164 § 1, 1-27-04. Code 1995 § 48-31.00.)

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

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

(1) Church or public building identification signs, not exceeding five feet in height and 40 square feet per sign face and meeting the requirements of this subsection.

   (i) Electronic Message Center Signs (EMCs) – Number. EMCs are limited to one per street frontage.

   (ii) Internal Illumination. Church and public building identification signs may be internally illuminated if the area to be illuminated does not exceed 10 square feet. The portion of the sign face consisting of the EMC shall not be considered internally illuminated.

   (iii) EMC Size. The EMC area is limited in size based upon street designation, as determined by the planning director, pursuant to the street classification system in the long-range transportation plan adopted by the Metropolitan Topeka Planning Organization. Size limitations of the EMC area are as follows:

      (A) Nine square feet per sign face where placement would abut a local street.

      (B) Twelve square feet per sign face where placement would abut a collector street.

      (C) Fifteen square feet per sign face where placement would abut an arterial street.

      (D) If placement is at an intersection of two streets and the sign face is visible to motorists on both streets, size of the EMC area shall be based upon the lower classified street.

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

(3) Wall signs (in the M-2 district), nonilluminated, on the face of the building. Only one sign shall be permitted per building street frontage.
(4) Wall sign (in the M-3 district) may be permitted where mounted on the face of the building. Such sign may be interior illuminated, limited to a maximum sign area of 40 square feet.

(5) Nameplate, flat wall sign, monument or pole sign in the RR, R and M zoning districts recognizing the property’s designation on either the National Register of Historic Places, the Register of Historic Kansas Places, or as a locally designated historic landmark. Only one such sign shall be permitted per property, and shall be limited to a maximum of four square feet per sign face and not more than four feet in height. Such sign shall contain information only about the historic nature of the property, and shall not be illuminated.

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

(1) Monument signs (in the O&I-1, O&I-2, O&I-3 and C-1 districts) limited to a maximum sign area of two square feet per foot of lot frontage, not to exceed a total of 100 square feet or 50 square feet per sign face, and limited to a maximum height of five feet.

(2) Wall sign where mounted on the face of the building. Such sign may be interior illuminated, limited to a maximum sign area of 40 square feet.

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

(4) Signs (in the C-3 and C-4 districts) shall not contain more than 300 square feet per single sign face and shall not exceed a height of 55 feet.

(5) One EMC sign with up to two sign faces per street frontage; provided, that the size is limited to 50 percent of the allowable sign area for the zoning district. A sign may be comprised entirely of an EMC.

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

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

(2) One EMC sign with up to two sign faces per street frontage; provided, that the size is limited to 50 percent of the allowable sign area for the zoning district. A sign may be comprised entirely of an EMC.

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

(1) Wall signs, illuminated or nonilluminated, on the face of the building.

(2) Monument signs limited to a maximum sign area of 100 square feet or 50 square feet per sign face, and limited to a height of 10 feet.

(3) One EMC sign with up to two sign faces per street frontage; provided, that the size is limited to 50 percent of the allowable sign area for the zoning district. A sign may be comprised entirely of an EMC.

(4) Off-premises directional signs are permitted for the purpose of guiding visitors to institutional facilities.

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

(1) Permanent Signs.

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

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

(iii) One EMC sign with up to two sign faces per street frontage is allowable in X-1 and X-2 districts;
provided, that the size is limited to 50 percent of the allowable sign area for the zoning district. A sign
may be comprised entirely of an EMC.

(f) D-2 Districts.

(1) On-premises signs shall comply with the standards for signs in the mixed use districts.

(2) Off-premises signs shall be regulated by Chapter 18.25 TMC.

(g) D-1 and D-3 Districts. On-premises signs shall comply with the standards in TMC 18.200.090.

(h) Conditional Use Permits. Uses permitted by conditional use permit shall be subject to the sign regulations of the
district where permitted, or specifically reviewed and considered as part of the conditional use permit. (Ord. 20062 §
2, 4-18-17.)

Cross References: Planning department, TMC 2.30.090.
Chapter 18.25

REQUIREMENTS FOR SPECIFIC TYPES OF SIGNS

Sections:

Article I. Generally

18.25.010 Electronic message center signs (EMCs).

Article II. Wall Signs

18.25.020 Defined.
18.25.030 Materials.
18.25.040 Location and height.
18.25.050 Anchorage.

Article III. Ground Signs

18.25.060 Defined.
18.25.070 Height and size permitted.
18.25.080 Location and support.
18.25.090 Special portable sign regulations.
18.25.095 No off-premises advertising – Exception.

Article IV. Billboards and Panel Posters

18.25.100 Purpose.
18.25.110 Defined.
18.25.120 Materials, construction, location.
18.25.130 Open space and latticework.
18.25.135 Electronic message center signs.
18.25.140 Responsibility of owner to maintain premises.

Article V. Roof Signs

18.25.150 Defined.
18.25.160 Materials.
18.25.170 General location on roof.
18.25.180 Erection.
18.25.190 Size, height and anchorage.

Article VI. Projecting Signs

18.25.200 Defined.
18.25.210 Height, size and location.

Article VII. Temporary Signs

18.25.220 Defined.
18.25.230 Placing and time limitation.
18.25.240 Temporary banners, pennants or flags over streets.
18.25.250 Unlawful signs.
18.25.260 Allowed without permit.
Article I. Generally

18.25.010 Electronic message center signs (EMCs).

(a) Electronic message center signs may be erected in the following zoning districts: RR, R, M, O&I, C, I, U-1, MS-1 and X, only if the sign is allowed in the respective district pursuant to TMC 18.20.020 and the sign meets all of the following standards:

(1) Brightness. An EMC shall utilize automatic dimming technology to adjust the brightness of the sign relative to ambient light so that at no time shall an EMC exceed a brightness level of 0.3 foot-candle above ambient light, as measured using a foot-candle (lux) meter calibrated within the past 36 months and in conformance with the following process:

   (i) Light measurements shall be taken with the meter aimed perpendicular to the sign message face or at the area of the sign emitting the brightest light if that area is not the sign message face, at a preset distance depending on sign size. Distance shall be determined by taking the square root of the product of the sign area and 100. For example, using a 12-square-foot sign: \(12 \times 100 = 34.6\) feet measuring distance.

   (ii) An ambient light measurement shall be taken using a foot-candle meter at some point between the period of time between 30 minutes past sunset and 30 minutes before sunrise with the sign turned off to a black screen.

   (iii) Immediately following the ambient light measurement taken in the manner required by this subsection, an operating sign light measurement shall be taken with the sign turned on to full white copy.

   (iv) The brightness of an EMC shall be compliant with the brightness requirements of this subsection if the difference between the ambient light measurement and the operating sign light measurement is 0.3 foot-candle or less.

(2) Movement. The following display features are prohibited: flashing, strobing, blinking, fluttering, spinning, rotating, bouncing, animation, scrolling and chasing.

   (i) Exception: An EMC located within the I, C-2, C-3, C-4, or C-5 district which is not within 125 feet of a residential or open space district may have animation, scrolling text, and frame effects.

(3) Right-of-Way – No Portable. An EMC shall not overhang into a public right-of-way and shall not be included in a portable sign.

(4) Audio Messages. An EMC shall not include any audio message, tones or music.

(5) Dwell Times – C-2, C-3, C-4, C-5 and I. EMCs located within a C-2, C-3, C-4, C-5 or I district and within 125 feet of a residential or open space district may only display static images having a dwell time of at least four seconds and a transition time of two seconds or less and this transition may use frame effects without illusionary or simulating movement.

(6) Dwell Times – Church/Public Building Identification Signs. EMCs incorporated into church or public building identification signs shall have a dwell time of at least eight seconds.

(7) Dwell Times – O&I, C-1, U-1, MS-1, X-1, X-2. EMCs located within an O&I, C-1, U-1, MS-1, X-1, or X-2 district may only display static images having a dwell time of at least four seconds and a transition time of two seconds or less and this transition may use frame effects without illusionary or simulating movement.

(8) Compliance Assurance. No permit shall be granted unless the applicant provides sufficient proof from the manufacturer that the sign has the technical capacity to comply with all applicable regulations governing EMCs and that the sign owner and/or operator has reviewed and understands the applicable regulations pertaining to the EMC and agrees not to violate the regulations.
(b) Nonconforming EMCs. An EMC in existence on the effective date of this section that does not meet the standards regarding audio messages, movement, and brightness shall be compliant with the requirements of this section by September 1, 2013.

Any EMC in existence on the effective date of this section that does not meet the standards regarding size, number, placement, and type shall be a nonconforming use and regulated pursuant to Chapter 18.220 TMC. (Ord. 19830 § 4, 7-16-13.)

Article II. Wall Signs

18.25.020 Defined.
A “wall sign” as used in this article means any painted lettering, cutout lettering, device or representation placed upon wood, metal or pressed board used in the nature of advertising and attached directly to the building wall and which extends not more than 15 inches from the face of the building. (Code 1981 § 39-98. Code 1995 § 118-151.)

18.25.030 Materials.
The surface and face of all wall signs must be of metal or other incombustible materials or approved plastic, except the ornamental moldings surrounding wall signs may be of wood or other combustible materials. (Code 1981 § 39-99. Code 1995 § 118-152.)

18.25.040 Location and height.
A wall bulletin may be placed upon the front, rear, side or court wall of any building when it does not extend beyond the building line more than six inches, if less than 10 feet above the sidewalk level and more than 15 inches if 10 feet or more above the sidewalk level. Lighting reflectors on top of a wall sign may extend not more than eight feet over public property and all of such reflectors shall be not less than 10 feet above sidewalk level. (Code 1981 § 39-100. Code 1995 § 118-153.)

18.25.050 Anchorage.
All wall signs shall be securely and safely attached to a building wall as provided by TMC 18.10.040. (Code 1981 § 39-101. Code 1995 § 118-154.)

Article III. Ground Signs

18.25.060 Defined.
The term “ground signs” as used in this article means any sign not attached to a building, other than a billboard or panel poster, erected upon or supported by the ground and either affixed to the ground or portable. Any sign affixed to a trailer which is used solely for the transportation of the sign and is not designed to carry any other load shall be considered a portable sign for the purpose of sign regulations. (Ord. 19736 § 3, 5-22-12.)

Cross References: Definitions generally, TMC 1.10.020.

18.25.070 Height and size permitted.
Except as provided in Chapter 18.20 TMC, no ground sign shall extend at any point more than 10 feet above grade, unless the following provisions are complied with, in which case a maximum height above grade of 55 feet may be permitted:

(a) Such signs, including all supports and braces, are constructed entirely of incombustible materials except for approved plastics for sign faces; and

(b) Such signs contain no more than 300 square feet of single face area. (Ord. 19830 § 5, 7-16-13.)

18.25.080 Location and support.
All affixed ground signs shall be adequately supported and braced or guyed. Except as provided in Chapter 18.20 TMC, no ground sign shall exceed 50 feet in length. Where any part of an affixed ground sign projects over rights-of-way of public streets or alleys, the sign shall be considered as a projecting sign and subject to the regulations pertaining to such signs. (Ord. 19830 § 6, 7-16-13.)
18.25.090 Special portable sign regulations.
No portable ground sign maintained within one foot of public property shall exceed eight square feet in single face area, nor shall the highest point of such sign be more than four and one-half feet above grade. All portable signs shall be weighted to prevent overturning. No portable sign shall be located, placed or maintained within the lines of any street, city property, city right-of-way, or city easement. (Ord. 17906 § 12, 10-15-02; Code 1981 § 39-116. Code 1995 § 118-179.)

18.25.095 No off-premises advertising – Exception.
(a) All advertisements shall pertain only to the business, industry or other pursuit conducted on or within the premises on which such sign is erected or maintained.

(b) Subsection (a) of this section shall not apply to directional signs that meet all of the following requirements:

1. The business, industry, or other activity the sign is intended to serve does not have arterial street frontage but has an access road or drive directly taken from the arterial road where the sign will be located;

2. The property owner of the property where the sign will be located provides written consent to the planning director;

3. The sign does not exceed 10 square feet and four feet in height;

4. The zoning district where the sign is located has the same zoning or a less restrictive zoning designation than the business the sign will serve; and

5. The communication is limited to the business name, business logo, and directional symbols. (Ord. 19830 § 7, 7-16-13.)

Article IV. Billboards and Panel Posters

18.25.100 Purpose.
The purpose of the billboard regulations set forth in this article shall be to eliminate potential hazards to motorists and pedestrians; to encourage signs which by their size and location are harmonious to the locations which they occupy and which eliminate excessive and confusing sign displays; to achieve a reasonable balance between the need of sign and outdoor advertising industries and the visual qualities of the community; and to promote the public health, safety and general welfare of the city. (Ord. 16971 § 2, 6-25-96. Code 1995 § 118-200.)

18.25.110 Defined.
The term “billboard” or “panel poster” as used in this article means any board or panel erected, constructed or maintained for the purpose of displaying outdoor advertising by means of painted letters, posters, pictures and pictorial or reading matter, either illuminated or nonilluminated, when such sign is supported by uprights or braces placed upon the ground. The term “advertising” shall not be deemed to include statements pertaining to a business conducted within or on the premises on which the sign is maintained. Any billboard erected above or over the roof or parapet of a building shall be classified as a roof sign for the purpose of this article. (Code 1981 § 39-128. Code 1995 § 118-201.)

18.25.120 Materials, construction, location.
(a) The structural members of all billboards and panel posters relocated, rebuilt or remodeled pursuant to the provisions of this article shall be constructed entirely of noncombustible materials excepting only the sign face, ornamental molding and platform. All such relocated, rebuilt or remodeled billboards and panel posters shall be installed only on single pole structures, shall not exceed 750 square feet including any extensions and may be erected to a height not exceeding 55 feet above the ground level in any location where the erection of the billboard or panel poster is not in conflict with the zoning ordinance.

(b) No billboard or panel poster relocated pursuant to the provisions of this article shall be erected within the radius of 1,320 feet of another billboard or panel poster; provided, that this provision shall not apply to rebuilt or remodeled billboards or panel posters remaining on the same parcel of land. (Ord. 16971 § 3, 6-25-96; Code 1981 § 39-129. Code 1995 § 118-202.)
18.25.130  Open space and latticework.
Every billboard or panel poster less than 15 feet from a public sidewalk shall have an open space of not less than three feet between the lower edge of such signboard and the ground level, which space may be filled in with decorative latticework of light wooden construction. (Code 1981 § 39-130. Code 1995 § 118-203.)

18.25.135  Electronic message center signs.
Each EMC sign located on a billboard or panel poster shall meet all of the following requirements:

(a) The sign does not contain or display flashing, intermittent or moving lights, including animated or scrolling advertising.

(b) Messages shall have a minimum dwell time of eight seconds and a transition time between messages of two seconds or less.

(c) The sign shall not be placed within 1,320 feet of another billboard or panel poster EMC sign on the same side of the highway, with the distance being measured along the nearest edge of the pavement and between points directly opposite the signs along each side of the highway.

(d) If a billboard or panel poster is a legal conforming structure it may be changed to an EMC sign. However, a billboard or panel poster that is a nonconforming structure cannot be changed to an EMC sign.

(e) The sign shall comply with the EMC standards in TMC 18.25.010 but the 50 percent sign area limitation in TMC 18.20.020 shall not apply. (Ord. 19830 § 8, 7-16-13.)

18.25.140  Responsibility of owner to maintain premises.
Any person occupying any vacant lot or premises with a billboard or panel poster thereon shall be subject to the same duties and responsibilities as the owner of the lot or premises with respect to keeping such lot or premises clean, sanitary, inoffensive and clear of all noxious substances in the vicinity of such billboard or panel poster, and with respect to the removal of snow from the sidewalk in front thereof. (Code 1981 § 39-131. Code 1995 § 118-204.)

Article V. Roof Signs

18.25.150  Defined.
The term “roof sign” as used in this article means any sign erected upon or maintained upon a roof or parapet wall of any building. (Code 1981 § 39-143. Code 1995 § 118-231.)

Cross References: Definitions generally, TMC 1.10.020.

18.25.160  Materials.
Every roof sign shall be entirely of noncombustible construction, including the uprights, supports and braces of such sign, and all materials shall be incombustible, except that the ornamental moldings and battens behind the steel face of a roof sign may be of wooden construction. (Code 1981 § 39-144. Code 1995 § 118-232.)

18.25.170  General location on roof.
No sign shall be placed upon the roof of any building so as to prevent the free passage from one part of the roof to any other part thereof, or interfere with any openings in such roof. No sign that is placed upon the roof of any building shall project beyond the edge of the roof in any direction. All roof signs shall be so constructed as to leave a clear space of not less than six feet between the roof level and the lowest part of the sign structure and shall have at least five feet of clearance between the vertical supports thereof; and every roof sign shall be set back at least four feet from the face of any front or rear wall. (Code 1981 § 39-145. Code 1995 § 118-233.)

18.25.180  Erection.
All roof signs erected upon buildings which are of wood joist roof construction shall have bearing plates which shall bear directly upon masonry walls or upon steel girders which are supported upon masonry walls or other approved permanent fire-resistive construction. The person proposing to erect the sign shall furnish the code enforcement
director complete data regarding loads and stresses in the sign frame and building frame carrying such sign. (Code 1981 § 39-146. Code 1995 § 118-234.)

**Cross References:** Building code enforcement division, Chapter 2.50 TMC.

### 18.25.190 Size, height and anchorage.

No roof sign structure having a tight, closed or solid surface shall be at any point over 20 feet above the roof level. Roof sign structures not having a tight, closed or solid surface may be erected upon fireproof buildings to a height not exceeding 75 feet above the roof level and upon all other buildings to a height not exceeding 30 feet above the roof level; but the portions of such structure covered and exposed to wind pressure shall not exceed 35 percent of the area thereof. All such signs shall be thoroughly secured to the building as provided by TMC 18.10.040. (Code 1981 § 39-147. Code 1995 § 118-235.)

### Article VI. Projecting Signs

#### 18.25.200 Defined.

The term “projecting sign” as used in this article means any painted lettering, cut-out lettering, device or representation placed upon wood, metal or pressed board used in the nature of advertising erected and suspended at right angles and projecting from the walls of any building and which extends more than 15 inches from such walls. (Code 1981 § 39-159. Code 1995 § 118-256.)

**Cross References:** Definitions generally, TMC 1.10.020.

#### 18.25.210 Height, size and location.

(a) No projecting illuminated sign shall be affixed to a building so that the lowest overhanging part thereof shall be less than 10 feet above the level of the sidewalk or ground. No such sign projecting from a building shall extend more than eight feet beyond the lot line or the face of the building, and no such sign shall extend beyond a vertical plane two feet in back of the face of the curb. A projecting sign attached to a corner of a building and parallel to the vertical line of such corner shall be deemed to be erected at a right angle to the building wall.

(b) No projecting nonilluminated sign shall be affixed to a building so that the lowest overhanging part thereof shall be less than eight feet above the level of the sidewalk or ground. No such sign shall project more than three feet from the building wall. (Code 1981 § 39-160. Code 1995 § 118-257.)

### Article VII. Temporary Signs

#### 18.25.220 Defined.

(a) The term “temporary freestanding sign,” for the purposes of this article, shall mean any sign, sign device, banner, pennant, valance or advertising display constructed of cloth, canvas, light fabric, cardboard or other material, with a frame, intended to be displayed for a short period of time. The advertisement contained on a temporary freestanding sign shall be limited to only the business, activity, industry or other pursuit conducted on or in the premises on which such sign is erected or maintained.

(b) The term “temporary nonfreestanding sign,” for the purposes of this article, shall mean any sign, sign device, banner, pennant, valance or advertising display constructed of cloth, canvas, light fabric, cardboard or other material, without a frame, intended to be displayed for a short period of time. The advertisement contained on a temporary nonfreestanding sign shall be limited to only the business, activity, industry or other pursuit conducted on or in the premises on which such sign is erected or maintained.

(c) The term “temporary balloon sign,” for the purposes of this article, shall mean an air or gas filled balloon or other inflated device designed to emulate or advertise a product or call attention to a specific product, service, business or event. Such device may be inflated with gas or carbon dioxide or hot air and may be anchored to the ground or airborne and tethered to the ground, and is intended to be displayed for a short period of time. The advertisement contained on a temporary balloon sign shall be limited to only the business, activity, industry or other pursuit conducted on or in the premises on which such sign is anchored to the ground or airborne and tethered to the ground, or maintained.
(d) The term “limited duration, temporary, freestanding sign,” for the purposes of this article, shall mean any sign, sign device or advertising display constructed of fabric, cardboard, plaster or other material with a self-supportive frame intended to be displayed for a short period of time. Said signs may advertise a business, activity, or other pursuit not conducted on or in the premises on which the sign is erected or maintained. (Ord. 18741 § 2, 10-24-06; Ord. 16695 § 1, 4-12-94; Code 1981 § 39-172. Code 1995 § 118-276.)

Cross References: Definitions generally, TMC 1.10.020.

18.25.230 Placing and time limitation.

(a) Temporary Freestanding Signs. One temporary freestanding sign, not exceeding six square feet per sign face and 48 inches in height may be placed or displayed at any given time on private property in any R or M dwelling district; provided, however, a sign not exceeding 32 square feet and 72 inches in height per sign face shall be permitted on parcels exceeding one acre in size. One temporary freestanding sign not exceeding 32 square feet per sign face and 72 inches in height may be placed or displayed at any given time on private property in any district other than the R or M districts. The temporary freestanding sign shall only be displayed during that time period the event, activity or pursuit occurs on the premises. Further, the temporary freestanding sign shall be erected only upon the day the event, activity or pursuit commences and shall be removed immediately after the event, activity or pursuit concludes. The display of a temporary freestanding sign shall be limited to two separate occasions during any calendar year. No permit is required for the display of a temporary freestanding sign.

(b) Temporary nonfreestanding signs shall be placed flat upon any face of a building. All such signs shall not extend above or beyond the face of a building on which they are placed or extend more than 12 inches from the face of the building, and shall not exceed 25 percent of the surface of the face of the building upon which they are displayed.

(c) Temporary balloon signs are subject to the following:

(1) Temporary balloon signs which exceed two cubic feet may not be placed on a property unless a permit is first obtained, as provided by TMC 18.15.030 and this section.

(2) A temporary balloon sign may be placed on the properties specified in the permit four times a calendar year for one week at a time. The maximum altitude at the top of the temporary balloon sign shall not exceed 55 feet including the length of the tether or height of structure to which the temporary balloon sign is attached. No temporary balloon sign may be placed on properties unless the owner has provided notice to all agencies requiring notification at least one week ahead of erection of the temporary balloon sign. Said notice shall be given by certified mail at the expense of the person for whom the temporary balloon sign will be erected. Agencies who desire notification of temporary balloon sign erection shall contact the development services division which shall maintain a list of such agencies.

(3) As a condition for the issuance of a permit, the owner and/or user of the temporary balloon sign must agree to hold the city harmless from all claims resulting from the placement of the temporary balloon sign.

(4) The permit fee for a temporary balloon sign shall be $25.00 per placement on a property. The permit shall expire one week from its effective date.

(5) Temporary balloon signs are only allowed in C-4, C-5, I-1 and I-2 zoning districts.

(6) The temporary balloon signs must meet all applicable FAA regulations.

(7) The gas used in any temporary balloon signs must be noncombustible and the balloon may not be internally illuminated.

(8) No permit shall be issued for placement of a temporary balloon sign on property within 500 feet from the property line of a hospital with a helicopter landing pad.

(9) No temporary balloon sign shall be tethered within 55 feet of an overhead power line or property line.

(d) Limited Duration, Freestanding Signs. Not more than two limited duration, freestanding signs, not exceeding six square feet per sign face and 48 inches in height may be placed or displayed on private property with the consent of
the property owner. Limited duration, freestanding signs may be displayed and may remain in place only from 5:00 p.m. Thursday until 5:00 p.m. Sunday. Not more than two limited duration, freestanding signs may be displayed on any property at any given time. No permit is required for the display of a limited duration, freestanding sign. (Ord. 18741 § 3, 10-24-06; Ord. 16695 § 2, 4-12-94; Code 1981 § 39-173. Code 1995 § 118-277.)

**Cross References:** Public works department, TMC 2.30.110.

18.25.240 Temporary banners, pennants or flags over streets.
No banner, bunting, pennant, ornament or flag, except the flags of the United States and the state, shall be suspended or projected over the streets, avenues, alleys or other public property of the city when used for business advertisements or for personal or corporate gain or publicity; provided, that a permit may be issued by the code enforcement director for the temporary suspension or projection of any such banner, bunting, pennant, ornament or flag over the streets, avenues, alleys or other public property for a period not to exceed 30 days when the same are to be used for conventions, receptions and occasions in which the public in general is concerned. (Code 1981 § 39-174. Code 1995 § 118-278.)

**Cross References:** Building code enforcement division, Chapter 2.50 TMC.

18.25.250 Unlawful signs.
(a) It shall be unlawful for any person to cover entirely the front or rear doors and windows of any business building with paint, cloth or paper signs placed either on the inside or outside thereof. It shall be the duty of the proprietor, manager or person in charge or control of such business building to leave a transparent opening in the doors and windows of not more than five and one-half feet above sidewalk level so that persons on the outside may detect a fire within such building. The transparent portion of the window or opening shall be unobstructed by curtains, draperies, papers or other materials and shall be not less than two feet square in area.

(b) It shall be unlawful to erect or maintain a projecting sign made of combustible or incombustible framework covered with cloth, cardboard or paper upon which a sign or advertisement is painted or printed and no such cloth or paper shall be spread over or suspended from any existing projecting sign or canopy. (Code 1981 § 39-175. Code 1995 § 118-279.)

18.25.260 Allowed without permit.
The following temporary signs are allowed in any zoning district and do not require a permit:

(a) Official flags of government jurisdictions and flags which are emblems of on-site business firms and enterprises, religious, charitable, public, and nonprofit organizations.

(b) Decorative streamers with no printed advertising. (Ord. 18066 § 1, 8-12-03. Code 1995 § 118-280.)
Cross References: Planning, Chapters 2.65 and 18.05 TMC; buildings and building regulations, TMC Title 14; comprehensive zoning regulations, TMC Title 18, Division 4.

State Law References: Subdivision regulations, K.S.A. 12-749 et seq.
Chapter 18.30

GENERAL PROVISIONS

Sections:
18.30.010 Definitions.
18.30.020 Scope.
18.30.030 Application to building permits.
18.30.040 Design variances.

18.30.010 Definitions.
The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

“Block” means a piece or parcel of land entirely surrounded by public highways, streets, streams, railroad rights-of-way, parks, etc., or a combination thereof.

Collector Streets.

(1) Primary. This class of street serves the internal traffic movement within an area of the city such as a subdivision and connects this area with the arterial system. It is intended to equally serve abutting property while at the same time serving traffic movements for commercial and transit vehicles, and is normally spaced at one-half intervals between the major traffic thoroughfares in the normal gridiron system.

(2) Secondary. This class of street serves the internal traffic movement within an area of the city such as a subdivision and connects this area with the primary and arterial system. It is intended to serve abutting property while at the same time serving traffic movements excluding commercial and transit vehicles.

“Comprehensive plan” means the comprehensive metropolitan plan described in Chapter 18.05 TMC.

“Cul-de-sac” means a street having one end open to traffic and being permanently terminated by a vehicle turnaround at the closed end.

“Design” means the location of streets, alignment of streets, grades and widths of streets, alignment and widths of easements and rights-of-way for drainage and sanitary sewers, and the designation of minimum lot area and width.

“Easement” means a grant by the property owner to a person or to the public of the right to the use of a strip of land for specific purposes.

“Final plat” means a plan or map prepared in accordance with the provisions of this division and those of any other applicable city ordinances, which plat is prepared to be placed on record in the office of the county register of deeds for counties in which the subdivision is located.

“Improvements” means any improvement and all street work, utilities, trafficways and drainage facilities that are to be installed, or which the subdivider agrees to install on the land for public or private streets, highways, ways and easements as are necessary for the general use of the lot owners in the subdivision and local neighborhood.

“Lot” means a portion of land in a subdivision, or other parcel of land, intended as a unit for the purposes of transfer of ownership or development.

“Lot line adjustment” means a relocation of existing lot lines.

“Lot split” means a lot that is divided into two lots.
“Major plat approval” means a plan or map prepared in accordance with the provisions of this division and those of any other city ordinance which requires the approval of the planning commission and the city council.

Major Traffic Thoroughfares.

(1) “Primary” means a street or road of great continuity with either a single roadway or a dual roadway which serves or is intended to serve major traffic flow, and is designated in the master plan or is otherwise designated as a limited access highway or freeway, highway, boulevard, parkway or other equivalent term, to identify those streets comprising the basic street system of the city.

(2) “Secondary” means a street or road of considerable continuity which serves or is intended to serve principal traffic flow between separated areas or districts and which is the main means of access to the residential street or roadway system.

“Marginal access streets” or “frontage roads” means a minor street which is generally parallel to or adjacent to a major traffic thoroughfare highway or railroad right-of-way and provides access to abutting properties.

“Master plan” means the comprehensive plan made and adopted by the planning commission for the physical development of the metropolitan area and its environs indicating the general location, character and extent of streets, alleys, sewers, ways, viaducts, bridges, subways, parkways, parks, playgrounds, waterways, waterfronts, boulevards, squares, aviation fields and other public ways, grounds and open spaces, the general location of public buildings and other public property, and the general location and extent of public utilities and terminals; also the removal, location, widening, narrowing, vacating, abandonment, change of use, or extension of any public ways, grounds, open spaces, buildings, property, utilities or terminals, as well as a zoning plan for the control of the height, area, bulk, location, use and intensity of use of buildings and premises.

“Minor plat approval” means a plan or map of an area prepared in accordance with the provisions of this division and those of any other ordinance which requires only the joint approval of the planning director and public works director.

“Minor street” means a street of limited continuity, which serves or is intended to serve the local needs of a neighborhood.

“Pedestrian way” means a right-of-way dedicated to public use, which cuts across a block to facilitate pedestrian access to adjacent streets and properties.

“Planning commission” means the city of Topeka planning commission.

“Preliminary plat” means a map made for the purpose of showing the design of a proposed subdivision and existing conditions in and around it; the map need not be based on an accurate or detailed final survey of the property.

“Public water company” means any person who has a written permit from the state to supply water for domestic purposes to the public.

“Setback line” or “building line” means a line on a plat generally parallel to the street right-of-way, indicating the limit beyond which buildings or structures may not be erected or altered.

“Street” means a right-of-way dedicated to the public use, or a private right-of-way serving more than one owner, which provides principal vehicular and pedestrian access to adjacent properties.

“Subdivider” means any person who causes land to be divided into a subdivision, for themselves or for others.

“Subdivision” means the division of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership or building development.

“Urban growth area” means the area identified in the land use and growth management plan which is an element of the comprehensive plan. (Ord. 19942 § 1, 3-10-15.)
Cross References: Definitions generally, TMC 1.10.020.

18.30.020 Scope.
(a) The regulations contained in this division shall apply to the following:

(1) Plats or replats of land in subdivisions lying within the city or within three miles of the city boundary.

(2) Subdivision of a lot, tract or parcel of land into two or more lots, tracts or other division of land for the purpose of sale or of building development, whether immediate or future, including the resubdivision or replatting of land or lots.

(3) Subdivisions which require dedication of new streets.

(4) An ordinance requires that property be platted.

(b) Notwithstanding subsection (a) of this section, platting is not required in any of the following circumstances:

(1) Division of land for agricultural purposes into parcels or tracts of land of three acres or more, and not requiring the dedication of new streets.

(2) Division of land outside the urban growth area into parcels or tracts of land containing three acres or more with a minimum frontage dimension of 300 contiguous feet and with a lot width/depth ratio no greater than one to two, on an existing public road or way where the use is nonagricultural.

(3) Division of land within the urban growth area into parcels or tracts of land containing 20 acres or more with a minimum frontage dimension of 300 contiguous feet and with a lot width/depth ratio no greater than one to two, on an existing public road or way where the use is to be for nonagricultural purposes.

(4) Existing legal lots of record created in accordance with the subdivision regulations in effect at the time of creation.

(c) Lots shall comply with the minimum lot sizes in the zoning code unless the comprehensive plan provides otherwise. (Ord. 19942 § 2, 3-10-15.)


18.30.030 Application to building permits.
No building permit shall be issued for any structure proposed to be located upon a lot in a subdivision that has not been subdivided and approved in the manner provided for in this division. (Code 1981 § 41-3. Code 1995 § 134-3.)


18.30.040 Design variances.
Whenever it is found that the land included in a proposed subdivision presented for approval is of such size or shape or is subject to, or is affected by, such topographical location or conditions, or is to be devoted to such usage, that full conformity to the provisions of this division is impossible or is impractical, the planning commission may authorize certain design variances which in its determination and findings will not adversely affect the subject property, other properties nearby or the public interest. In consideration of such variance, the planning commission shall make a finding that:

(a) There are special circumstances or conditions affecting the property.

(b) The variances are necessary for the reasonable and compatible development of the subject property.

(c) The granting of the variances will not be detrimental to the public interest or other properties in the vicinity and will effect substantial justice and promote the general welfare.

The findings and conclusions of the planning commission shall be entered into the record, and the variances shall be noted on the plat of subdivision. (Code 1981 § 41-4. Code 1995 § 134-4.)
Cross References: Planning commission, Chapter 2.65 TMC.
Chapter 18.35

PLATTING

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Article I. Administrative Minor Plat Approval Process

Editor’s Note: Ord. No. 18558, § 2, adopted Jan. 24, 2006, amended the title of this article to read as herein set out. Formerly, this article was entitled “Generally.”

18.35.010 Administrative approval process – Minor plats, lot line adjustments and splits.
(a) Minor Plat Approval. The following plats or replats may be approved administratively upon the joint approval of the planning director and the public works director without submission to or approval by the planning commission or city council; provided, that all of the following criteria are met:

(1) Right-of-way for new streets is not proposed or required to serve the lots or tracts in the subdivision;

(2) The subdivision includes the total contiguous tract of land owned, or under control of, the applicant;
(3) The applicant has complied with any applicable stormwater management requirements;

(4) No more than five lots or tracts are added;

(5) Except as provided in subsection (a)(1) of this section, dedication of right-of-way or easements for public purposes is allowed but no dedication of any ownership interest in land resulting in acquisition of fee simple title;

(6) New lots or tracts front onto or are accessible from an existing street right-of-way which, except for nonbuildable lots or tracts, conforms to city specifications;

(7) Extensions of water or sewer mains are not required to serve the additional lots or tracts;

(8) Easements for utilities are not vacated, altered, removed or realigned unless the utility consents in writing and the planning director determines that vacation will not adversely impact adjoining property owners or the public health and welfare;

(9) The plat is consistent with the comprehensive metropolitan plan; and

(10) Real estate taxes and special assessments on the property proposed to be platted or replatted are not delinquent.

(b) Lot Line Adjustments. Lot line adjustments may be approved administratively upon the joint approval of the planning director and the public works director, provided all of the following criteria are met:

(1) The lots are either platted or are exempt from platting;

(2) Each lot meets the minimum lot size standards for the applicable zoning district and all structures meet applicable building height, size, and setback requirements;

(3) No additional lots are created; and

(4) No easements are added, relocated, or removed.

(c) Lot Splits. Lot splits may be approved administratively upon the joint approval of the planning director and the public works director, provided all of the following criteria are met:

(1) The lots are either platted or are required to be platted;

(2) Each lot meets the minimum lot size standards for the applicable zoning district and all structures meet applicable building height, size, and setback requirements;

(3) No easements are added, relocated, or removed;

(4) Water and sewer services will not be adversely impacted;

(5) Existing and proposed septic systems and wells meet all setback and area requirements;

(6) No public infrastructure improvements are necessary to serve the lots;

(7) Lot splits comply with the comprehensive plan; and

(8) The lot(s) has not been the subject of a previous split. (Ord. 19942 § 3, 3-10-15.)

Cross References: Planning department, TMC 2.30.090; public works department, TMC 2.30.110.

18.35.020 Administrative minor plat rules and regulations.
The planning director, with the consent of the city manager, shall adopt such administrative rules and regulations as necessary to govern the procedure, submission requirements and contents of minor plats. Such administrative rules
and procedures may be amended from time to time, and a copy of the current administrative plat approval rules and procedures shall be available for inspection at the planning department. (Ord. 18558 § 4, 1-24-06. Code 1995 § 134-43.)

Cross References: Planning department, TMC 2.30.090.

18.35.030 Submission/contents.
After the proposed plat has been determined to meet the requirements for administrative minor plat approval as provided in TMC 18.35.010, the applicant shall submit the required number of copies of the proposed plat, as specified in the planning department’s administrative procedures, including the required documents, and the appropriate filing fee. The submission requirements and contents of minor plats shall be determined by the planning department’s administrative procedures. The design standards of this division shall apply to minor plats. (Ord. 18558 § 5, 1-24-06. Code 1995 § 134-44.)

Cross References: Planning department, TMC 2.30.090.

18.35.040 Filing fees.
The fee for minor plat approval, lot splits and lot line adjustments shall be 50 percent of the fee for a major plat. (Ord. 19843 § 3, 8-27-13.)

18.35.050 Action by the planning and public works directors.
The planning director and the public works director, shall administratively approve, approve with conditions, or disapprove the minor plat within 30 days after the completed application has been submitted, including the necessary documents and fee. If the planning director and the public works director find that the application for the proposed plat does not meet the requirements of this article, the planning director shall advise the applicant in writing stating the reasons for such determination. If the plat is not eligible for administrative minor plat approval because it does not meet all the requirements provided in TMC 18.35.010, it may be resubmitted as a major plat, in accordance with this article and upon payment of the balance of the application fee for a major plat. (Ord. 18558 § 7, 1-24-06. Code 1995 § 134-46.)

Cross References: Planning department, TMC 2.30.090; public works department, TMC 2.30.110.

18.35.060 Recording.
The number of copies of the administratively approved recorded minor plat, as specified in the planning department’s administrative procedures, shall be submitted to the planning director within 10 days after the plat has been recorded with the register of deeds. The planning director will distribute the recorded copies to the various government agencies and local utility companies. No building permit shall be issued by the city until the recorded copies of the approved minor plat are on file with the planning director. (Ord. 18558 § 8, 1-24-06. Code 1995 § 134-47.)

Cross References: Planning department, TMC 2.30.090.

Article II. Preapplication

18.35.070 Submission of plans and data to planning commission.
Prior to the filing of the preliminary plat, the subdivider shall submit to the planning commission plans and data showing the subdivider’s ideas and intentions in platting of the property. (Code 1981 § 41-32. Code 1995 § 134-51.)

Cross References: Planning commission, Chapter 2.65 TMC.

18.35.080 Sewers.
(a) The subdivider shall contact the department of public works regarding availability of sewers and specifications for all other public improvements for the subdivision.

(b) If public sewage systems are not available, the owner or an engineer shall contact the health department for standards and specifications for individual or community type sewage disposal treatment plant for the proposed subdivision. If individual septic tank systems will be used, the owner or an engineer shall request the health department to make soil percolation tests, the results of which are subject to the approval of the health department.
The report and recommendation of the health department shall be forwarded to the planning commission. The above procedure must be completed prior to the filing of the preliminary plat. (Code 1981 § 41-33. Code 1995 § 134-52.)

Cross References: Public works department, TMC 2.30.110; planning commission, Chapter 2.65 TMC.

18.35.090 Water.
If the subdivider plans to use city water facilities, the subdivider shall contact the water division to determine whether adequate water is available to serve the subdivision. (Code 1981 § 41-34. Code 1995 § 134-53.)

18.35.100 Location map.
A general location map shall be prepared and submitted to the planning department and shall show the proposed subdivision and its geographical relationship to community facilities. Such map shall show:

(a) The name of the property owner of adjacent land that is not subdivided;
(b) Location and name of adjoining subdivisions;
(c) Location and size of water and sewer lines;
(d) Relationship to major traffic thoroughfares; and
(e) Relationship to schools, parks and playgrounds. (Code 1981 § 41-35. Code 1995 § 134-54.)

Cross References: Planning department, TMC 2.30.090.

18.35.110 Filing of proposed plat.
Ten copies of the proposed plat showing the intended design of streets, lots and other features of the subdivision in relation to existing utilities and general physical characteristics of the surrounding area shall be submitted to the secretary of the planning commission. (Code 1981 § 41-36. Code 1995 § 134-55.)

Cross References: Planning commission, Chapter 2.65 TMC.

18.35.120 Planning commission to report in 15 days.
Within 15 days from the submission of the preapplication plan, the subdivider will be informed by the planning commission whether the plans and data submitted meet with the objectives of this division. If the planning commission finds that the plans and data do not meet the requirements of this division, it shall advise the subdivider of the requirements not met. (Code 1981 § 41-37. Code 1995 § 134-56.)

Cross References: Planning commission, Chapter 2.65 TMC.

18.35.130 Filing of preliminary and final plat together.
Upon completion of the preapplication procedure, and with written approval by the planning director, the subdivider may submit both the preliminary and final plat, provided the subdivider signs an indefinite time waiver. (Code 1981 § 41-38. Code 1995 § 134-57.)

Cross References: Planning department, TMC 2.30.090.

Article III. Preliminary Plat

18.35.140 Filing.
Upon completion of the preapplication procedure, the subdivider shall submit a preliminary plat, together with such supplementary information as will be of assistance in reviewing the plat. The subdivider shall submit 10 copies of the preliminary plat and one film positive eight inches by 10 inches, with a one-half-inch border, showing only the physical design area of the proposed subdivision. The preliminary plat shall be filed with the secretary of the planning commission at least 30 days prior to the date of the public hearing where the planning commission will consider the plat. (Code 1981 § 41-50. Code 1995 § 134-76.)

Cross References: Planning commission, Chapter 2.65 TMC.
18.35.150 Contents.
The contents of the preliminary plat shall include the following:

(a) Vicinity map showing geographical location of the proposed subdivision.

(b) The proposed name of the subdivision (the name shall not duplicate or closely resemble the name or names of any existing subdivision).

(c) The location of the boundary lines in relation to the quarter section corner.

(d) The names and addresses of the developer, surveyor, landscape architect or architect who prepared the plat.

(e) The scale of the plat shall be one inch equals 200 feet or larger.

(f) Date of preparation and north point.

(g) Location, width and name of platted streets or other public ways, railroads and utility rights-of-way, parks and other public open spaces and permanent buildings within or adjacent to the proposed subdivision.

(h) All existing sewers, water mains, gas mains, culverts or other underground installations within the proposed subdivision or immediately adjacent thereto, showing pipe size, grades and location.

(i) Names of adjacent subdivisions, and owners of adjacent parcels of unsubdivided land.

(j) Topography with contour intervals of not more than five feet (referred to USGS datum), also location of watercourses, bridges, wooded areas, lakes, ravines, approximate acreage and such other features as may be pertinent to the subdivision.

(k) The location and width of proposed streets, roadways, highways, pedestrian ways and easements.

(l) The location and character of all proposed utility lines, including sewers (storm and sanitary), water, gas, telephone and power lines. Where new public streets or rights-of-way are proposed, a preliminary street plan which shall have cross-section and profile data of the existing conditions and of the proposed improvements. The preliminary street plan shall be reviewed by the city or county engineer for compliance with the uniform standards. The reviewing engineer shall submit a statement to the secretary of the planning commission prior to the public hearing, indicating that the preliminary street plan meets with uniform standards or setting forth the provisions necessary to meet the uniform standards. If a sewage treatment plant or other type of individual or community sewage disposal system is to be installed or constructed to serve all or certain portions of the proposed subdivision, the general plan for such community type sewage treatment or disposal system shall be shown and so identified on the proposed plat.

(m) Layout, numbers and approximate dimensions of all lots, and the number or letter of each block.

(n) Location and size of proposed parks, playgrounds, churches or school sites, or other special uses of land to be considered for dedication to public use or reservation by deed of covenant for the use of all property owners in the subdivision and the conditions of such dedication or reservation.

(o) Building setback lines with dimensions.

(p) Indication of any lots for which uses other than residential are proposed by the subdivider.

(q) A statement, on the plat, as to how lots will be sewered.

(r) Any stream buffer easements as required by this title.

(s) A drainage report, including a stormwater management plan if required by Chapter 13.35 TMC. (Ord. 19626 § 1, 8-23-11.)

Cross References: City engineer, TMC 2.30.110; planning commission, Chapter 2.65 TMC.
18.35.160 Approval or disapproval by planning commission.
Approval or disapproval of the preliminary plat shall be conveyed to the subdivider within five days after the planning commission’s public hearing at which the plat was considered. If the plat is disapproved, the subdivider shall be notified of the reason for such action and what requirements shall be necessary to meet the approval of the planning commission. The approval of the preliminary plat does not constitute an acceptance of the subdivision, but is deemed to be an authorization to proceed with the preparation of the final plat. This approval of the preliminary plat shall only be effective for a period of six months, unless an extension is granted by the planning commission. If the final plat has not been submitted for approval within this specified period, a preliminary plat must be resubmitted to the planning commission for approval. (Code 1981 § 41-52. Code 1995 § 134-78.)

Cross References: Planning commission, Chapter 2.65 TMC.

Article IV. Final Plat

18.35.170 Submission.
(a) After approval of the preliminary plat, the subdivider shall submit a final plat for recording purposes to the secretary of the planning commission. Such final plat shall be prepared by a registered engineer or surveyor.

(b) The original of the final plat, which shall be drafted on tracing cloth or drafting film, and 10 copies thereof shall be submitted to the secretary of the planning commission at least 15 days prior to the date of the public hearing at which the planning commission shall review the plat. An electronic image file of the plat, submitted as either a tag image file format (*.tif; *.tiff) or JPEG file interchange format (*.710117.jpg; *.jpeg), shall accompany the final plat. (Ord. 18266 § 1, 6-15-04; Code 1981 § 41-64. Code 1995 § 134-96.)

Cross References: Planning commission, Chapter 2.65 TMC.

18.35.180 Filing fee.
Each phase of the plat review process, including replats, shall be accompanied by the appropriate filing fee as set forth herein. In the event an application is withdrawn prior to consideration of either the zoning and platting committee or governing body, the applicant may recover the filing fees less the actual expenses incurred by the planning staff.

(a) Preliminary Plat Phase.

<table>
<thead>
<tr>
<th>Lots</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 – 10</td>
<td>$200.00 +</td>
</tr>
<tr>
<td>11 – 50</td>
<td>$200.00 +</td>
</tr>
<tr>
<td>51 – 150</td>
<td>$200.00 +</td>
</tr>
<tr>
<td>151 – 500</td>
<td>$200.00 +</td>
</tr>
<tr>
<td>501+</td>
<td>$200.00 +</td>
</tr>
</tbody>
</table>

(b) Final Plat Phase.

<table>
<thead>
<tr>
<th>Lots</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 – 10</td>
<td>$200.00 +</td>
</tr>
<tr>
<td>11 – 50</td>
<td>$200.00 +</td>
</tr>
<tr>
<td>51 – 150</td>
<td>$200.00 +</td>
</tr>
<tr>
<td>151 – 500</td>
<td>$200.00 +</td>
</tr>
<tr>
<td>501+</td>
<td>$200.00 +</td>
</tr>
</tbody>
</table>

(Ord. 17463 § 1, 2-1-00; Code 1981 § 41-65. Code 1995 § 134-97.)
18.35.190  Scale.
The final plat prepared for recording purposes shall be drawn to the following scale: one inch equals 100 feet or
larger. The size of the sheet on which such final plat is prepared shall be at least 24 inches by 36 inches. Each sheet
shall have a two-inch binding edge along the lefthand side. Where the proposed plat is of unusual size, the final plat
shall be submitted on two or more sheets of the same dimensions. If more than one sheet is required, an index map
of the same dimensions shall be filed showing the entire development at a smaller scale. (Code 1981 § 41-66. Code
1995 § 134-98.)

18.35.200  Contents.
The final plat shall show and contain the following information:

(a) Name of subdivision (not to duplicate or closely resemble the name of any existing subdivision).

(b) Location of section, township, range, county and state, including the descriptive boundaries of the subdivision
   based on an accurate traverse, giving angular and linear dimensions which must mathematically close; the allowable
   area of closure on any portion of the plat shall be one foot in 5,000.

(c) The locations of monuments shall be shown and described on the final plat; locations of such monuments shall
   be shown in reference to existing official monuments or the nearest established street lines, including the true angles
   and distances to such reference points or monuments.

(d) The location of lots, streets, public highways, alleys, parks and other features, with accurate dimensions in feet
   and decimals of feet, with the length of radii or area of all curves, and with all other information necessary to
   reproduce the plat on the ground; dimensions shall be shown from all angle points and points of curve to lot lines.

(e) Lots shall be clearly designated by number or letter; the area of each lot shall be indicated in terms of square
   footage either in tabular form or within the lot boundaries on the plat.

(f) Blocks shall be lettered clearly in the center of the block.

(g) The exact location, width and name of all streets to be dedicated.

(h) Location and width of all easements to be dedicated.

(i) Boundary lines and description of the boundary lines of any area, other than streets and alleys, which are to be
   dedicated or reserved for public use.

(j) Name and address of the developer and the surveyor or engineer making the plat.

(k) Scale of plat (scale to be shown graphically and in feet per inch), date and north point.

(l) Formal dedication for all easements.

(m) Formal dedication of all streets, alleys and all other public areas not previously dedicated.

(n) The names and signatures of the owners of the property, duly acknowledged and notarized, shall appear on the
   original and copies submitted.

(o) Any stream buffer easements as required by this title.

(p) A drainage report, including a stormwater management plan if required by Chapter 13.35 TMC. (Ord. 19626 § 2,
   8-23-11.)

18.35.210  Certification.
(a) The final plat shall contain a certificate signed and acknowledged by the parties having any title or interest in the
   land subdivided, consenting to the preparation and recordation of the plat as submitted. The original and six copies
   of the plat, as submitted, shall carry the signatures of the owners and be duly notarized by a notary public.
(b) A certification by a registered engineer or surveyor that the details of the final plat are correct is required.

(c) Space shall be reserved on the final plat for the date and signature of the following certificate of approval:

   (1) Chairperson and secretary of the planning commission;
   
   (2) The council, to be signed by the mayor and city clerk;
   
   (3) The board of county commissioners, to be signed by two members and the chairperson;
   
   (4) Entry for the date and transfer of record with space for the signature of the county clerk; and
   
   (5) Space for the recording of the instrument and the name of the register of deeds. (Code 1981 § 41-68. Code 1995 § 134-100.)

   Cross References: City council – mayor, Chapter 2.15 TMC; city clerk, TMC 2.30.010; planning commission, Chapter 2.65 TMC.

18.35.220 Supplementary documents and information.

(a) Two three-line profile prints of streets to be dedicated, indicating the grades thereon, may be required on final plats.

(b) A certificate from both the city and county stating that all taxes and encumbrances have been satisfied of record on the land to be dedicated as streets, alleys or other public purposes is required on final plats.

(c) If private restrictions are to be filed affecting the subdivision or any part thereof, two copies shall be filed with the final plat.

(d) Documentation shall be provided showing that all real estate taxes and special assessments on the property being platted are not delinquent. (Ord. 19843 § 4, 8-27-13.)

18.35.230 Approvals necessary for proposed subdivisions.

(a) All subdivisions, including resubdivisions, shall be submitted to the planning commission for consideration and approval for conformity with this division or variation therefrom, as provided in TMC 18.30.040.

(b) Any subdivision or resubdivision which includes land to be dedicated for public purpose which is approved by the planning commission shall be submitted to the city council for acceptance or disapproval of the public dedication, public reservation or public easement.

(c) All approved subdivisions or resubdivisions shall not become effective until such time as the plat thereof is recorded in the office of the register of deeds.

(d) Where a proposed subdivision or resubdivision is not approved by the planning commission, the secretary of the planning commission shall notify the owner by a written report stating the basis and reasons for such determination. (Code 1981 § 41-70. Code 1995 § 134-102.)

   Cross References: City council – mayor, Chapter 2.15 TMC; planning commission, Chapter 2.65 TMC.

18.35.240 Approval or disapproval.

(a) After the review of the final plat by the planning commission, such final plat, together with the recommendations of the planning commission, shall be transmitted to the council for its action. If approved, the plat shall be signed by the mayor and the city clerk and forwarded to the board of county commissioners as provided by law.

(b) If the planning commission disapproves the final plat, the secretary of the planning commission shall forward the plat, together with the report of the planning commission, stating the reasons for its actions. (Code 1981 § 41-71. Code 1995 § 134-103.)

   Cross References: City council – mayor, Chapter 2.15 TMC; city clerk, TMC 2.30.010; planning commission, Chapter 2.65 TMC.
18.35.250 Recording.
(a) Ten copies of the recorded plat shall be submitted to the secretary of the planning commission within 10 days after the plat has been recorded with the register of deeds. The recorded copies will then be distributed to the various government agencies and local utility companies. No building permit shall be issued by the code enforcement director or county zoning administrator until the recorded copies of such plat are on file with the secretary of the planning commission.

(b) Any deed for the dedication of a new public street shall not be filed with the register of deeds until such deed shall have endorsed on it the fact that it has been submitted to and has been approved by the planning commission and has been accepted by the city council.

(c) Any deed for the dedication or easement of additional right-of-way which is necessary to facilitate any public works project on an existing street or public way may be filed with the register of deeds without the endorsement of the planning commission and acceptance by the city council. (Code 1981 § 41-72. Code 1995 § 134-104.)

Cross References: City council – mayor, Chapter 2.15 TMC; public works department, TMC 2.30.110; building code enforcement division, Chapter 2.50 TMC; planning commission, Chapter 2.65 TMC.
Chapter 18.40

DESIGN STANDARDS

Sections:
18.40.010  Classification of subdivisions.
18.40.020  Size and shape determined by availability of water and sewer facilities.
18.40.030  Building site area determined by percolation tests.
18.40.040  Block dimensions.
18.40.050  Streets, alleys and public ways – Design.
18.40.060  Minimum street dimensions.
18.40.070  Drainage easements.
18.40.080  Street grades.
18.40.090  Pavement widths.
18.40.100  Pavement alignment.
18.40.110  Lot dimensions.
18.40.120  Easements required.
18.40.130  Dedication, reservation and acquisition of public sites and open spaces.
18.40.140  Adopted plans.
18.40.150  Stream buffers.

18.40.010  Classification of subdivisions.
Subdivisions are classified as follows:

(a) Class A. All subdivisions located within the corporate limits of the city.

(b) Class B.

(1) All subdivisions adjoining or touching the corporate limits of the city;

(2) All subdivisions adjoining or touching the boundaries of a tract or area for which annexation proceedings have been commenced by the city;

(3) All subdivisions touching or adjoining an approved subdivision which touches or adjoins the corporate boundaries of the city; and

(4) All subdivisions outside of the city limits, but within three miles thereof, that do not adjoin or touch the boundaries of the city and do not adjoin or touch a subdivision that adjoins or touches the boundaries of the city but lie adjacent to a major traffic thoroughfare.

(c) Class C. All subdivisions lying within three miles of the corporate limits of the city that do not adjoin or touch the boundaries of the city, and do not adjoin or touch the boundary of a subdivision that does adjoin or touch the boundaries of the city, and do not lie adjacent to a major traffic thoroughfare. (Code 1981 § 41-89. Code 1995 § 134-131.)

18.40.020  Size and shape determined by availability of water and sewer facilities.
(a) Generally. In all classes of subdivisions, the size and shape of the lots will be determined by the availability and adequacy of public sewer and public water facilities as follows:

(1) The determination of whether or not city water is available in adequate quantities to serve the subdivision shall be made in the following manner:

(i) A copy of the preliminary plat shall be sent to the department of public works for recommendation.

(ii) Upon receipt of the recommendation by the department, the subdivision committee shall report the facts to the planning commission.
(iii) The planning commission shall make its recommendation on the plat and on the availability and adequacy of city water to the council after the public hearing on the final plat.

(2) The determination of whether or not a public water company can furnish water in adequate supply to the subdivision shall be determined in the following manner:

(i) If the subdivider desires to use the facilities of a public water company, the subdivider shall submit an affidavit subscribed and sworn to by an official of the public water company, stating that the company is ready, willing and able to supply water in sufficient quantities to serve the subdivision.

(ii) Upon receipt of the affidavit and preliminary plat, the subdivision committee shall receive it and report the facts to the planning commission.

(iii) The planning commission shall make its recommendation, on the plat, on the availability and adequacy of water to the council after a public hearing on the final plat.

(b) Class A Subdivisions. For class A subdivisions:

(1) If the proposed subdivision is serviced with city water and public sewer or a community type sewage treatment plant, approval of the plat shall be subject to the minimum requirements set forth in this subsection (b).

(2) If the proposed subdivision is serviced with city water but not with a public sewer system or a community type sewage treatment plant, a preliminary plat will be submitted on the basis of one-half acre lots and shall be subject to the approval of the health department, which shall make soil percolation tests for each lot and make recommendations to the planning commission regarding lot sizes. The lots will be so proportioned as to permit future replatting consistent with good subdivision design.

(3) If the proposed subdivision is serviced by a public sewer system and not with city water and the developer will use a private water supply, the preliminary plat will be submitted on the basis of one-half acre lots, subject to the approval of the health department, which may make recommendations as to lot sizes. The lots shall be so proportioned as to permit future platting consistent with good subdivision design. The suggested desirable proportion is 160 feet frontage by 270 feet depth.

(4) If the proposed subdivision is not serviced with either city water or a public sewer system and the developer will be using a private water supply with septic tank sewage disposal, the subdivider shall submit the preliminary plat on the basis of one acre lots, subject to the approval of the health department, which shall make soil percolation tests and submit its recommendation regarding lot sizes to the planning commission. The lots shall be so proportioned as to permit future replatting consistent with good subdivision design. Such plat shall carry a restriction prohibiting the installation of septic tank lateral fields within 25 feet of any property boundary line or private water supply, and the minimum lot dimensions in any direction shall be 150 feet.

(c) Class B Subdivisions. For class B subdivisions:

(1) If the proposed subdivision is serviced with a public water supply and a public sewage system or a community type sewage disposal treatment plant, the plat shall be subject to the minimum requirements set forth in this subsection (c).

(2) If the proposed subdivision is serviced with a public water supply but not with a public sewage system or a community type sewage disposal treatment plant, the plat shall be submitted on the basis of building site areas that are determined by soil percolation tests as performed by the health department. The health department shall make a recommendation to the planning commission on the building site areas based on the results of the soil percolation tests.

(3) If the proposed subdivision is serviced by a public sewage system or a community type sewage treatment plant and not with a public water supply, the plat shall be subject to the minimum requirements set forth in this subsection (c). However, the building site areas shall contain a minimum dimension of 100 feet at the front building line.
(4) If the proposed subdivision is not serviced with a public water supply, a public sewage system or a
community type sewage treatment plant, the plat shall be submitted on the basis of building site areas that are
determined by soil percolation tests as performed by the health department. The health department shall make a
recommendation to the planning commission on the building site areas based on the results of the soil
percolation tests; provided, however, the minimum building site areas shall contain at least one acre in area and
have minimum dimensions of 125 feet at the front building line.

(5) In those class B subdivisions which touch or adjoin the corporate limits of the city or touch or adjoin an area
on which annexation proceedings have been commenced, then the owner shall submit a written consent to
annexation of the subdivision to the city along with the preliminary plat.

(d) Class C Subdivisions. The requirements and regulations pertaining to class C subdivisions are the same
requirements as those applied to class B subdivisions, with the exception that in class C subdivisions the subdivider
shall not be required to submit a written consent to annexation of the proposed subdivision. (Code 1981 § 41-90.
Code 1995 § 134-132.)

Cross References: City council – mayor, Chapter 2.15 TMC; public works department, TMC 2.30.110; planning
commission, Chapter 2.65 TMC.

18.40.030 Building site area determined by percolation tests.
(a) In subdivisions requiring soil percolation tests, the health department shall exercise adequate control for the
protection of public health, and in its recommendation to the planning commission minimum requirements will be
recommended that are necessary for this protection.

(b) The following shall be the basis for the determination of building site areas in subdivisions requiring soil
percolation tests:

<table>
<thead>
<tr>
<th>Building site area</th>
<th>Soil percolation rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) One-half acre</td>
<td>One inch per hour</td>
</tr>
<tr>
<td>(2) One acre</td>
<td>One-half inch per hour</td>
</tr>
<tr>
<td>(3) One and one-half acres</td>
<td>One-quarter inch per hour</td>
</tr>
<tr>
<td>(4) Three acres</td>
<td>Less than one-quarter inch per hour</td>
</tr>
</tbody>
</table>

(c) Each building site in the subdivision shall be subject to the following restrictions:

(1) The minimum distance from any septic tank and lateral field to:

   (i) Water supply  50 feet
   (ii) Watercourse  25 feet
   (iii) Dwelling or property line  10 feet

(2) The minimum distance from water wells and underground storage reservoirs to:
(i) Watertight cast iron or drain line 20 feet
(ii) Dwelling or property line 25 feet
(iii) Vitrified-clay or concrete sewer line, septic tanks or lateral field 50 feet

(d) The health department shall approve all site and test locations for the subdivision, and the design of septic tanks and lateral field systems. Prior to the completion of installation of any septic tank and lateral field system, the health department shall inspect and approve such installation prior to the issuance of an occupancy permit. (Code 1981 § 41-91. Code 1995 § 134-133.)

Cross References: Planning commission, Chapter 2.65 TMC.

18.40.040 Block dimensions.
(a) Length. In general, intersecting streets that determine block lengths shall be provided at such intervals as to serve cross traffic adequately and to meet existing streets or customary subdivision practices in the neighborhood. In residential districts, where no existing plats are recorded, the blocks shall not exceed 1,200 feet in length, except that in outlying subdivisions a greater length may be permitted where topography or other conditions justify a departure from this maximum. In blocks longer than 800 feet, pedestrian ways or easements through the block may be required near the center of the block, and such pedestrian ways or easements shall have a minimum width of 10 feet.

(b) Width. In residential development the block width shall normally be sufficient to allow two tiers of lots of appropriate depth. Blocks intended for business or industrial use shall be of such width as may be considered most suitable for the prospective use, including adequate space for off-street parking and deliveries. (Code 1981 § 41-92. Code 1995 § 134-134.)

18.40.050 Streets, alleys and public ways – Design.
(a) Major Traffic Thoroughfares. Major traffic thoroughfares in subdivisions shall conform as nearly as possible to the master plan as adopted by the planning commission.

(b) Minor Streets. In residential areas of subdivisions all streets shall be of a design which will discourage through or nonlocal traffic.

(c) Culs-de-sac. Culs-de-sac in subdivisions shall normally be no longer than 500 feet, including a turnaround which shall be provided at the closed end.

(d) Right Angle Intersections. Under normal conditions, streets in subdivisions shall be laid out to intersect, as nearly as possible, at right angles. Where topography or other conditions justify a variation from the right angle intersection, the minimum angle shall be 60 degrees.

(e) Streets Adjacent to a Railroad Right-of-Way, Limited Access Freeway or Other Major Thoroughfares. A marginal access street or frontage road in a subdivision shall be provided parallel and adjacent to the boundary of rights-of-way of railroads, limited access freeways and major traffic thoroughfares; however, a street may be provided at a distance suitable for the appropriate use of land between such street and such rights-of-way. Such distance shall be determined with due consideration of the minimum distance required for approach connections to future grade separation or for lot depths.

(f) Half-Streets. Dedication of half-streets will not be approved except where such streets are essential to the reasonable development of the subdivision and in conformity with other requirements of this division.

(g) Alleys. Alleys shall be provided in commercial and industrial districts, except that this requirement may be waived where other definite and assured provisions are made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed. Dead-end alleys shall be avoided
wherever possible, but if unavoidable, such dead-end alleys may be approved if adequate turnaround facilities are provided at the closed end. (Code 1981 § 41-93. Code 1995 § 134-135.)

**Cross References:** Planning commission, Chapter 2.65 TMC.

**18.40.060 Minimum street dimensions.**

(a) All streets, alleys and public ways included in any subdivision to be dedicated and accepted shall not be less than the minimum dimensions for each classification as follows:

<table>
<thead>
<tr>
<th>Feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Major traffic thoroughfares:</td>
</tr>
<tr>
<td>(i) Primary dual roadway 120</td>
</tr>
<tr>
<td>(ii) Primary single roadway 100</td>
</tr>
<tr>
<td>(iii) Secondary 80</td>
</tr>
<tr>
<td>(2) Collectors:</td>
</tr>
<tr>
<td>(i) Primary 70</td>
</tr>
<tr>
<td>(ii) Secondary 70</td>
</tr>
<tr>
<td>(3) Minor streets 60</td>
</tr>
<tr>
<td>(4) Cul-de-sac: 50-foot radius on turnaround.</td>
</tr>
<tr>
<td>(5) Marginal access streets or frontage streets:</td>
</tr>
<tr>
<td>(i) Two-way 60</td>
</tr>
<tr>
<td>(ii) One-way 50</td>
</tr>
<tr>
<td>(6) Alleys 20</td>
</tr>
<tr>
<td>(7) Pedestrian ways 10</td>
</tr>
</tbody>
</table>

(b) When existing or anticipated traffic on primary and secondary thoroughfares in subdivisions warrants greater widths of rights-of-way, such widths shall be required.

(c) Intersections involving two major traffic thoroughfares in subdivisions shall be designed in accordance with the design standard for major intersections. (Code 1981 § 41-94. Code 1995 § 134-136.)

**18.40.070 Drainage easements.**

Drainage easements may be required for subdivisions in addition to provided street rights-of-way where the street parallels streams or drainage areas. Upon the request of the planning commission, the city engineer shall make a study and make a recommendation as to the desired width of such easement to the planning commission. (Code 1981 § 41-95. Code 1995 § 134-137.)

**Cross References:** City engineer, TMC 2.30.110; planning commission, Chapter 2.65 TMC.
18.40.080 Street grades.
The grades of streets, alleys and other public ways included in any subdivision shall not be greater than the maximum grades for each classification as follows, except where topographical conditions unquestionably justify a departure from the maximum.

<table>
<thead>
<tr>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Major traffic thoroughfares:</td>
</tr>
<tr>
<td>(1) Primary 6</td>
</tr>
<tr>
<td>(2) Secondary 6</td>
</tr>
<tr>
<td>(b) Collectors:</td>
</tr>
<tr>
<td>(1) Primary 8</td>
</tr>
<tr>
<td>(2) Secondary 8</td>
</tr>
<tr>
<td>(c) Minor streets 10</td>
</tr>
<tr>
<td>(d) Culs-de-sac 10</td>
</tr>
<tr>
<td>(e) Alleys 10</td>
</tr>
<tr>
<td>(f) Pedestrian ways 12</td>
</tr>
</tbody>
</table>


18.40.090 Pavement widths.
Minimum widths of pavements on all streets, except in unusual cases, shall be as provided in this section. Minimum pavement widths for all streets, measured from back of curb to back of curb, and for all alleys and walks included in any subdivision, shall not be less than the minimum dimensions for each classification as follows:

(a) Major traffic thoroughfares:
   (1) Primary: 65 feet (vertical face curb only).
   (2) Secondary: 49 feet (vertical face curb only).

(b) Collectors:
   (1) Primary: 41 feet (vertical face curb only).
   (2) Secondary: 37 feet (vertical face curb); 38 feet (rollback curb).

(c) Minor streets: 29 feet (vertical face curb); 30 feet (rollback curb).

(d) Culs-de-sac:
   (1) Fifteen building sites or less: 27 feet (vertical face curb); 28 feet (rollback curb).
   (2) Over 15 building sites: 29 feet (vertical face curb); 30 feet (rollback curb).
   (3) The minimum pavement diameter shall be 90 feet back to back curb.
(e) Alleys: 20 feet.


18.40.100 Pavement alignment.
Horizontal and vertical alignment of pavement on all streets, except in unusual cases, shall be as follows:

(a) Horizontal Alignment. Minimum radii at the centerline of right-of-way:

(1) Major traffic thoroughfares:
   (i) Primary: 500 feet.
   (ii) Secondary: 300 feet.

(2) Collectors: 200 feet.

(3) Minor streets: 100 feet.

A tangent shall be provided between all reverse curves of sufficient length as related to the radius so as to provide for a smooth flow of vehicular traffic.

(b) Vertical Alignment. All changes in the pavement grade shall be connected by a vertical curve of such length as to provide for a sufficient sight distance and shall be subject to the approval of the city or county engineer, whichever shall apply. (Code 1981 § 41-98. Code 1995 § 134-140.)

Cross References: City engineer, TMC 2.30.110.

18.40.110 Lot dimensions.
(a) The minimum width of lots at the building line in subdivisions shall be 50 feet.

(b) The minimum depth of lots in subdivisions shall be 110 feet.

(c) The minimum area of lots shall be subject to the district zoning regulations in which the subdivision is located.

(d) All side lot lines shall be at right angles to straight street lines, or radial to curved street lines in subdivisions.

(e) All corner lots in subdivisions shall have a minimum building setback of 30 feet to both streets, unless certain conditions such as topography, street alignment or adjacent setbacks warrant a deviation in this requirement.

(f) Double frontage lots in a subdivision shall be avoided unless, in the opinion of the planning commission, variation to this rule will give better street alignment and lot arrangement.

(g) Every lot in a subdivision shall have a frontage upon a street.

(h) Building or setback lines shall be shown on the preliminary and final plat only when determined to be necessary by the planning director due to unusual lot design, configuration, or special circumstances where setback lines need to be delineated to specify the appropriate setback.

(i) In subdivisions where a septic tank or other individual sewage disposal devices are to be installed, the size of all lots included in the subdivision shall be subject to regulations in TMC 18.40.030.

(j) In subdivisions served by private water supply, well or other means, the size of all lots included in the subdivision shall be subject to regulations in TMC 18.30.020 and 18.40.020(c). (Ord. 18266 § 3, 6-15-04; Code 1981 § 41-99. Code 1995 § 134-141.)

Cross References: Planning department, TMC 2.30.090; planning commission, Chapter 2.65 TMC.
18.40.120 Easements required.
(a) Where alleys are not provided in subdivisions, permanent easements of not less than six feet in width shall be provided on each side of all rear lot lines, and on side lot lines where necessary for drainage, utility poles, wires, conduits, gas, water and heat mains and other public utilities. Such easements shall provide for a continuous right-of-way at least 12 feet in width. Where sanitary or storm sewers are installed in the permanent easements, they shall be not less than eight feet in width and shall be provided on each side of all lot lines. Such easements shall provide for a continuous right-of-way at least 16 feet in width. Where the rear lot line or the side lot line is also the boundary line of the subdivision, the entire 16 feet in width shall be provided within the proposed development if an easement is not provided on the adjacent property.

(b) Twelve-foot temporary construction easements shall be provided on each side of the permanent easement, for the initial construction of water and sewer lines and other utilities in the subdivision. These temporary easements shall be automatically vacated upon installation of all appropriate utilities.

(c) Any private utility company desiring to install utility lines in a permanent easement shall submit plans to the city engineer’s office showing the location of the proposed utility. Utility poles, meters and other aboveground obstructions shall be installed no more than four feet from the edge of the easement, to allow access and egress of maintenance vehicles and equipment.

(d) Property owners shall be admonished from placing any permanent or semipermanent obstruction in permanent sewer or utility easements. This includes, but is not limited to, trees, shrubs, fences, retaining walls, buildings or other miscellaneous obstructions that interfere with access and egress of maintenance vehicles and equipment for the operation and maintenance of the utilities or pipe lines located in the easement. Any permanent or semipermanent obstruction located in the permanent sewer easement may be removed by personnel representing the city, to provide for the proper operation and maintenance of that utility line, without cost or obligation for replacement. Cost of removal or replacement shall be the responsibility of the property owner. (Ord. 18266 § 4, 6-15-04; Code 1981 § 41-100. Code 1995 § 134-142.)

Cross References: City engineer, TMC 2.30.110.

18.40.130 Dedication, reservation and acquisition of public sites and open spaces.
(a) Definitions. For the purposes of this division, certain terms and words are hereby defined.

(1) “Parkland” means any dedicated public open space specifically designed for active recreational uses, including linkages to the regional trail system, intended to serve one or more neighborhood(s) or the entire community (i.e., a regional park or trail).

(2) “Parkland acquisition cost” means the average sale price for one acre of vacant land within the city of Topeka and the city’s three-mile extraterritorial jurisdiction. For purposes of this division, said fee shall be set at $15,000 per acre.

(3) “Parkland improvement cost” means the average cost to improve a neighborhood level park with typical amenities for recreational uses. For purposes of this division, said fee shall be set at $25,000 per acre.

(4) “Parkland development fee” means the combination of parkland acquisition cost and the parkland improvement cost per dwelling unit to support five acres of parkland per 1,000 people. For the purposes of this division, the parkland development fee shall consist of 60 percent of the actual cost per dwelling unit.

(5) “Dwelling unit” means any single-family, two-family, or multifamily dwelling intended for habitation, including group living facilities.

(6) “Planning areas” means geographic areas for community-level parks as identified as parkland fee districts in the park and open space element of the comprehensive plan. New development outside a designated planning area shall be included in the adjacent or nearest planning area which would best serve that development.

(7) “New development” means construction of one or more dwelling units on a lot upon which no dwelling unit previously existed.
(8) “Redevelopment” means construction of one or more dwelling units on a lot upon which a dwelling unit previously existed and which has the effect of creating a greater number of dwelling units than previously existed.

(9) “Reconstruction” means rebuilding or replacement of a dwelling unit or units on a lot that previously maintained the same number, type and use of dwelling units which has the effect of creating the same or fewer number of dwelling units than previously existed.

(10) “County commission” means the board of county commissioners for Shawnee County, Kansas.

(11) “Parks and recreation director” means the Shawnee County parks and recreation director.

(12) “Planning commission” means the city of Topeka planning commission.

(13) “Planning director” means the director of the planning department for the city.

(b) Purpose. The purpose of this section is to serve the communities’ population growth with neighborhood and regional parkland based on the comprehensive plan and national recreation and parks association standard of five acres per 1,000 persons for a neighborhood park and 15 acres per 1,000 persons for a regional park.

(c) Parkland Development Fee.

(1) In all instances where property owners or developers seek approval of new development or redevelopment or a final plat or re-plat of land that creates additional residential lots or units, a parkland development fee shall be required. For subdivisions within the city’s corporate limits, all fees shall be collected by the development services division of the city public works department concurrent with the application for a building permit. For subdivisions within the city’s extraterritorial jurisdiction, the fee shall be paid to the county planning department or other responsible county agency concurrent with application for a building permit. No building permits may be issued without collection of parkland development fees in accordance with this section.

(2) The parkland development fee shall be assessed based upon the planning area’s health classification contained in the city’s comprehensive plan in which the dwelling unit(s) will be located according to the following schedule:

<table>
<thead>
<tr>
<th>Planning Area Rating</th>
<th>Fee Schedule (per unit)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Single- and Two-Family Dwelling Unit Development</td>
</tr>
<tr>
<td></td>
<td>New Development or Redevelopment</td>
</tr>
<tr>
<td>One tree (intensive care)</td>
<td>$300.00</td>
</tr>
<tr>
<td>Two trees (at risk)</td>
<td>$225.00</td>
</tr>
<tr>
<td>Three trees (outpatient)</td>
<td>$150.00</td>
</tr>
<tr>
<td>Four trees (healthy)</td>
<td>$75.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Planning Area Rating</th>
<th>Fee Schedule (per unit)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Three- to Eight-Family Dwelling Unit Development</td>
</tr>
<tr>
<td></td>
<td>New Development or Redevelopment</td>
</tr>
<tr>
<td>One tree (intensive care)</td>
<td>$267.00</td>
</tr>
<tr>
<td>Two trees (at risk)</td>
<td>$200.00</td>
</tr>
</tbody>
</table>
(3) All fees shall be deposited in the city’s parkland acquisition and development fund by planning area. Fees collected shall be used for the acquisition and improvement of new or undeveloped parkland within the same planning area as which the fee is collected, including the improvement of undeveloped land within existing parkland.

(4)(i) Except as described in subsection (c)(4)(ii) of this section, upon application of the property owner, the county shall refund that portion of any parkland development fee which has been on deposit over seven years and which is unexpended and uncommitted. The refund shall be made to the then-current owner or owners of lots or units of the development project or projects.

(ii) If fees in any parkland development fee account are unexpended or uncommitted for more than six calendar years after deposit, the county commission shall make findings by resolution on or before December 31st of the sixth calendar year after receipt of the fee and annually thereafter until the funds are expended or committed. For so long as the county retains the fees, the resolution shall identify the purpose to which such fees shall be put and to show a roughly proportional and reasonable relationship between the fee and the purpose for which it was collected. If the county commission makes such findings, the fees are exempt from the refund requirement.

(d) Credit for Parkland Dedications. Developers may dedicate a portion of their land for public parkland. In such instances where parkland is accepted for dedication, a credit equal to $15,000 per acre, or fraction thereof, of dedicated parkland shall be applied against the balance of parkland acquisition costs required under this section for the subdivision. Provided, however, such dedication shall not reduce the payment for parkland improvement costs as reflected in the minimum fee schedule listed in subsection (c)(2) of this section.

(e) Credit for Parkland Improvements in a Benefit District. In addition to dedicating a portion of their land, developers may also petition the city to include the cost of public parkland improvements within a benefit district for the service area. Where such dedication occurs and public parkland is approved for inclusion in a benefit district, a credit equal to 100 percent of the required parkland improvement cost defined under this section shall be applied to the subdivision within the benefit district.

(f) Dedication Criteria. The parks and recreation director, after consultation with the planning director, shall determine the suitability of the land for parkland, and determine any improvements required to bring the land into usable condition. Factors to be considered in evaluating potential parkland sites shall include, but shall not be limited to, the following:
(1) All land proposed for dedication as a park or other recreational site shall contain a minimum of five acres.

(2) Not more than 10 percent of the park or open space shall contain stormwater detention/retention facilities, floodplain, or wetland, unless such area is part of a linear trail system, or is accepted by the parks and recreation director.

(3) The park or open space shall not have an average slope greater than 10 percent.

(4) Undisturbed natural open space may be accepted for a portion of the dedication requirements at the ratio of four acres of undisturbed natural open space, for each one acre of active parkland dedication.

(5) The parks and recreation director shall have the authority to waive or modify any or all of the above listed criteria.

(6) The park or open space shall be consistent with design policies/standards of the city’s comprehensive plan.

(g) Trail Dedication. Where the Topeka-Shawnee County trails and greenways plan identifies a trail planned for an area within a proposed subdivision, the property owner or developer shall be required to dedicate that portion of land for a public trail easement or trail right-of-way. Any such dedication shall receive a credit as specified in subsection (d) of this section.

(h) Other Considerations Prior to Deeding. The parks and recreation director may require that any dedicated parkland be improved prior to dedication. Factors that may be considered shall include, but shall not be limited to, the following:

(1) To the greatest extent possible, the developer may be required to preserve existing trees or other species of vegetation, or other natural features on the land to be dedicated for a park, trail, or recreational space. Significant trees lost during the construction process may be required to be replaced with suitable species and of suitable size as determined by the parks and recreation director.

(2) Grass or other quick establishing vegetative ground cover may be required to prevent soil erosion, according to the specifications determined by the parks and recreation director.

(3) The developer may be required to bring utilities to the boundary of the proposed park or open space and shall cap them off at no cost to the city. Utilities may include, but shall not be limited to, gas, storm sewer, sanitary sewer, and electricity. The location where such utilities are to be brought shall be determined by the city engineer and the parks and recreation director.

(i) Dedication Process.

(1) Land to be accepted as a park or trail under this section shall be designated as public park area or trail on the final plat.

(2) Prior to the dedication of parkland, the owner or developer shall provide the county with evidence of title in a form acceptable to the Shawnee County counselor or a title insurance policy insuring the county’s interest in the property. In any dedication of required land, the developer must have good and marketable title to the land, free and clear of any mortgages, liens, encumbrances, or assessments, except easements or minor imperfections of the title acceptable to the county.

(3) The parkland or trail shall be dedicated at the time of approval of the final plat. However, the county shall not accept the parkland or trail until the completion of required improvements and the approval of the parks and recreation director.

(j) Credit for Private Open Space. Property owners or developers may choose to reserve a portion of a subdivision for use as private open space for the benefit of subdivision residents. In such instances, a credit of 25 percent shall be applied against the parkland development fee as required by this division. All land proposed for reservation as private open space must be deemed usable and accessible by all residents within the proposed subdivision, as determined by the planning director, and approved by the planning commission. (Ord. 19715 § 2, 3-20-12.)
18.40.140 Adopted plans.
Subdivisions shall meet the design standards and development policies contained in the adopted elements of the comprehensive plan for the city of Topeka, including, but not limited to, the land use and growth management plan, the transportation plan, and the neighborhood plan elements adopted for the various areas of the city of Topeka.

18.40.150 Stream buffers.
(a) Purpose. The creation and maintenance of stream buffers benefits the environment by protecting water quality and riparian ecosystems. This section shall, to the greatest extent possible, incorporate the city’s stream buffer requirements contained in TMC 17.10.010, et seq.

(b) Definitions. The terms, words and phrases used in this section shall have the meanings ascribed to them in TMC 17.10.020.

(c) Plat Requirements.

   (1) All plats prepared for recording shall clearly:

      (i) Show the extent of any buffer on the subject property by metes and bounds.

      (ii) Label the buffer.

      (iii) Provide a restriction stating, “There shall be no clearing, grading, construction or disturbance of vegetation except as permitted under TMC 17.10.060 or as approved by the public works director or his or her designee.”

   (2) The public works director and planning director may mutually adopt administrative guidelines that more specifically illustrate text and graphics to be contained on the plat as referenced in this subsection.

   (3) A dedication of a stream buffer area to the city shall not be interpreted to mean that this conveys to the general public the right of access to this area.

   (4) Stream buffers situated adjacent to public streets add value to neighborhoods. In order to provide an incentive to locate buffers adjacent to public streets, the city will allow the dedicated right-of-way width as contained in the city’s design criteria adjacent to the improved street to be included within the outer zone of the stream buffer. Also, the city may through its platting process accept the dedication of buffer areas located adjacent to streets and maintain the same as public property. (Ord. 19430 § 5, 6-15-10.)

Cross References: Planning department, TMC 2.30.090; public works department, TMC 2.30.110.
Chapter 18.45

IMPROVEMENTS

Sections:
18.45.010  Required.
18.45.020  Procedure for developer project.
18.45.030  Subdivisions not adjoining city.
18.45.040  Streets.
18.45.050  Intersections.
18.45.060  Water lines.
18.45.070  Sewers.
18.45.080  Sidewalks.
18.45.090  Permanent monuments.
18.45.100  Streetlights.

18.45.010  Required.
(a) The subdivider or developer of any subdivision approved in accordance with this division shall be obligated to
install all public improvements, as set forth in this division, in conjunction with building development in the
subdivision. Such improvements shall be provided by one of the following methods:

(1) Construction and development as a developer project, paid for entirely by the subdivider or developer.

(2) Construction and development under contract with the council in accordance with a benefit or special
assessment district as provided by law.

(3) Posting a satisfactory bond or cash deposit securing to and insuring that such improvements will be
completed within a specified time period.

(b) All building permits issued in the subdivision shall be conditioned upon such satisfactory assurances of
completion of such public improvements. Fractional or partial public improvements shall be permitted upon the
approval of the planning director and public works director. (Ord. 18266 § 5, 6-15-04; Code 1981 § 41-118. Code
1995 § 134-166.)

Cross References: City council – mayor, Chapter 2.15 TMC; planning department, TMC 2.30.090; public works
department, TMC 2.30.110.

18.45.020  Procedure for developer project.
The following procedure shall be followed when the public improvements are proposed to be completed as a
developer project:

(a) All proposed street, sanitary sewer, storm sewer and sidewalk improvements to be installed by a subdivider or
developer must first be approved by the city engineer. A plan review fee of $42.00 per hour shall be charged.
Payment by the developer or subdivider of all plan review fees incurred shall be a condition precedent to the
acceptance of the improvements.

(b) The city engineer shall inspect all work done by the subdivider or developer and shall approve or reject as
appropriate. A final inspection shall be requested in writing by the developer or subdivider when work is completed.
The city engineer’s approval and payment by the developer or subdivider of all inspection fees incurred shall be a
condition precedent to the acceptance of the improvements.

(c) Upon approval of such work and payment of all fees, the city engineer shall accept the improvement for
maintenance by the city.

(d) The subdivider or developer shall furnish a surety bond conditioned that they shall maintain and make all
necessary repairs to the improvements constructed by them, at their own expense, for a period of one year after the
date of acceptance of the improvements, where repairs are necessary by reason of defective workmanship, imperfection in material used, or improper, imperfect or defective preparation of the ground upon which the improvement shall be laid. The surety shall be for the benefit of the public and in an amount equal to 10 percent of the total improvement cost, but in no case shall the amount be less than $5,000.

(e) Unless and until such acceptance is made as provided for in this chapter, the city accepts no responsibility for any improvements. (Ord. 16452 § 1(41-119), 4-28-92. Code 1995 § 134-167.)

Cross References: City engineer, TMC 2.30.110.

18.45.030 Subdivisions not adjoining city.
(a) In those class B subdivisions that do not adjoin or touch the corporate limits of the city or touch an area for which annexation proceedings have been commenced by the city and in all class C subdivisions, all improvements as required by County Resolution No. 77-255, and subsequent amendments thereto, shall be constructed to provide continuity as determined by the county engineer to the furthest extremities of the lots for which building permits are being requested.

(b) If the lots for which building permits are being requested are located in such a manner that access to the nearest existing public improvement is restricted by a separation of ownership and subdivision but having a continuity of dedicated right-of-way, then such connecting public improvements shall not be subject to the provisions of County Resolution No. 77-255. However, the owner of the lots requesting a building permit shall be required to make such improvements as requested by the county engineer; provided, however, all lots abutting on an existing county road, as determined by the county engineer, shall be exempt from County Resolution No. 77-255.

(c) Improvement plans shall be submitted to the county engineer for approval prior to the construction of any subdivision improvement. Inspection and approval of the improvements by the county engineer shall be required prior to the issuance of any building permits. (Code 1981 § 41-120. Code 1995 § 134-168.)

18.45.040 Streets.
(a) Streets shall be graded and improved by construction of curb, gutter and pavement in units of one block or more for streets entirely within the subdivision but may include fractional blocks ending at the subdivision boundaries.

(b) Streets whose centerline is the boundary line of the subdivision and streets whose centerline is the city boundary may be improved to the centerline or city boundary and shall be paid for and provided by the owner of the subdivision in accordance with provisions as set forth above. Such improvements shall conform to the usual requirements for residential street paving.

(c) Major traffic thoroughfare improvements will be furnished by the city when necessary and in the judgment of the council such improvements are vital to the welfare of the city under the following conditions:

1. If the street is unimproved, a portion comparable in cost to a street improvement in a regulation residential street shall be borne by the owner of the subdivision as set forth above.

2. If the major traffic thoroughfare is already improved with pavement comparable to the usual residential requirements, the distribution of cost shall be determined by the city as provided by statute.

(d) Streets separating a park from residential or other property shall be improved as provided in subsection (a) of this section and shall be paid for by the subdivider or property owner in accordance with TMC 18.45.010. (Ord. 19323 § 2, 10-20-09. Code 1995 § 134-169.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.45.050 Intersections.
(a) The council may, by resolution, reimburse developers for any intersections, including curb, gutter and storm sewers, which the developer has constructed pursuant to subdivision rules and regulations or other requirements of the city.
(b) The council, upon passage and approval of the resolution therefor, is authorized to reimburse the developer for the cost of each intersection so constructed, either on the basis of the developer’s actual cost or on the average amount of the successful competitive bids for construction of the same type intersections for the city during the preceding 12 months, whichever is lower. The cost of such reimbursement shall be paid out of the general obligation bonds. (Code 1981 § 41-122. Code 1995 § 134-170.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.45.060 Water lines.
The subdivider shall connect with a public water main and make such connection accessible to each lot within the subdivision. Plans and contracts for such installation shall be submitted to and approved by the city before issuance of building permits and shall be paid for by the owner of the subdivision. (Code 1981 § 41-123. Code 1995 § 134-171.)

18.45.070 Sewers.
(a) Lateral sanitary sewers shall be provided and paid for by the owner of the subdivision or guaranteed as provided in TMC 18.45.010.

(b) Main sanitary sewers shall be furnished by the owner of the subdivision or guaranteed as set forth in this division if it serves only the subdivision for which it is provided. If, in the opinion of the council, it would be beneficial and in the interest of economy for future development outside of the subdivision to do so, a benefit district for main sanitary sewers may be formed and the cost paid by special assessment as provided by law.

(c) Lateral storm sewers and those which accompany street improvements shall be paid for by the owner of the subdivision or guaranteed as set forth in this division.

(d) Main storm sewers shall be furnished by the owner of the subdivision or guaranteed as set forth in this division if it serves only the subdivision for which it is provided. If in the opinion of the council it would be beneficial and in the best interest for future development outside of the subdivision to do so, a benefit district for a main storm sewer shall be formed and the cost paid by special assessment as provided by law. (Code 1981 § 41-124. Code 1995 § 134-172.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.45.080 Sidewalks.
In all subdivisions, the subdivider shall construct sidewalks on both sides of all streets which are contained entirely within the boundary of the subdivision. Where the boundary of a subdivision is an existing street or a proposed street, sidewalks shall then be installed on the nearest adjacent side or sides. All sidewalks shall be installed and constructed in accordance with the applicable uniform standards. In subdivisions containing blocks of over 800 feet in length and where pedestrian ways or easements are provided, sidewalks shall be installed within such ways or easements. Sidewalks shall be provided on all street improvement projects which are initiated by the council or contracted for by any federal, state or public body. (Code 1981 § 41-125. Code 1995 § 134-173.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.45.090 Permanent monuments.
Permanent monuments shall be placed at each corner of each lot in the subdivision. (Code 1981 § 41-126. Code 1995 § 134-174.)

18.45.100 Streetlights.
(a) Any subdivider, developer or other property owner who plans to restrict a subdivision’s electrical services to underground wiring shall be required to pay any costs of streetlight installation which are above the standard costs for streetlight installations. Standard streetlight installation costs shall be construed to mean the costs of installing a streetlight in the subject subdivision if overhead wiring were available.

(b) Any subdivider, developer or other property owner shall be required to post a satisfactory bond or cash deposit securing to and insuring the city that such subdivider, developer or other property owner will pay the costs of streetlight installations which are above the costs of standard streetlight installations.
(c) If a petition is submitted to the department of public works asking that streetlights be installed in an existing subdivision containing underground electrical wiring, then the department of public works shall proceed with the streetlight installation in that subdivision; provided, however, that any such petition must bear the signatures of at least 75 percent of the homeowners of the subdivision, and such homeowners must obligate themselves to pay for the costs of the streetlight installation which are above the standard costs for streetlight installation. (Code 1981 § 41-127. Code 1995 § 134-175.)

Cross References: Public works department, TMC 2.30.110.
Division 4. Zoning Code

Cross References: Planning, Chapters 2.65 and 18.05 TMC; community development, Chapters 2.105 and 3.40 TMC; buildings and building regulations, TMC Title 14; construction adjacent to flood control levees, TMC 17.20.010 et seq.; floodplain management, TMC 17.30.010 et seq.; subdivisions, TMC Title 18, Division 3.

Editor’s Note: Printed herein are the city’s comprehensive zoning regulations, as adopted by Ord. No. 16425 on February 25, 1992, and as supplemented by the Topeka-Shawnee County metropolitan planning agency through August 22, 1994. The ordinance has also been adopted by the board of commissioners of Shawnee County and applies to unincorporated areas of Shawnee County. Amendments are indicated by parenthetical history notes following amended provisions. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citation to state statutes, and expression of numbers in text has been used to conform to the code of ordinances. The ordinance was originally adopted as Chapter 48 of the 1995 Code of Ordinances.
Chapter 18.50

GENERAL PROVISIONS

Sections:
18.50.010 Purpose.
18.50.020 District classification.
18.50.030 Conversion of existing districts.
18.50.040 Application of regulations to existing legal conforming uses.
18.50.050 District map.
18.50.060 Determining zoning district boundaries.
18.50.070 Annexed territory.
18.50.080 Vacated streets, alleys, etc.
18.50.090 Vesting of development rights.
18.50.100 Use and building restrictions.
18.50.110 Interpretation.
18.50.120 Enforcement.
18.50.130 Validity.

18.50.010 Purpose.
For the purpose of establishing and carrying out the several powers, duties, and privileges conferred upon the city of Topeka and Shawnee County, Kansas, in, under and by the laws of the state and to encourage the most appropriate use and development of land throughout the metropolitan area; to stabilize and conserve the value of property; to provide adequate air, light, and reasonable access; to secure safety from fire and other dangers; to prevent overcrowding of land; to avoid undue concentration of population; to improve the appearance of the metropolitan area; to facilitate the provisions of transportation, water, sewers, schools, parks and open space, and other community and public improvements; and in general, to promote the public health, safety and welfare; and to regulate and restrict the locations and use of buildings, structures and land for business, industry, dwelling, public and quasipublic and other specified uses, consistently and uniformly throughout; to regulate the area of yards and open space, the height, density, intensity and bulk of buildings and structures; and for said purposes, to divide the jurisdiction into districts of such number, shape and area as may be deemed necessary to carry out these regulations hereby established. In the development, execution, implementation and enforcement of the zoning regulations, it is recognized that there are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics and effects, thereby requiring special regulation of these uses to ensure that these characteristics and effects will not contribute to the blighting or downgrading of the surrounding neighborhood. (Code 1995 § 48-1.00.)

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

RR-1 Residential reserve district
R-1 Single-family dwelling district
R-2 Single-family dwelling district
R-3 Single-family dwelling district
R-4 Manufactured home district
M-1 Two-family dwelling district
M-1a Limited multiple-family dwelling district
M-2 Multiple-family dwelling district
The historic landmark overlay district (HL) as provided in Chapter 18.255 TMC is hereby incorporated by reference as if fully set forth herein. Any property so designated will be reflected on the official zoning map. (Ord. 20062 § 3, 4-18-17.)

**18.50.030 Conversion of existing districts.**

The districts and boundaries thereof are reclassified in accordance with the following:

(a) A single-family dwelling district converts to R-1 single-family dwelling district.

(b) B single-family dwelling district converts to R-2 single-family dwelling district.

(c) C two-family dwelling district converts to M-1 two-family dwelling district.

(d) D multiple-family dwelling district converts to M-2 multiple-family dwelling district.

(e) All remaining property classified E multiple-family dwelling district converts to M-3 multiple-family dwelling district.

(f) E-1 high-rise multiple-family dwelling district converts to M-4 multiple-family dwelling district. M-4 multiple-family dwelling district converts to M-3 multiple-family dwelling district.

(g) D&O multiple-family dwelling and office district converts to either M-2 multiple-family dwelling district or O&I-1 office and institutional district.

(h) F neighborhood shopping district converts to C-2 commercial district.
(i) G commercial district converts to C-4 commercial district.

(j) H business district converts to C-5 commercial district. C-5 commercial district converts to D-1 downtown district.

(k) I light industrial district converts to I-1 light industrial district.

(l) J heavy industrial district converts to I-2 heavy industrial district.

(m) U-1 university district converts to U-1 university district.

(n) U-2 university community district converts to M-3 multiple-family dwelling district.

(o) A, B, C, D, and E single-, two-family and multiple-family dwelling districts and community unit plan district, D&OP multiple-family dwelling and office park district, G commercial and shopping center unit district, G commercial and planned business center district, I-P industrial park district, and planned unit development convert to the PUD planned unit development district. Those developments heretofore assigned a planned unit district in conjunction with another district as set forth above, and assigned the PUD district upon the adoption of these regulations, shall be restricted to the use, dimensional, and general provisions of the conversion district of the classification in which said property was heretofore assigned.

(p) U-3 university service district, and conditional use permits (all city of Topeka); and special use permits (as issued by either the city of Topeka or Shawnee County) shall cease as classifications and as permit eligible uses effective with the conversion date of these regulations; and all existing uses as heretofore provided for by the district and/or by the aforementioned permits of record may continue pursuant to the provisions of TMC 18.50.040; and further, any conditions, limitations, stipulations and/or other provisions set forth within the resolution granting a site specific conditional or special use permit shall continue to apply and remain in effect with the adoption of these regulations.

(q) Where newly created district classifications are provided herein, the boundary of such districts shall be established by ordinance within the city of Topeka, Kansas, all in accordance with Chapter 18.245 TMC. (Ord. 20062 § 4, 4-18-17.)

18.50.040 Application of regulations to existing legal conforming uses.
The regulations shall not apply in respect to the continued use of any building or land which use was in conformity with the use regulations then existing, and shall not prevent the restoration of such building damaged by fire, explosion, act of God, or public enemy; nor prevent the continuance of the use of such building or part thereof as such use existed at the time of damage; nor prevent the expansion, enlargement or structural alteration thereto; provided, however, that the integrity of the original structure is not substantially reduced or eliminated. Whenever there is to be a change in general use classification of any building or land subsequent to the effective date of these regulations the same shall only be accomplished in accordance with the provisions of these regulations and in a district in which it is permitted. All existing structures or buildings, the use of which is in accordance with the use regulations of the district in which they are located, are hereby declared to be in conformity with the dimensional requirements of the assigned district herein upon the date of adoption of these regulations. Provided further, all single-family dwelling buildings, existing as legal conforming uses, upon the adoption of these regulations and the use of which is not in accordance with the use regulations of the assigned district in which they are located, may be enlarged, structurally altered, and accessory structures erected, and are hereby declared to be in conformity with the dimensional requirements herein upon the date of adoption of these regulations. Mobile home parks may continue for such purposes, including the replacement of individual mobile home units. In no event shall the number of mobile home units exceed the total number of placement sites within the boundary of a mobile home park; provided, that required and applicable approved development plans are of record with the appropriate governmental jurisdiction in respect to the location and number of planned placement sites. (Code 1995 § 48-1.03.)

18.50.050 District map.
The boundaries of the districts established herein or as they may be amended from time to time shall be recorded on the district map on file in the office of the metropolitan planning agency. (Code 1995 § 48-1.04.)
18.50.060 Determining zoning district boundaries.
In determining boundaries of zoning districts as shown on the district map, the following rules shall apply:

(a) The district boundaries are the city limits or the centerlines of rights-of-way including: streets, alleys, railways, creeks, streams, rivers, or drainage channels.

(b) Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where the districts are bounded approximately by lot lines, the lot lines shall be construed to be the boundary of the districts unless the boundaries are otherwise indicated on the map.

(c) In properties that are not subdivided, the district boundary lines on the map shall be determined by use of the scale appearing on the map. (Ord. 19569 § 1, 5-24-11.)

18.50.070 Annexed territory.
All territory hereinafter annexed by the city of Topeka shall retain its zoning classification of record as established by county resolution; provided, that the city shall have the right to rezone the annexed territory subsequent to annexation or at the time of annexation. (Code 1995 § 48-1.06.)

18.50.080 Vacated streets, alleys, etc.
Whenever any street, alley, or other public way is vacated by official action of the governing body, the zoning districts adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts. (Code 1995 § 48-1.07.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.50.090 Vesting of development rights.
For the purpose of single-family residential developments, development rights in such land use shall vest upon recording a plat of such land. If construction is not commenced on such land within five years of recording a plat, the development rights in such expire. For all purposes other than single-family developments, the right to use land for a particular purpose shall vest upon the issuance of all permits required for such use by a city or county and construction has begun and substantial amounts of work have been completed under a validly issued permit. The governing body may provide in zoning regulations for earlier vesting of development rights; however, vesting shall occur in the same manner for all uses of land within a land use classification under the adopted zoning regulations. (Code 1995 § 48-1.08.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.50.100 Use and building restrictions.
(a) Except as hereinafter provided:

(1) No person shall use any premises for a use other than those permitted in the district in which such premises are located.

(2) No building shall be erected, enlarged or structurally altered unless it shall be designed to make the premises conform to the regulations for the district in which the premises are located.

(b) The use of buildings and land, and the regulations herein shall be uniform for each district but may differ from those regulations in other districts.

(c) The use regulations shall not apply to:

(1) Public utilities such as poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves, hydrants, or other similar facilities located on public rights-of-way or public easements and operated by a public utility as a franchise holder from the city of Topeka or Shawnee County, Kansas; and including water lines, sewer lines
and similar facilities owned and operated by the city of Topeka or Shawnee County, Kansas, except the following which shall be subject to the use regulations:

(i) Substations; booster stations; pump stations; distribution stations;

(ii) Treatment plants; transmission equipment buildings; and

(iii) Towers or reservoirs and similar uses facilitating utility transmission, distribution, and collection systems.

(2) Railroad right-of-way and all uses in conjunction with such railroad operations. Nonrailroad use upon any railroad right-of-way or other property shall conform to these regulations.

(3) The temporary use of land in conjunction with, and exclusively for, a specific construction project, and conditional to the following restrictions and requirements:

(i) Public Works Construction Projects. The temporary use of any land located either on the site of construction or off-site is permitted which is in conjunction with a project by a governmental entity. Such uses shall include topsoil or fill-dirt extraction, and the location of an asphaltic concrete and/or portland cement concrete plant. However, said plants shall be located a minimum distance of 400 feet from the nearest residential dwelling unit. Distances less than 400 feet may only be permitted by action of the metro board of appeals.

(ii) Other Construction Projects. The temporary use of land in conjunction with a construction project is permitted wherein the temporary use is located upon the site of the project; however, the temporary use of an asphaltic concrete and/or portland cement concrete plant shall be located a minimum distance of 400 feet from the nearest residential dwelling. Distances less than 400 feet may only be permitted by action of the metro board of appeals.

(iii) The temporary use of land for any construction project as set forth above is subject to the approval by the applicable public works director of the political subdivision in which the temporary use is located. Further, said temporary use of land shall not commence until such time that a permit has been granted by the above referenced public works director after first consulting with the planning director; and said permit may include conditions, limitations, and requirements as may be required by other applicable laws, statutes and codes, or as may be determined by the public works director in order to provide for the public health, safety, comfort, and welfare of the community. The public works director may, at his or her discretion, deny such temporary use.

(4) Exceptions. The appropriate city or county building official or governing body shall have the authority to permit certain exceptions to the district regulations set forth as follows, by the issuance of a permit maintaining conditions governing design, construction, operation and/or expiration of the exception, so as to adequately safeguard the health, safety, and welfare of citizens of Topeka and unincorporated Shawnee County.

(i) Exception for Manufactured Homes.

(A) Replacement of an existing single-wide mobile home or manufactured home with another manufactured home on the same lot or parcel; provided the existing unit was allowed by permit and is otherwise in conformance with all other applicable zoning regulations including the development regulations contained within Chapter 18.85 TMC as well as the wastewater management plan.

(B) Within the unincorporated areas of Shawnee County, the temporary placement of a manufactured home as a second dwelling on an existing lot or parcel, in instances of extreme hardship or necessity, not based on financial considerations, as determined by the board of commissioners, provided:

1. The applicant shall justify and attest to the hardship or reason for requesting said exception in a notarized affidavit; and
2. The applicant shall agree that the exception may be granted for a one-time period not to exceed 18 months; provided, however, that at such time the hardship or reason of necessity shall cease and become null and void and the temporary manufactured home shall be removed; and

3. The placement of the temporary manufactured home shall otherwise comply with the comprehensive zoning regulations, wastewater management plan, and all other applicable restrictions and regulations.

(5) The use regulations and dimension requirements of each zoning district shall not apply to agricultural buildings.

(d) Other General Requirements.

(1) Prior to the construction of any development or excavation within 1,000 feet of any flood protection facility, a certificate of approval shall be obtained from the city or county engineer, as applicable.

(2) Any or all development authorized by these regulations shall be subject to other applicable codes, regulations, or policies as adopted by the city of Topeka, Shawnee County, Kansas, and the state of Kansas, as appropriate.

(3) Burial of human remains on residentially zoned property is prohibited except as may specifically be provided for herein.

(4) Frontage as required herein shall be continuous in both dimension and extension, and further provided, the subject street frontage is improved to applicable standards or is guaranteed to be improved through appropriate surety. When applicable, the entire frontage shall include all right-of-way abutting, adjacent or coincident with such development site, including corner lots. For purposes of unplatted property, “frontage” shall not include or recognize those segments, sides or portions of the tract or parcel perimeter which restrict and prohibit vehicular ingress/egress; and further, “frontage” shall not include the cross-section width of a stub street as defined by this division. (Ord. 19328 § 2, 11-3-09. Code 1995 § 48-1.09.)

Cross References: City council – mayor, Chapter 2.15 TMC; planning department, TMC 2.30.090; public works department, TMC 2.30.110.

18.50.110 Interpretation.
These regulations shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare. These regulations are not intended to interfere with or abrogate or annul any ordinance, resolution, rules, regulations or permits previously adopted or issued, and not in conflict with any of the provisions of this division, or which shall be adopted, or issued pursuant to law relating to the use of buildings or premises, and likewise, not in conflict with this division; nor is it intended by this division to interfere with or abrogate or annul any easements, covenants or other agreements between parties, except that if this division imposes a greater restriction, this division shall control. Whenever there is a conflict with respect to the interpretation of these regulations, the legal department of the appropriate jurisdiction shall issue a declaration of findings which shall be observed until such time as the division is amended. For a determination as to the use regulations, the legal department shall base its determination on the Standard Industrial Code, and other recognized sources or materials. (Code 1995 § 48-1.10.)

Cross References: Legal department, TMC 2.30.070.

18.50.120 Enforcement.
It shall be the duty of the planning director or designee to enforce these regulations. The planning director or designee may require site plans and other building plans as necessary to determine compliance with these regulations prior to the issuance of a building permit or the use of property subject to these regulations. Appeal from the decision of the planning director or designee may be made to the board of zoning appeals. (Ord. 20062 § 5, 4-18-17.)

Cross References: Planning department, TMC 2.30.090; board of zoning appeals, Chapter 2.45 TMC.
18.50.130  Validity.
Should any section or provision of these zoning regulations be determined to be unconstitutional or invalid, the same shall not affect the validity of the regulations as a whole or any part thereof other than the part so determined to be unconstitutional. (Code 1995 § 48-1.12.)
Chapter 18.55
DEFINITIONS

Sections:
18.55.005 Generally.
18.55.010 “A” definitions.
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18.55.250 “Y” definitions.
18.55.260 “Z” definitions.

Cross References: Definitions generally, TMC 1.10.020.

18.55.005 Generally.
For the purpose of this title and Chapter 2.45 TMC, certain terms and words are hereby defined. Unless the context indicates to the contrary, words used in the present tense include the future tense, words used in the singular include the plural, words used in the plural include the singular, words importing the masculine gender include the feminine and neuter, and the word “shall” is mandatory. Any terms not herein defined shall be construed as defined elsewhere in this division or in an applicable building code or upon the interpretation of the city attorney, who may determine the context indicates that a standard dictionary definition is more appropriate. Where a word or term is defined in both this chapter and elsewhere in this division, the definition in this chapter shall be generally applicable except in the chapter or section of this division where the word is elsewhere defined. (Ord. 19736 § 4, 5-22-12.)

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

“Adjacent” means nearby, but not necessarily touching.

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

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

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

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

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

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

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

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

Area. See “tract.”

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

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

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

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

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. (Ord. 20062 § 6, 4-18-17.)

18.55.020 “B” definitions.

“Basement” means a story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story where more than one-half of its height is above the average finished grade.

“Bed and breakfast home” means a private, owner-occupied single-family dwelling where no more than four guestrooms are provided for overnight paying guests for not more than seven consecutive nights. The dwelling shall
be the primary residence of the owner with no employees permitted, other than permanent residents of the dwelling. Food service may be provided for guests.

“Bed and breakfast inn” means a single-family structure or portion thereof that provides not more than 10 guestrooms for overnight paying guests. Food service may be provided for guests and sometimes in conjunction with social events.

“Block” means a piece of land usually bounded on all sides by streets or other transportation routes such as railroad lines, or by physical barriers such as water bodies or public open space, and not traversed by a through street.

“Boarding house” means any dwelling where for compensation and by prearrangement lodging with or without food is provided for three or more persons but not exceeding 20 persons in contradiction to hotels. No personal care is provided.

“Brew pub” means an eating and drinking establishment that includes a micro-brewery as an accessory use. The micro-brewery is limited to 5,000 barrels per year, which is equivalent to 155,000 gallons per year.

“Buildable area” means the space remaining on a zoning lot after the minimum open-space requirements (coverage, yards and setbacks) have been met.

“Building” means any roofed structure for the shelter, support or enclosure of persons, animals, chattels or property of any kind; and when separated by dividing walls without openings, each portion of such building, so separated, shall be deemed a separate building.

“Building code” means regulations governing building design, construction and maintenance to protect the health, safety and welfare of the public.

“Building coverage” means the percent of the lot area covered by the maximum horizontal cross-sections of all buildings on the lot. Portions of buildings below the finished lot grade, such as storm shelters, shall not be included in building coverage.

“Building, detached” means a building having no party wall in common with another building.

Building Line. See “building setback line.”

“Building, principal” means a building in which is conducted the principal use of the lot on which it is situated.

“Building setback line” means the required distance of open space between a building and a lot line.

“Bulk” is the term used to describe the size of buildings or other structures, and their relationships to each other and to open areas and lot lines, and therefore includes: (1) the size of buildings or other structures, (2) the area of the zoning lot upon which a residential building is located, and the number of dwelling units or rooms within such building in relation to the area of the zoning lot, (3) the shape of buildings or other structures, (4) the location of exterior walls of buildings or other structures in relation to lot lines, to other walls of the same building, to legally required windows, or to other buildings or other structures, and (5) all open areas relating to buildings or other structures and their relationship thereto.

“Bulk regulations” means the combination of controls which established the maximum size of a building and its location on the lot. Components of bulk regulations include: size and height of building; location of exterior walls at all levels with respect to lot lines, streets, or other buildings; building coverage; gross floor area of buildings in relation to lot area (floor area ratio); open space (yard) requirements; and amount of lot area provided per dwelling unit.

“Business” or “business use” means employment of one or more persons for the purpose of earning a livelihood, activities of persons to improve their economic conditions and desires, and generally relate to commercial and industrial engagements. (Ord. 20062 § 7, 4-18-17.)
18.55.030 “C” definitions.
“Cargo container or shipping container” means any portable, weather-resistant receptacle, container or other structure that is designed or used for the storage or shipment of household goods, commodities, building materials, furniture, or merchandise.

“Carport” means a roofed structure intended for the storage of motor vehicles and enclosed on not more than two sides by walls.

“Cemetery” means property used for the interring of the dead.

“Certificate of occupancy” means official certification that a premises conforms to provisions of the zoning ordinance (and building code) and may be used or occupied.

“Class A club” means a premises which is owned or leased by a corporation, partnership, business trust or association and which is operated thereby as a bona fide nonprofit social, fraternal or war veteran’s club, as determined by the state of Kansas, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates (hereinafter referred to as members), and their families and guests accompanying them.

“Class B club” means a premises operated for profit by a corporation, partnership or individual, to which members of such club may resort for the consumption of food or alcoholic beverages and for entertainment.

“Classification” means: (1) division of uses or activities into groups or subgroups for regulatory purposes; (2) the process of deciding what uses should be permitted in what zoning districts; and (3) the zone requirements imposed on a particular piece of property. A subsequent change in a classification is called a reclassification.

“Clinic” means an establishment where patients are admitted for examination and treatment by one or more physicians, dentists, psychologists or social workers and where patients are not usually lodged overnight.

“Club or lodge, private” means a building and facilities owned, leased or operated by a corporation, association, person, or persons for a social, educational or recreational purpose; but not primarily for profit or to render a service which is customarily carried on as a business; and shall not include or be construed as a class A or class B club.

“Commercial equipment” means any equipment or machinery used in a business, trade or industry, including liquid storage tanks exceeding 100 gallons, earth-moving equipment, trenching or pipe-laying equipment, landscaping equipment, spools of wiring/cable, portable pumps, portable generators, portable air compressors, pipes, pool cleaning equipment and supplies, and any other equipment or machinery similar in design or function. However, equipment and machinery for business use kept within an enclosed pickup truck or van; ladders, PVC pipe, or conduit attached to a truck or van via a rack; or equipment and machinery solely for personal residential use are not included.

“Commercial vehicle” means any vehicle, excluding pickup trucks, used for a business that has a height (including ladder racks and other items attached thereto) exceeding a height of 10.5 feet or width (excluding mirrors) exceeding eight feet or length exceeding 25 feet or manufacturer’s rating exceeding 12,000 pounds of gross vehicle weight. Additionally, the following types of vehicles shall all be considered commercial vehicles: flatbed, stake-bed, or box trucks except those that are pickup trucks, buses, semi-trailers or tractor-trailers, dump trucks, cement mixers, wreckers, and trailers loaded with any commercial equipment or construction materials. Additionally, any vehicles, including pickup trucks, with any of the following exterior modifications shall be considered commercial vehicles: liquid storage tanks exceeding 100 gallons, aerial buckets or platforms, welding equipment, or mechanical lifts or arms for loading and unloading materials/equipment. Vehicles for transferring passengers and their personal luggage/cargo for churches, nonprofit agencies, nursing homes, retirement communities, and other similar facilities shall not be considered commercial vehicles. Recreational vehicles are not considered commercial vehicles unless used for business purposes.

“Common open space” means ground area and the space above, which is unimpeded by any enclosed building, and located within a development which is designed for and designated for the use and enjoyment of occupants of the development. Common open space areas may be used for: landscaping, water bodies, stormwater management...
systems, sidewalks, walking trails, courtyards, and passive recreational purposes. Parking lots and storage areas for vehicles, equipment, and material shall not be considered as open space.

“Communication antenna” means an antenna or array of antennas at one location intended to broadcast and receive signals as part of a wide-area communication system such as cellular telephone systems, pager systems or wireless computer networks, but excluding short-wave radio antennas operated primarily as a hobby.

“Communication tower” means a ground-mounted guyed, monopole or self-supporting tower, constructed as a freestanding structure or in association with a building, other permanent structure or equipment, containing one or more antennas intended for transmitting or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication. Not included in this definition are towers which are held, used or controlled exclusively for public purposes by any department or branch of government. Such towers are defined as a “public use facility” and regulated accordingly.

“Community center” means a building open to the public, together with lawful accessory buildings and uses, used for recreational and cultural activities and usually not operated for profit.

“Community facilities” means public or privately owned facilities used by the public, such as streets, schools, libraries, parks and playgrounds, also facilities owned and operated by nonprofit private agencies such as churches, settlement houses and neighborhood associations.

“Community living facility, type I” means a dwelling building or portion thereof, and premises other than a hospital, operated and licensed in accordance with any and all applicable state and local requirements, in which short-term residential care for profit or not-for-profit is provided as well as supportive programs which assist or train the recipients to address or improve their living skills relative to chemical dependency, behavioral modification, domestic abuse, mental illness, economic recovery, job training, emergency shelter, and similar such physical, economic, or social reintegration programs. Although recipients do not require intensive treatment or secure environment, structured programs often include individual and group counseling, recreational and social activities, milieu therapy and individual work therapies designed to provide a transition and reentry into society, gainful employment, and sustained welfare upon leaving the facility. Residents are not in need of acute medical or psychiatric care and the facility is operated on a 24-hour basis. “Community living facility, type I” does not include a correctional placement residence or facility.

“Community living facility, type II” means a dwelling building or portion thereof, and premises other than a hospital, operated and licensed in accordance with any and all applicable state and local requirements, in which residential care for profit or not-for-profit is provided; intermediate treatment programs in a therapeutic setting for diagnostic and primary treatment environment relative to chemical dependency, behavioral modification, and mental illness and similar such physical and social treatment programs may be provided. Residents are not in need of acute medical or psychiatric care and the facility is operated on a 24-hour basis and may be operated as a secure facility. “Community living facility, type II” does not include a correctional placement residence or facility.

“Community service organization” means an organization, group or association formed for the single purpose of providing a philanthropic service for the community, but not to include any use which provides social or physical entertainment, except as a part of the philanthropic services.

“Compatibility” means the characteristics of different uses or activities that permit them to be located near each other in harmony and without conflict.

“Comprehensive plan” means a plan intended to guide the growth and development of a community or region and one that includes analysis, recommendations and proposals for the community’s population, economy, housing, transportation, community facilities and land use.

“Conditional use” means a use permitted in a particular zoning district only upon showing that such use in a specified location will comply with all the conditions and standards for the location or operation of such use as specified in a zoning ordinance and authorized by the governing body.
“Condominium” means the legal arrangement in which a dwelling unit in an apartment building or residential development or a retail or office unit in a commercial building or commercial development is individually owned but in which the common areas are owned, controlled and maintained through an organization consisting of all the individual owners.

“Construction and demolition waste” means waste building materials and rubble resulting from construction, remodeling, repair or demolition operations on houses, commercial buildings, other structures and pavements.

“Contractor’s office” means a building or portion of a building used for conducting business related to construction, including interior shops with minor fabrication and assembly processes that have minimal off-site impacts.

“Contractor’s yard” means an outdoor storage area operated by a contractor for the storage of equipment, vehicles, and materials commonly used in the contractor’s type of business.

“Conversion” means the change of the use of an existing building into another use.

“Correctional facility” means a public use facility providing housing and care for individuals confined for violations of law. Typical uses include jails, prisons, and juvenile detention centers. A correctional facility does not include a correctional placement residence or facility, general, or a correctional placement residence or facility, limited.

“Correctional placement residence or facility” means a facility for individuals or offenders that provides residential and/or rehabilitation services for those who reside or have been placed in such facilities due to any one of the following situations: (1) prior to, or instead of, being sent to prison; (2) received a conditional release prior to a hearing; (3) as a part of a local sentence of not more than one year; (4) at or near the end of a prison sentence, such as a state-operated or franchised work release program, or a privately operated facility housing parolees; or (5) received a deferred sentence and placed in a facility operated by community corrections. Such facilities will comply with the regulatory requirements of a federal, state or local government agency; and if such facilities are not directly operated by a unit of government they will meet licensure requirements that further specify minimum service standards.

“Correctional placement residence or facility, general” means a facility occupied by more than 15 individuals, including staff members who may reside there.

“Correctional placement residence or facility, limited” means a facility occupied by three to 15 individuals, including staff members who may reside there.

“Country club” means a land use consisting of both a golf course and a clubhouse building for social assembly, food and beverage preparation/service, pro shop, club office, recreational and physical exercise facilities including fitness center, spa, swimming pool, court games, locker and shower facilities; and vehicle parking areas and drives. Country club facilities are open to members and their guests for a membership fee.

“Court” means an open space which may or may not have street access, and around which is arranged a single building or group of related buildings.

“Court, inner” means that portion of a lot unoccupied by any part of a building, surrounded on all sides by walls or by walls and a lot line.

“Court, outer” means that portion of a lot unoccupied by any part of a building, opening onto a street, alley, or yard.

“Crisis center, type I” means a facility or portion thereof and premises which is used for purposes of emergency shelter, crisis intervention, including counseling, referral, hotline response, and similar human social service functions. Said facility shall not include meal preparation, except for residents of the center, distribution, or service; merchandise distribution; or shelter, including boarding, lodging, or residential care.

“Crisis center, type II” means a facility or portion thereof and premises which is used for purposes of emergency shelter, crisis intervention, including counseling, referral, hotline response, and similar human social service functions; meal preparation, distribution, and service; merchandise distribution; and temporary and/or transient shelter, including boarding and lodging facilities.
“Cultural facilities” means establishments such as museums, libraries, art galleries, botanical and zoological gardens of a historic, educational or cultural interest which are not operated commercially. (Ord. 20062 § 8, 4-18-17.)

18.55.040 “D” definitions.

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

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

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

Demolition Landfill. See “landfill, demolition.”

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

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

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

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

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

2. A record of having such an impairment; or

3. Being regarded as having such an impairment.

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

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

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

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

“Dormitory” means a building or part of a building operated by an institution and containing a room or rooms forming one or more habitable units which are used or intended to be used by residents of the institution for living and sleeping, but not for cooking or eating purposes.
“Drinking establishment” means a premise which may be open to the general public, where alcoholic liquor by the individual drink is sold.

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

“Dwelling” means a building or portion thereof, used exclusively for residential occupancy, including one-family, two-family and multiple-family dwellings, but not including hotels, motels, lodginghouses, boardinghouses, tourist homes, nor house trailers and mobile homes as defined by this chapter.

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

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

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

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

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

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

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

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

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

“Dwelling unit” consists of one or more rooms, including a bathroom and complete kitchen facilities, which are arranged, designed or used as living quarters for one family or household. (Ord. 20062 § 9, 4-18-17.)

18.55.050 “E” definitions.

“Easement” means a permanent or temporary grant of one or more of the property rights by the property owner to the public, a corporation or another person for the use of a portion of a lot or tract of land for specified purposes where title to said lot or land remains with the property owner.

“Eating place” means a retail establishment primarily engaged in the sale of prepared food and/or beverages.

“Educational institution” means a college, university or incorporated academy providing general academic instruction equivalent to the standards prescribed by the state Board of Education.

“Elderly housing” means a dwelling especially designed for use and occupancy of persons who are aged or who are handicapped (disabled) within the meaning of Section 202 of the Housing Act of 1959, Section 102(5) of the Development Disabilities Services and Facilities Construction Amendments of 1970 or Section 223 of the Social Security Act.
“Enlargement” or “to enlarge” means an addition to the floor area of an existing building, an increase in the size of any other structure, or an increase in that portion of a tract of land occupied by an existing use.

“Establishment” shall mean all the physical facilities, land and buildings or portions thereof, which when considered as a whole comprise a specific use.

“Exception” means the allowance of an otherwise prohibited use within a given district, such use and the conditions by which it may be permitted being clearly and specifically stated within these zoning regulations, and the allowance being by express permission of the board of zoning appeals.

Extension or To Extend. See “Enlargement” or “to enlarge.”

“Exterior wall surface” means the outside face of a wall, screen or material covering a building. (Ord. 19370 § 103, 3-23-10. Code 1995 Appx. C, Art. XXXV.)

18.55.060 “F” definitions.

“Fabrication” means that part of manufacturing which relates to stamping, cutting or otherwise shaping processed materials into objects and may include the assembly of standard component parts, but does not include extracting, refining, or other initial processing of basic raw materials.

“Family” means an individual or two or more persons related by blood, marriage, or legal adoption, or a group of not more than five persons (excluding servants) not related by blood or marriage, living together as a single housekeeping unit with common kitchen facilities in a dwelling unit.

“Farm winery” means a facility for the manufacture and storage of domestic table wine and domestic fortified wine for distribution, resale or wholesale, on or off premises, with a capacity of not more than 100,000 gallons per year; does not allow for agricultural production.

“Fence” means an artificial barrier, constructed from normally used fencing materials, that is erected to enclose or screen areas of land.

“Floor area, gross” means the sum of the gross horizontal areas of the several floors of a building, including interior balconies, mezzanines and accessory buildings. All horizontal dimensions are to be made between the exterior faces of the building walls, or in the case of a common wall separating two buildings, it shall be measured from the center of such common wall.

“Floor area, net” means the sum of the areas of the several floors of a structure, as measured by the exterior faces of the walls, including fully enclosed porches and the like as measured by the exterior limits thereof, but excluding (1) garage space which is in the basement of a building or, in the case of garage space accessory to a dwelling, is at grade, (2) basement and cellar areas devoted exclusively to uses accessory to the operation of the structure, and (3) areas elsewhere in the structure devoted to housing mechanical equipment customarily located in the basement or cellar such as heating and air conditioning equipment, plumbing, electrical equipment, laundry facilities, and storage facilities.

“Floor area ratio” means a mathematical expression determined by dividing the gross floor area of a building by the area of the lot on which it is located, as:

\[
\text{Gross floor area/Lot area} = \text{Floor area ratio}
\]

“Fraternity or sorority house, collegiate” means a building used by an association of students, meeting periodically, limited to members, normally having culinary and sleeping facilities.

“Frontage” means any lot line abutting a public street right-of-way. (Ord. 20062 § 10, 4-18-17.)

18.55.070 “G” definitions.

“Garage” means a building or structure, or part thereof, used, or intended to be used, for the parking and storage of vehicles.
“Garage, attached” means a private garage which has a roof or wall, or major portion of a roof or wall, in common with a dwelling. Where the garage is attached to a dwelling in this manner, it shall be subject to all yard requirements of the main building.

“Garage, private” means an accessory building designed or used for the storage of motor vehicles owned and used by the occupants of the building to which it is an accessory use.

“Garage, public” means a building, or portion thereof, other than a private customer and employee garage or private residential garage, used primarily for the parking and storage of vehicles and available to the general public.

“Garden, community” means an area of land managed and maintained by an individual or group of individuals for growing and harvesting, farming, community gardening, or any other use, which contributes to the production of agricultural, floricultural, or horticultural products for beautification, education, recreation, consumption, community or personal use, sale, or donation. This definition includes community gardens, private gardens, and community supported agriculture (CSA) uses under the blanket term “community garden.”

“Gardens, community (type I)” means a community garden no greater than two acres of cultivated area which permits sales of a temporary nature.

“Gardens, community (type II)” means a community garden with permanent produce sales structures or larger accessory structures than permitted in type I gardens.

“Golf course” means a tract of land for playing golf, improved with tees, greens, fairways, hazards, and which may include drives, vehicle parking and shelters.

“Governing body” means the mayor and city council of Topeka, Kansas.

Grade.

(1) For buildings having walls adjoining one street, the grade is the elevation of the sidewalk at the center of the building wall adjoining the street.

(2) For buildings having walls adjoining more than one street, the grade is the average of the elevation of the sidewalk, at the centers of the building walls adjoining the streets.

(3) For buildings having no wall adjoining the street, the grade is the average level of the finished surface of the ground adjacent to the exterior building walls. Any wall approximately parallel to and not more than five feet from a street line is to be considered as adjoining the street. Where no sidewalk exists the grade shall be established by the city engineer.

“Ground floor” means the first floor of a building other than a cellar or basement.

“Ground floor area” means the square foot area of a building within the largest outside dimensions, inclusive of the width of the outside walls but exclusive of open porches, breezeways, terraces, garages, exterior stairways, and secondary stairways.

“Group home” means a dwelling occupied by not more than 10 persons, including eight or fewer persons with a disability who need not be related by blood or marriage and not to exceed two staff residents who need not be related by blood or marriage to each other or to the residents of the home, which dwelling is licensed by a regulatory agency of this state. “Group home” does not include “group residence, general” or “group residence, limited.”

“Group residence, general” means a residential dwelling that is occupied by nine to 15 persons, including more than eight persons each with a disability, none of whom needs to be related by blood or marriage, that is not a “group home” as defined herein.

“Group residence, limited” means a residential dwelling that is occupied by not more than 10 persons, including a maximum of eight persons each with a disability and a maximum of two staff residents, none of whom needs to be related by blood or marriage, that is not a “group home” as defined herein. (Ord. 19921 § 6, 9-23-14.)
18.55.080  “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, boardinghome 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 is provided on a 24-hour-a-day basis for up to eight 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 is provided 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. (Ord. 19707 § 2, 2-28-12.)
18.55.090 “I” definitions.
“Improvement” means any building, structure, place, work of art, or other object constituting a physical betterment of real property, or any part of such betterment.

“Industrial park” is a special or exclusive type of planned industrial area designed and equipped to accommodate a community of industries, providing them with all necessary facilities and services in attractive surroundings among compatible neighbors.

“Institution” means a building occupied by a nonprofit corporation or nonprofit establishment dedicated for public service.

“Intensity” means the degree to which land is used.

“Intersecting street” means any street, public way or court which joins another at an angle, whether or not it crosses the other. (Ord. 19370 § 103, 3-23-10. Code 1995 Appx. C, Art. XXXV.)

18.55.100 “J” definitions.
“Junk” means any scrap, waste, reclaimable material or debris, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition. (Ord. 19370 § 103, 3-23-10. Code 1995 Appx. C, Art. XXXV.)

18.55.110 “K” definitions.
“Kennel” means any facility that is used for the boarding, breeding, raising and/or training of domestic animals for business or commercial purposes.

“Kitchen” means any room used, intended to be used or designed to be used either wholly or partly for cooking and/or the preparation of food. (Ord. 19370 § 103, 3-23-10. Code 1995 Appx. C, Art. XXXV.)

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

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

“Labor pool” means an agency that provides manual laborers who work by the day for daily wages.

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

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

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

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

“Land use plan” means a basic element of a comprehensive plan; it designates the future use or reuse of the land within a given jurisdiction’s planning area, and the policies and reasoning used in arriving at the decisions in the plan.
“Lattice tower” means a guyed or self-supporting three- or four-sided, open, steel frame structure used to support telecommunications equipment.

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

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

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

“Little free libraries” are structures for the storage of books or other nonperishable items made available to the general public for no remuneration, and which may be located on private property in a structure or receptacle of a limited size and volume.

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

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

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

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

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

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

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

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

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

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

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

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

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

“Lot lines” means the lines bounding a lot.

“Lot of record” means a lot which is part of a recorded subdivision plat or a parcel of land which has been recorded in the office of the Shawnee County register of deeds in accordance with the city of Topeka subdivision regulations in effect at the time of the lot’s creation.
“Lot, reversed corner” means a corner lot, the rear of which abuts the side of another lot.

“Lot width” means the distance between the side lot lines, measured along the setback line as established by this division or, if no setback line is established, the distance between the side lot lines measured along the street line. (Ord. 20062 § 11, 4-18-17.)

18.55.130 “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.

“Manufacturing/processing, type I” means a business engaged in the manufacturing of finished parts or products, primarily from previously prepared materials. Typical uses include: food manufacturing (excluding slaughterhouses and rendering); computer and electronic product manufacturing/assembly; electrical equipment, small appliance, component manufacturing/assembly; upholstery shops; ceramic shops; candle-making; custom jewelry manufacturing; production of instruments and lenses for medical, dental, optical, scientific and other professional purposes; musical instrument manufacturing; sign production; millwork and cabinet shops; and furniture and related product manufacturing/assembly.

“Manufacturing/processing, type II” means a business engaged in the manufacture, predominantly from previously prepared materials or from lightweight nonferrous materials, of finished products or parts, including processing, fabrication, assembly, treatment and packaging of such products; and incidental storage, sales and distribution of such products. Typical uses include: apparel and garment factories, large appliance manufacturing and assembly, beverage manufacturing and bottling (excluding microbreweries), glass and clay products manufacturing, boat building, jewelry manufacturing, laundry and dry cleaning plants, leather products manufacturing, meat cutting and wholesale storage, fabrication of metal products, transportation and large equipment manufacturing, pharmaceutical and toiletries manufacturing, monument and grave marker manufacturing, rubber and plastics products manufacturing, chemical manufacturing (excluding those considered type III), repair and servicing of industrial and large commercial equipment, tobacco products manufacturing, and toy manufacturing.

“Manufacturing/processing, type III” means a business engaged in the basic processing and manufacturing of products or materials predominately from raw or extracted materials, or a use involved in storage or manufacturing processes that may have an adverse impact on surrounding properties. Typical uses include: fat rendering plants; poultry and animal dressing; tanneries; stockyards; slaughterhouses; distillation of bones; garbage or dead animal incineration, reduction or dumping; glue manufacturing; pulp processing; steel works; metal smelting; acid, ammonia, chlorine, insecticides, poisons, or arsenal manufacturing or wholesale storage; central mixing plant for concrete, cement or asphalt; cement, lime, or gypsum manufacturing; fertilizer manufacturing; gas manufacturing; explosive manufacturing or wholesale storage; and petroleum refineries or wholesale storage of gasoline.

“Market, farmer’s” means an occasional or periodic market held in an open area or in a structure where groups of individual sellers offer the retail sale of fresh produce, seasonal fruits, meats, dairy products, prepared foods and beverages, fresh flowers, and arts and crafts items (but not to include second-hand goods) dispensed from booths or vehicles.

“Medical care facility, type I” means a dwelling 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.

“Medical care facility, 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 accommodation, board, residential and
personal care, nursing care (simple, supervised, or skilled) is provided to three or more individuals who are not acutely ill and not in need of hospital care, but who may require nursing care and domiciliary care due to functional impairments typically caused by aging, mental retardation, or mental health issues; 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 operated on a 24-hour-a-day basis.

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

“Micro-alcohol production” means a facility in which beer, wine, or spirits are brewed, fermented, or distilled for distribution and consumption, and possesses the appropriate license from the state; includes micro-breweries, farm wineries and micro-distilleries. Tap/tasting rooms are permitted as an accessory use.

“Micro-brewery” means a facility for the production and packaging of beer and/or hard cider for distribution, retail or wholesale, on or off premises, with a capacity of not more than 15,000 barrels per year.

“Micro-distillery” means a facility for the production and packaging of spirits for distribution, retail or wholesale, on or off premises, with a capacity of not more than 50,000 gallons per year.

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

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

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

“Mobile retail vendor” means a mobile food vendor, sidewalk vendor and a transient vendor as defined at TMC 5.115.010.

“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. (Ord. 20062 § 12, 4-18-17.)

18.55.140 “N” definitions.

“Neighborhood” means the smallest subarea in planning, defined as a residential area whose residents have public facilities and social institutions in common, generally within walking distance of their homes.

“Nonconforming lot” means a lot which was lawful prior to the adoption or amendment to a zoning ordinance but which fails by reason of such adoption or amendment to conform to the present requirements for lots of its zoning district.

“Nonconforming structure or building” means a structure or building, the size, dimension or location of which was lawful prior to the adoption or amendment to a zoning ordinance but which fails, by reason of such adoption or amendment, to conform to the present requirements of the zoning district.
“Nonconforming use” means a use or activity which was lawful prior to the adoption or amendment of a zoning ordinance but which fails, by reason of such adoption or amendment, to conform to the present requirements of the zoning district. (Ord. 19370 § 103, 3-23-10. Code 1995 Appx. C, Art. XXXV.)

18.55.150  “O” definitions.
“Occupancy, change of” means a discontinuance of an existing use and substitution of a use of a different kind.

“Occupy” means to take or maintain possession of, reside in, or utilize.

“Office” means a building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations.

“Open space” means ground area and the space above which is unimpeded with any enclosed building. Open space areas may be used for landscaping, water bodies, stormwater management systems, sidewalks, walking trails, courtyards, and passive recreational purposes. Parking lots and storage areas for vehicles, equipment, and material shall not be considered as open space. Open space is the area remaining on a lot or land after subtracting “lot coverage,” as defined at TMC 18.55.120.

“Owner” means an individual, firm, association, syndicate, partnership, or corporation holding title to or having sufficient proprietary interest to seek permits for development of land.

“Ownership certificate (certificate of ownership)” means a listing of properties within an identified area by legal description and address, together with corresponding ownership of those having proprietary ownership for purposes of notification. (Ord. 19921 § 9, 9-23-14.)

18.55.160  “P” definitions.
“Parcel” means a lot, or contiguous group of lots in single ownership or under single control and usually considered a unit for purposes of development.

“Park” means a tract of land open to use by the public for open space, cultural activities, or active and passive recreational purposes. It may include the following accessory uses: swimming pools, spray parks, court and field games, shelters, preserve and natural areas, historic sites, museums, botanical gardens, arboretums, performing art or live theaters, aquariums, planetariums, wildlife preserves, dog parks, boat ramps, fishing piers, zoos, and similar facilities, including related maintenance and support facilities.

“Parking aisle” means a paved surface which is connected directly to a parking space and designated to permit ingress or egress of a vehicle to or from the parking space. In no case can a parking aisle be a driveway.

“Parking lot” means an off-street, ground-level area, surfaced in accordance with the standards and specifications of the city of Topeka for the temporary storage of motor vehicles.

“Parking space” means a paved surface, exclusive of an aisle, which is intended for off-street vehicular parking.

“Performance standards” means specific criteria limiting the operations of certain industries, land uses, and buildings to acceptable levels of noise, air pollution emissions, odors, vibration, dust, dirt, glare, heat, fire hazards, wastes, traffic generation and visual impact.

“Permitted use” means any use authorized in a particular zoning district.

“Person” means a corporation, company, association, society, firm, partnership or joint stock company as well as an individual, a state and all political subdivisions of a state or any agency or instrumentality thereof.

“Personal care” means protective care with or without watchful oversight of a resident who does not have an illness or a condition which requires chronic or convalescent medical or nursing care with a 24-hour responsibility for the safety of the resident when in the building.
“Personal services” means establishments primarily engaged in providing services involving the care of a person and his or her apparel. These include beauty, cosmetic and barber shops; self-service laundromats; dry cleaning and laundry receiving stations with processing elsewhere; tanning salons, and tailor and shoe repair shops.

“Pharmacy” means a place where drugs, prostheses, rehabilitation equipment and medicines are prepared and dispensed.

“Pickup truck” means a motor vehicle not exceeding 15,000 pounds gross vehicle weight manufactured with a cab for passengers, and an open-top rear cargo area (bed) of four to eight feet in length, with low sides along the bed, and a rear tailgate, or a flat or stake bed not exceeding seven and one-half feet in width and nine feet in length.

“Planned unit development (PUD)” means a form of development characterized by a unified site design for a number of housing units, clustering buildings and providing common open space, density increases, and a mix of building types and land uses.

“Planning commission” means the Topeka planning commission.

“Plat of a subdivision” means a plan or map prepared in accordance with the provisions of applicable subdivision regulations.

Platting. Whenever the term “platting” or “platted” is used within these zoning regulations it shall refer to the process established by the subdivision regulations of the city of Topeka, Kansas (Division 3 of this title).

“Porch, open” means a roof partially supported by columns or wall sections.

“Preapplication conference” means discussions held between developers and public officials, usually members of the planning staff, before formal submission of an application for a permit or for subdivision plat approval.

“Premises” means any lot or tract, or combination of contiguous lots or tracts of land held in single ownership, together with the improvements thereon; a condominium complex constitutes one premises.

“Principal use” means the main use of land or structures as distinguished from a secondary or accessory use.

“Professional office” means the office of a person engaged in any occupation, vocation, or calling, not purely commercial, mechanical, or agricultural, in which a professed knowledge or skill in some department of science or learning is used by its practical application to the affairs of others, either advising or guiding them in serving their interest or welfare through the practice of an act found thereon.

“Provisional use” means a principal use which is allowed in the zone in which listed, provided it complies with the additional regulations listed for the use and all other dimensional and special (if any) requirements of the zone in which listed.

“Public or private educational facility” means a public elementary, secondary, or high school and private schools with curricula equivalent to that of a public elementary, secondary or high school.

“Public use facility” means any building, structure, utility, or land held, used, or controlled exclusively for public purposes by any department or branch of government: federal, state, county, or municipal or subdivision thereof.

“Public utility” means any business or enterprise which furnishes the general public telephone, cable, electric, Internet, natural gas, water, or sewer service, and is subject to supervision or regulation by an agency of the state or federal government.

“Public utility facilities, type I” means water lines, sewer lines, poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves, hydrants, and small unenclosed booster or pump stations, and other similar facilities located on public rights-of-way, public property, or public easements and operated by a public utility.

“Public utility facilities, type II” means substations, medium and large booster or pump stations, distribution stations, treatment plants, transmission equipment buildings, towers or reservoirs, and similar uses facilitating utility
transmission, distribution, and collection systems located on public rights-of-way, public property, or public easements and operated by a public utility.

“Public way” means any sidewalk, street, alley, highway or other thoroughfare dedicated for public use. (Ord. 20062 § 13, 4-18-17.)

18.55.170 “Q” definitions.
“Quarry” means a place where rock, ore, stone and similar materials are excavated for sale or for off-tract use. (Ord. 19370 § 103, 3-23-10. Code 1995 Appx. C, Art. XXXV.)

18.55.180 “R” definitions.
“Railroad right-of-way” means a strip of land with tracks and auxiliary facilities for track operation, but not including freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops, or car yards.

“Reclassification” means a form of rezoning in which the zone designation of an area or particular property is changed by changing the zoning map.

“Recreation, indoor (type I)” means lower intensity recreational activities including: swimming pools, racquetball courts, gymnasiums, health and fitness clubs, athletic clubs, roller and ice skating rinks, ice hockey, bingo parlor, laser tag, yoga studio, martial arts training, and similar activities.

“Recreation, indoor (type II)” means higher intensity recreational uses including: pool and billiard halls, bowling alleys, arcades, indoor amusement parks, and similar activities.

“Recreation, outdoor (type I)” means low intensity activities including: shuffleboard and bocci ball courts, tennis and basketball courts, swimming pools, horse shoe pits, golf courses including their associated driving/putting ranges, clubhouses, and similar activities.

“Recreation, outdoor (type II)” means medium intensity activities including: batting cages, dog parks, miniature golf, driving ranges, model airplane flying areas, and similar activities.

“Recreation, outdoor (type III)” means high intensity activities including: go kart tracks, horse and auto race tracks, drag strips, motorized kiddie parks, amusement parks, sport stadiums/complexes and arenas, outdoor concert, music, performance, theater venues, and similar activities.

“Recreational vehicle campground” means a plot of ground upon which 24 or more campsites are located, established or maintained for occupancy by camping units of the general public as temporary living quarters for recreation, education or vacation purposes.

“Refuse/solid waste” means garbage and other discarded materials including, but not limited to, solid, semisolid, sludges, liquid and contained gaseous waste materials resulting from industrial, commercial, agricultural and domestic activities. Such term shall not include hazardous wastes.

“Religious assembly” means a structure or place in which worship, ceremonies, rituals, interment of the human dead, and education pertaining to a particular system of beliefs are held.

“Research laboratory” means an establishment for investigation in the natural, physical or social sciences, or engineering and development as an extension of investigation with the objective of creating products.

“Residence” means a home, dwelling or place where an individual is actually living at a specific point in time.

“Residential board and care facility” means a building or part thereof that is used for the lodging and boarding of nine or more residents not related by blood or marriage to the owners or operators to provide personal care and/or counseling services, but not to provide nursing care.

“Residential care” means providing various levels of some or all of the following care and assistance as well as these services generally so associated to permit individuals to live and function as independently as possible all on a
24-hour-a-day basis: food and dietetic services; transportation, social, educational, recreational, and activity arrangements; personal services, personal care and domiciliary assistance; watchful and protective oversight; simple nursing care; and supervision.

“Residential care facility, type I” means a nonsecure dwelling building or portion thereof, and premises, operated and licensed in accordance with any and all applicable state and local requirements, functioning as one dwelling unit in which residential care for profit or not-for-profit is provided to children and/or adults unrelated by blood, adoption, or marriage to the caregivers, administrator or owner, on a 24-hour-a-day basis to a maximum of four persons.

“Residential care facility, type II” means a nonsecure dwelling building or portion thereof, and premises, operated and licensed in accordance with any and all applicable state and local requirements, functioning as one dwelling unit in which residential care for profit or not-for-profit is provided to children and/or adults unrelated by blood, adoption, or marriage to the caregivers, administrator or owner, on a 24-hour-a-day basis to a maximum of 10 persons.

“Residential care facility, type III” means a nonsecure dwelling building or portion thereof, and premises, operated and licensed in accordance with any and all applicable state and local requirements, in which residential care for profit or not-for-profit is provided to children and/or adults unrelated by blood, adoption or marriage to the caregivers, administrator or owner, on a 24-hour-a-day basis.

“Residential-design manufactured home” means a manufactured home on a permanent foundation which has: (1) minimum dimensions of 22 body feet in width, (2) a pitched roof, and (3) siding and roofing materials which are customarily used on site-built homes.

“Restaurant” means a public eating establishment in which the primary function is the preparation and serving of food and beverage; and which may be family dining, carry-out, drive-in or fast food type.

“Restaurant, carry-out” means an establishment which by design of physical facilities or by service or packaging procedures permits or encourages the purchase of prepared ready-to-eat food and beverage intended primarily to be consumed off the premises, and where the consumption of food and beverage in motor vehicles on the premises is not permitted or not encouraged.

“Restaurant, drive-in” means a building or portion thereof where food and/or beverages are sold in a form ready for consumption and where all or a significant portion of the consumption takes place or is designed to take place outside the confines of the building, often in a motor vehicle on the site.

“Restaurant, family dining” means a public eating establishment in which the primary function is the preparation and serving of food and beverage for consumption on the premises.

“Restaurant, fast-food” means an establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building or off premises with significant off-premises sales typically being accomplished via a drive-through window.

“Retail sales/service” means merchandising and repair activities of products having minimal impacts on nearby residents, specifically including shops for: apparel and accessories, bicycles, blueprinting, books, cards, cameras, computers, cosmetics, crafts, electronics, florists, food, gifts, home furnishings, jewelry, locksmith, music/video, musical instruments, office supplies, picture framing, small home appliances, sporting goods (excluding gun and ammunition sales/service), toys, travel agency, variety, and similar services.

“Retail store” means any building or structure in which one or more articles of merchandise or commerce are sold at retail, including department stores.

“Retail trade” means establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.
“Rezoning” means an amendment to or a change in the district map provided by an ordinance or resolution, as applicable to the subject jurisdiction.

“Riding academy” means an establishment where horses are boarded and cared for and where instruction in riding, jumping and showing is offered and the general public may, for a fee, hire horses for riding.

“Room” means any enclosed division of a building containing over 70 square feet of floor space and commonly used for living purposes, not including lobbies, halls, closets, storage space, bathrooms, utility rooms, and unfinished attics, cellars or basements. An “enclosed division” is an area in a structure bounded along more than 75 percent of its perimeter by vertical walls or partitions, or by other types of dividers which serve to define the boundaries of the division.

“Rural home, suburban home” means a residence located in the urban fringe or rural area that is occupied or intended to be occupied by a family or persons who are not engaged in agricultural pursuits on the premises or zoning lot. (Ord. 20062 § 14, 4-18-17.)

18.55.190 “S” definitions.

“School” means any building or part thereof which is or was designed, constructed or used for education or instruction in any branch of knowledge, including any re-use for office or administrative functions designed to support school services or programs.

“School, elementary” means any school licensed by the state and which meets the state requirements for elementary education.

“School, private” means any building or group of buildings the use of which meets state requirements for primary, secondary or higher education and which use does not secure the major part of its funding from any governmental agency.

“School, secondary” means any school licensed by the state and which is authorized to award diplomas for secondary education.

“School, vocational” means a secondary or higher education facility primarily teaching usable skills that prepare students for jobs in a trade and meeting the state requirements as a vocational facility.

“Self-storage, type I” means a low intensity indoor facility serving the temporary storage needs for individuals and small businesses. Individual units have indoor accesses only via hallways and no business activities shall occur on the premises except for the leasing of the units.

“Self-storage, type II” means an indoor and/or outdoor facility to meet the temporary storage needs for individuals and small businesses. Individual units may have their own exterior access; the outdoor storage of recreational vehicles, boats, and motor vehicles are permitted; and no business activities shall occur on the premises except for the leasing of the units.

“Setback” means the minimum required distance between a building and the lot line or street right-of-way line, whichever is applicable.

“Setback line” means that line that is the required minimum distance from the street right-of-way line or any other lot line that establishes the area within which the principal structure must be erected or placed.

“Setback regulations” means the requirements of building laws that a building be set back a certain distance from the street or lot line either on the street level or at a prescribed height.

“Sewage system” means a facility designed for the collection, removal, treatment and disposal of waterborne sewage generated within a given service area.

“Shop” means a use devoted primarily to the sale of a service or a product or products, but the service is performed or the product to be sold is prepared in its finished form on the premises.
“Shopping center” means a group of retail stores, originally planned and developed as a single unit, with immediate adjoining off-street parking facilities.

“Sign” means any outdoor device, structure, fixture or placard using graphics, symbols, and/or written copy designated for the purpose of advertising or identifying any establishment, product, goods, services, activities, or uses.

“Sign, animation” means the use of movement or some element thereof, to depict action or create a special effect or scene.

“Sign area” means the total area of the space to be used for advertising purposes, including the spaces between open-type letters and figures, including the background structure or other decoration or addition which is an integral part of the sign. Sign supports shall be excluded in determining the area of a sign. A double-faced sign shall have twice the total area of a single-faced sign.

“Sign, billboard” or “panel poster” means any sign used as an outdoor display for off-premises advertising.

“Sign, business” means a sign which identifies a business, product, service or activity conducted or sold on the premises where the sign is displayed.

“Sign, dwell time” means the interval of time between individual messages on an electronic message center sign.

“Sign, electronic message center” (EMC) means an electrically activated changeable sign whose variable message and/or graphic presentation capability can be electronically programmed by computer from a remote location. EMCs typically use light emitting diodes (LEDs) as a lighting source.

“Sign, flashing” means a pattern of changing light illumination where the sign illumination alternates suddenly between fully illuminated and fully nonilluminated or fully illuminated in one color to fully illuminated in another color in a period of less than one second for the purpose of drawing attention to the sign. Chasing/running lights, spinning, strobing, and frame effects are included.

“Sign, frame effects” means a visual effect on an electronic message center sign applied to a single frame to transition from one message to the next.

“Sign, illuminated” means a sign designed to give forth any artificial light or reflect such light from an artificial source.

“Sign, off-premises directional” means a small off-premises sign intended to allow for the safe and efficient flow of vehicular traffic to the site.

“Sign, real estate” means a sign pertaining to the sale or lease of the lot or tract of land on which the sign is located or to the sale or lease of one or more structures or a portion thereof located on such lot or tract of land.

“Sign, scrolling” means a mode of message transition on an EMC sign in which the message appears to move vertically or horizontally across the display surface.

“Site” means a specific location for the placement, erection or construction of a building, facility or establishment.

“Site-built home” means a home on a permanent foundation erected by the process of assembling individual building materials or members on site and subject to adopted construction codes and safety standards.

“Site plan” means a plan to scale, showing accurately and with complete dimensioning the boundaries of a site and the location of all buildings, structures, uses, drives, parking, drainage, landscaping, and other principal site development improvements for a specific parcel of land.

“Specified anatomical area” means less than completely or opaque covered human genitals, pubic region, and human male genitals in a discernibly turgid state, even if completely and opaque covered.
“Specified sexual activities” means human genitals in a state of sexual stimulation or arousal; acts of human
masturbation, sexual intercourse or sodomy; and fondling or other erotic touching of human genitals or pubic region.

“Stacking space” means a paved surface which is designed to accommodate a motor vehicle waiting for entry to any
drive-through facility or auto-oriented use, which is located in such a way that a parking space or access to a parking
space is not obstructed, and which is at least nine feet in width and 19 feet in length. Stacking spaces commence 10
feet behind the middle of the pickup window.

“Standards” means site design regulations such as lot area, height limits, frontage, landscaping, yards, and floor area
ratio – as distinguished from use restrictions.

“Storage” means holding or safekeeping goods in a warehouse or other depository to await the happening of some
future event or contingency which will call for the removal of the goods.

“Street” means a right-of-way dedicated to the public use, or a private right-of-way serving more than one
ownership, which provides principal vehicular and pedestrian access to adjacent properties.

“Street line” means a dividing line between a lot and a street right-of-way.

“Structural alterations” means any change in the supporting members of a building, such as bearing walls or
partitions, columns, beams or girders, or any substantial change in the roof or in the exterior walls.

“Structurally altered” means the making of such a substantial change in the construction, identity, and use of the
present building.

“Structure” means anything which is built or constructed, an edifice or building of any kind, or any place of work
artificially built up or composed of parts joined together in some definite manner, which requires location on the
ground or is attached to something having a location on the ground. It includes buildings, towers, cages for
transformer substations, pergolas, and billboards but excludes poles, fences, retaining walls, air-conditioning units,
posts, and other minor incidental improvements.

“Stub street” means a nonpermanent dead-end street that is intended to be extended in conjunction with the
subdivision and development of the adjacent unplatted land. Access from the stub street shall be permitted only
along the frontage of such street to the lots in the subdivision containing the stub street.

“Subdivision” means division of a lot, tract or parcel of land into two or more parts for the purpose of ownership or
building development.

Subdivision Plat. See “plat of a subdivision.” (Ord. 19921 § 12, 9-23-14.)

18.55.200 “T” definitions.

“Tap/tasting room” means an area included on site that is accessory to micro-alcohol production to allow customers
to taste samples of products manufactured on site and purchase related items.

“Temporary use” means a use of land, buildings or structures not intended to be of permanent duration.

“Theater” means a structure used for dramatic, operatic, motion pictures, or other performance, for admission to
which entrance money is received and no audience participation or meal service allowed.

“Tract” means an area or parcel of land other than a lot described and recorded in the office of the register of deeds
of Shawnee County as a single parcel of land under individual ownership.

“Traffic impact analysis (TIA)” means a specialized study of the impact a development will have on the surrounding
transportation system. It is specifically concerned with the generation, distribution, and assignment of traffic to and
from a proposed development. The purpose of a TIA is to determine what impact that traffic will have on the
existing and proposed roadway network, and what impact the existing and projected traffic on the roadway system
will have on the proposed development. It will provide a credible basis for estimating roadway and on-site
improvement requirements attributable to a particular project, and assess the compatibility of local transportation
plans. The specific content of a TIA may vary depending upon the site, prevailing conditions, and safety considerations as expressed by reviewing staff during the preapplication conference, and shall conform to the recommended practice methods of the Institute of Transportation Engineers.

“Transmission tower” means a structure principally intended to support a source of nonionizing electromagnetic radiation (NIER) and accessory equipment related to telecommunications, other than the following uses which are exempt from this division:

1. Portable, handheld and vehicular transmissions;
2. Industrial, scientific and medical equipment operating at frequencies designated for that purpose by the FCC;
3. A source of nonionizing electromagnetic radiation with an effective radiated power of seven watts or less;
4. A sole-source emitter with an average output of one kilowatt or less if used for amateur purposes;
5. Marketed consumer products, such as microwave ovens, citizens band radios, and remote control toys; and
6. Goods in storage or shipment or on display for sale, provided the goods are not operated, except for occasional testing or demonstration.

“Truck stop” means a facility that provides services to the trucking industry, including but not limited to the following: dispensing of fuel, repair shops for large trucks, automated washes, restaurants, motels, overnight sleeping quarters, parking areas for large trucks, resting areas for trucks and drivers, all as part of a primary use.

18.55.210 “U” definitions.
“Urban design” means building and/or development plans prepared in a manner as to be harmonious with existing quality development found in downtown and inner areas of cities.

“Urban fringe” means an area at the edge of an urban area usually made up of mixed agricultural and urban land uses.

“Use” means the purpose or activity for which a piece of land or its buildings is designed, arranged, or intended, or for which it is occupied or maintained.

“Utility services” means establishments engaged in the generation, transmission and/or distribution of electricity, communications, gas or steam, including water and irrigation systems and sanitary systems used for the collection and disposal of garbage, sewage and other wastes by means of destroying or processing materials.

18.55.220 “V” definitions.
“Variance” means a device which grants a property owner relief from certain provisions of a zoning ordinance when, because of the particular physical surroundings, shape, or topographical condition of the property, compliance would result in a particular hardship upon the owner.

“Vehicle, motor” means a self-propelled device used for transportation of people or goods over land, but not on rails, and licensed through a state agency as such.

“Vehicle, motor bicycle” means a device a person may ride upon which may be propelled by either human power or helper motor or by both and has two tandem or three wheels with a cylinder capacity of not more than 130 cubic centimeters and a maximum design speed of no more than 30 miles per hour.

“Vehicle, motor scooter” means a self-propelled device a person may ride upon having two tandem or three wheels each not greater than 12 inches in diameter and in contact with the ground, a saddle seat, handle bars, and an electric or gas motor no more than 200 cubic centimeters. A motor scooter may or may not require a state of Kansas class M motorcycle license.
“Vehicle, recreational” means a vehicular-type portable structure without a permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodation for recreational, camping and/or travel use and including but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes.

“Vehicular (motor) sales area” means an open area, other than a right-of-way or public parking area, used for display, sale or rental of new or used vehicles in operable condition and where incidental minor vehicle repair work may be done.

Vested Right. A right is vested when it has become absolute and fixed and cannot be defeated or denied by subsequent conditions or change in regulations, unless it is taken and paid for. (Ord. 19370 § 103, 3-23-10. Code 1995 Appx. C, Art. XXXV.)

18.55.230 “W” definitions.
“Warehouse” means a building used primarily for the storage of goods and materials.

“Width” means a dimension measured from side to side at right angles to length. (Ord. 19370 § 103, 3-23-10. Code 1995 Appx. C, Art. XXXV.)

18.55.240 “X” definitions.
Reserved. (Code 1995 Appx. C, Art. XXXV.)

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

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

“Yard, rear” means a yard extending the full width of the lot on which a principal building is located and situated between the rear lot line and a line parallel thereto and passing through the nearest point of the principal building. On corner lots, the rear yard shall be determined pursuant to TMC 18.230.030.

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

“Yard, side” means a yard on the same lot as a building situated between the side lot line and a line parallel thereto and passing through the nearest point of a building, and extending from the front yard to the rear yard; or, in the case of a double frontage lot, extending from one front yard to the second front yard. (Ord. 19568 § 3, 5-24-11.)

18.55.260 “Z” definitions.
“Zone” means an area within which certain uses of land and buildings are permitted and certain others are prohibited, yards and other open spaces are required, lot areas, building height limits, and other requirements are established, all of the foregoing being identical for the zone in which they apply.

“Zoning district” means a specifically delineated area or section of the city of Topeka shown on the zoning map within which regulations and requirements uniformly govern the use, placement, spacing and size of land and buildings.

“Zoning lot” means a parcel of land under single ownership that is of sufficient size to meet minimum zoning requirements for area, coverage, and use, and that can provide such yards and other open spaces as required by this division.

“Zoning map” means the official map or maps which are a part of the zoning ordinance and delineate the boundaries of the zoning districts.
Chapter 18.60

USE TABLES – DENSITY/DIMENSIONAL STANDARDS

Sections:
18.60.010 Use tables.
18.60.020 Density/dimensional standards.

18.60.010 Use tables.
The use matrix tables establish the land uses for the zoning districts identified in the tables below.
Use Matrix
<table>
<thead>
<tr>
<th>Use Description</th>
<th>Approval Levels</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td># = See Definition in Chapter 18.55 Topeka Municipal Code</td>
</tr>
<tr>
<td>Assisted Living Facility #</td>
<td>C = Conditional Use Permit (CUP) approved by Governing Body</td>
</tr>
<tr>
<td>Bed &amp; Breakfast Home #</td>
<td>S/C = If unable to meet Special Use Requirements, may apply for CUP.</td>
</tr>
<tr>
<td>Bed &amp; Breakfast Inn #</td>
<td>C = Conditional Use Permit (CUP) approved by Governing Body</td>
</tr>
<tr>
<td>Boarding House #</td>
<td>S/C = If unable to meet Special Use Requirements, may apply for CUP.</td>
</tr>
<tr>
<td>Caretaker's Residence</td>
<td>C = Conditional Use Permit (CUP) approved by Governing Body</td>
</tr>
<tr>
<td>Community Living Facility, Type I #</td>
<td>C = Conditional Use Permit (CUP) approved by Governing Body</td>
</tr>
<tr>
<td>Community Living Facility, Type II #</td>
<td>S/C = If unable to meet Special Use Requirements, may apply for CUP.</td>
</tr>
<tr>
<td>Correctional Placement Residence or Facility General #</td>
<td>C = Conditional Use Permit (CUP) approved by Governing Body</td>
</tr>
<tr>
<td>Correctional Placement Residence or Facility Limited #</td>
<td>S/C = If unable to meet Special Use Requirements, may apply for CUP.</td>
</tr>
<tr>
<td>Crisis Center, Type I #</td>
<td>S/C = If unable to meet Special Use Requirements, may apply for CUP.</td>
</tr>
<tr>
<td>Crisis Center, Type II #</td>
<td>C = Conditional Use Permit (CUP) approved by Governing Body</td>
</tr>
<tr>
<td>Dwelling, Detached Single-Family #</td>
<td>C = Conditional Use Permit (CUP) approved by Governing Body</td>
</tr>
<tr>
<td>Dwelling, Attached Single-Family #</td>
<td>C = Conditional Use Permit (CUP) approved by Governing Body</td>
</tr>
<tr>
<td>Dwelling, Two-Family # (Duplex)</td>
<td>C = Conditional Use Permit (CUP) approved by Governing Body</td>
</tr>
<tr>
<td>Dwelling, Three/Four Family</td>
<td>C = Conditional Use Permit (CUP) approved by Governing Body</td>
</tr>
<tr>
<td>Dwelling, Accessory #</td>
<td>C = Conditional Use Permit (CUP) approved by Governing Body</td>
</tr>
<tr>
<td>Dwelling Units Above Ground Floor or Basement</td>
<td>C = Conditional Use Permit (CUP) approved by Governing Body</td>
</tr>
<tr>
<td>Dwelling Units on main floor</td>
<td>C = Conditional Use Permit (CUP) approved by Governing Body</td>
</tr>
<tr>
<td>Group Home #</td>
<td>C = Conditional Use Permit (CUP) approved by Governing Body</td>
</tr>
<tr>
<td>Group Residence, General #</td>
<td>C = Conditional Use Permit (CUP) approved by Governing Body</td>
</tr>
<tr>
<td>Group Residence, Limited #</td>
<td>C = Conditional Use Permit (CUP) approved by Governing Body</td>
</tr>
<tr>
<td>Home Care, Type I #</td>
<td>C = Conditional Use Permit (CUP) approved by Governing Body</td>
</tr>
<tr>
<td>Home Care, Type II #</td>
<td>C = Conditional Use Permit (CUP) approved by Governing Body</td>
</tr>
<tr>
<td>Management/Letting Facilities</td>
<td>C = Conditional Use Permit (CUP) approved by Governing Body</td>
</tr>
</tbody>
</table>

### Approval Levels

- **#** = Allowed Use
- **S** = Allowed per Special Use Requirements under Chapter 18.225
- **S/C** = If unable to meet Special Use Requirements, may apply for CUP.
- **C** = Conditional Use Permit (CUP) approved by Governing Body

### Districts

- **M-1** Two Family Dwelling
- **M-1a** Limited Multiple Family Dwelling
- **M-2** Multiple Family Dwelling
- **O-1** Office And Institutional
- **O-2** Office And Institutional
- **C-1** Commercial
- **C-2** Commercial
- **C-3** Commercial
- **C-4** Commercial
- **C-5** Light Industrial
- **U-1** University
- **X-1** Medical Use
- **X-2** Mixed Use
- **D-1** Downtown Mixed Use
- **D-2** Downtown Mixed Use
- **RR-1** Residential Reserve
- **OS-1** Open Space
<table>
<thead>
<tr>
<th>Use</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medical Care Facility, type I #</td>
<td>Dwelling for the personal nursing care &amp; treatment for up to 2 persons</td>
</tr>
<tr>
<td>Medical Care Facility, type II #</td>
<td>Dwelling for the personal nursing care &amp; treatment for more than 3 persons</td>
</tr>
<tr>
<td>Mobile Home #, Manufactured Home #</td>
<td>Residential structure manufactured off-site excluding “residential-design manufactured home”</td>
</tr>
<tr>
<td>Residential-Design Manufactured Home #</td>
<td>At least 22’ wide on a permanent foundation, pitched roof, and siding/roofing materials similar to site-built homes except in R-4.</td>
</tr>
<tr>
<td>Residential Care Facility, Type I #</td>
<td>Nonsecure dwelling in which residential care is provided for children and/or adults on a 24-hour basis, up to 4 persons</td>
</tr>
<tr>
<td>Residential Care Facility, Type II #</td>
<td>Nonsecure dwelling in which residential care is provided for children and/or adults on a 24-hour basis, up to 10 persons</td>
</tr>
<tr>
<td>Residential Care Facility, Type III #</td>
<td>Nonsecure dwelling in which residential care is provided for children and/or adults on a 24-hour basis</td>
</tr>
<tr>
<td>Student or Faculty Housing</td>
<td>Refer to TMC 18.225 Dwelling Units on main floor</td>
</tr>
</tbody>
</table>

### Approval Levels

- **●** = Allowed Use
- **$** = Allowed per Special Use Requirements under Chapter 18.225
- **S/C** = If unable to meet Special Use Requirements, may apply for CUP
- **C** = Conditional Use Permit (CUP) approved by Governing Body

# = See Definition in Chapter 18.55 Topeka Municipal Code

See Design Standards for "X" & "D" Districts
<table>
<thead>
<tr>
<th>Use Description</th>
<th>Approval Levels</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civic, Cultural and Recreational Facilities</td>
<td>+ = Allowed Use</td>
</tr>
<tr>
<td>Art and Portrait Galleries</td>
<td>S = Allowed per Special Use Requirements under Chapter 18.225</td>
</tr>
<tr>
<td>Artist Studios</td>
<td>S/C = If unable to meet Special Use Requirements, may apply for CUP.</td>
</tr>
<tr>
<td>Cemetery</td>
<td>C = Conditional Use Permit (CUP) approved by Governing Body</td>
</tr>
<tr>
<td>Class 'A' &amp; 'B' Clubs</td>
<td></td>
</tr>
<tr>
<td>Class 'A' &amp; 'B' Clubs #</td>
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<tr>
<td>Club or Lodge, Private # (excludes Class 'A' &amp; 'B' Clubs)</td>
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<tr>
<td>Common Open space # (within a development and for its occupants)</td>
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<tr>
<td>Community Center #</td>
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<tr>
<td>Cultural Facility #, Museum #</td>
<td></td>
</tr>
<tr>
<td>Day Care Facility, Type I #</td>
<td></td>
</tr>
<tr>
<td>Day Care Facility, Type II # (Includes Child Cares and Pre-Schools)*</td>
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<tr>
<td>Fairgrounds</td>
<td></td>
</tr>
<tr>
<td>Farmers' Market #</td>
<td></td>
</tr>
<tr>
<td>Gardens, Community Type I #</td>
<td></td>
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<tr>
<td>Gardens, Community Type II #</td>
<td></td>
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<tr>
<td>Golf Course #, Country Club #</td>
<td></td>
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<tr>
<td>Government Services, Type I</td>
<td></td>
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<tr>
<td>Government Services, Type II</td>
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<tr>
<td>Open Spaces #</td>
<td></td>
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<tr>
<td>Private Residential Recreational Facility (allows Clubhouse, Recreation, Indoor Type I) and Recreational, Outdoor Type I* uses)</td>
<td></td>
</tr>
<tr>
<td>Public Utility Facilities, Type I # (See Section 18.50.100(c)(1)1) of Topeka Municipal Code</td>
<td></td>
</tr>
<tr>
<td>Public Utility Facilities, Type II # (See Section 18.50.100(c)(1)2) of Topeka Municipal Code</td>
<td></td>
</tr>
<tr>
<td>Reception, Conference, and Assembly Facilities</td>
<td></td>
</tr>
<tr>
<td>Recreation, Indoor Type I # (lower intensity recreational uses)</td>
<td></td>
</tr>
<tr>
<td>Recreation, Indoor Type II # (higher intensity recreational uses)</td>
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</tr>
<tr>
<td>Recreation, Outdoor Type I # (low intensity recreational uses)</td>
<td></td>
</tr>
<tr>
<td>Recreation, Outdoor Type II # (medium intensity recreational uses)</td>
<td></td>
</tr>
</tbody>
</table>

# = See Definition in Chapter 18.55 Topeka Municipal Code
See Design Standards for "X" & "D" Districts...
<table>
<thead>
<tr>
<th>Use Description</th>
<th>Approval Levels</th>
<th>R-1/R-2/R-3 Single Family Dwelling</th>
<th>R-4 Manufactured Homes</th>
<th>R-5A Two Family Dwelling</th>
<th>R-5B Multiple Family Dwelling</th>
<th>O-1 Office and Institutional</th>
<th>O-2 Office and Institutional</th>
<th>C-1 Commercial</th>
<th>C-2 Commercial</th>
<th>C-3 Commercial</th>
<th>C-4 Commercial</th>
<th>D-1 Heavy Industrial</th>
<th>D-2 Medium Industrial</th>
<th>D-3 Light Industrial</th>
<th>OS-1 Open Space</th>
<th>RR-1 Residential Reserve</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civic/Cultural and Recreational</td>
<td></td>
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<tr>
<td>Recreation, Outdoor Type III # (high intensity recreation used)</td>
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<tr>
<td>Religious Assembly #</td>
<td>S/C</td>
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<tr>
<td>RV Short-Term Campgrounds #</td>
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<tr>
<td>Schools #, Public or Private Educational Facility #</td>
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<tr>
<td>School, Business and Vocational School #</td>
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<tr>
<td>Youth Camps</td>
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</tbody>
</table>

City of Topeka Planning Department April 2017
APPROVED BY CITY COUNCIL 4/18/17

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See Design Standards for “X” & “D” Districts...
<table>
<thead>
<tr>
<th>Use Description</th>
<th>Commercial/Office</th>
<th>Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Animal Care and Services type I#</td>
<td>for common household pets in an enclosed building</td>
<td>C = Conditional Use Permit (CUP) approved by Governing Body</td>
</tr>
<tr>
<td>Animal Care and Services type II#</td>
<td>services within an enclosed building</td>
<td></td>
</tr>
<tr>
<td>Artisan Manufacturing #</td>
<td>Refer to TMC 18.225</td>
<td></td>
</tr>
<tr>
<td>Auction House</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Automobile or Vehicle Carwash #</td>
<td>convenience store with gas sales</td>
<td></td>
</tr>
<tr>
<td>Automotive Rental Establishments</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Auto Service Station, type I #</td>
<td>excludes drive-train work</td>
<td></td>
</tr>
<tr>
<td>Auto Service Station, type II #</td>
<td>includes drive-train work</td>
<td></td>
</tr>
<tr>
<td>Auto Service Station, type III #</td>
<td>includes drive-train work</td>
<td></td>
</tr>
<tr>
<td>Automobile Sales &amp; Service</td>
<td>includes heavy-duty trucks and type II auto services</td>
<td></td>
</tr>
<tr>
<td>Automobile, Boat, Truck, Heavy &amp; Ag Equipment, Sales/Services</td>
<td>includes heavy-duty trucks, rec. vehicles, tow lot and type III service</td>
<td></td>
</tr>
<tr>
<td>Automobile or Vehicle Tow Lot and Body Shop</td>
<td>not including wrecking yards or long-term storage of disabled vehicles</td>
<td></td>
</tr>
<tr>
<td>Bakery (Commercial)</td>
<td>including wholesale distribution</td>
<td></td>
</tr>
<tr>
<td>Bank/Financial Institution</td>
<td>Does not include drive-in/drive through</td>
<td></td>
</tr>
<tr>
<td>Billboard/Panel Poster Sign # (See Section 18.25.110 TMC)</td>
<td>off-premise advertising signs</td>
<td></td>
</tr>
<tr>
<td>Billboard, Modified Legal Non-Confoming Billboards</td>
<td>relocation, remodeling or rebuilding of legal non-conforming billboards</td>
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<tr>
<td>Body Art Service/ Tattooing, Body-Piercing</td>
<td>excludes ear-piercing only</td>
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<tr>
<td>Brew Pub #</td>
<td>includes a microbrewery as an accessory use. Microbrewery limited to 5000 barrels per year</td>
<td></td>
</tr>
<tr>
<td>Building, Construction, &amp; Mechanical Contractor Office</td>
<td>showroom, shop &amp; sales including plumbing, heating, air, electrical, etc.</td>
<td></td>
</tr>
<tr>
<td>Catering</td>
<td></td>
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</tr>
<tr>
<td>Check cashing/pay-day loans/Title loans</td>
<td></td>
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<tr>
<td>Drinking Establishment #</td>
<td>includes allowing a microbrewery as an accessory use. Microbrewery limited to 5000 barrels per year</td>
<td></td>
</tr>
<tr>
<td>Drive through establishments/facilities</td>
<td>Refer to TMC 18.225</td>
<td></td>
</tr>
<tr>
<td>Funeral Home, Mortuary # without Crematorium</td>
<td>includes the display and sale of related products, C = Conditional Use Permit (CUP) approved by Governing Body</td>
<td></td>
</tr>
<tr>
<td>Funeral Home, Mortuary # with Crematorium</td>
<td>includes the display and sale of related products</td>
<td></td>
</tr>
<tr>
<td>Grave Monuments &amp; Markers</td>
<td>includes display but not stone engraving or cutting</td>
<td></td>
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<tr>
<td>Gun Ranges, Indoor</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Health Services #, Clinic #, Health Care Facility #</td>
<td>may include a pharmacy as part of the facility</td>
<td></td>
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<tr>
<td>Home Improvement &amp; Building Supply</td>
<td>Retail merchandise, outdoor display limited to only C-4 &amp; I Refer to TMC 18.225.</td>
<td></td>
</tr>
<tr>
<td>Labor Pools #</td>
<td></td>
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<tr>
<td>Hospital #</td>
<td>institution providing inpatient health services, medical or surgical care, and related facilities</td>
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<tr>
<td>Hotel #, Motel #</td>
<td>commercial establishment providing sleeping rooms for overnight guests</td>
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</tr>
<tr>
<td>Use</td>
<td>Description</td>
<td>Districts</td>
</tr>
<tr>
<td>------------------------------</td>
<td>-----------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Office / Commercial</td>
<td></td>
<td></td>
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<tr>
<td>Lawn/Garden Centers</td>
<td>Landscape materials, lawn &amp; garden equipment and supplies</td>
<td>R-1/R-2/R-3 Single Family Dwelling</td>
</tr>
<tr>
<td></td>
<td></td>
<td>R-4 Manufactured Homes</td>
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<tr>
<td></td>
<td></td>
<td>M-1 Two Family Dwelling</td>
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<tr>
<td></td>
<td></td>
<td>M-1a Limited Multiple Family Dwelling</td>
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<tr>
<td></td>
<td></td>
<td>M-2 Multiple Family Dwelling</td>
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<td>M-3 Institutional</td>
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<tr>
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<td>M-4 Commercial</td>
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<tr>
<td></td>
<td></td>
<td>M-5 Light Industry</td>
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<tr>
<td></td>
<td></td>
<td>M-6 Special Use</td>
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<tr>
<td></td>
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<td>M-7 Residential Reserve</td>
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<td>C-5 Heavy Industrial</td>
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<td>D-1 Downtown Mixed Use</td>
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<td>D-2 Mixed Use</td>
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<td>D-3 Downtown Mixed Use</td>
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<tr>
<td></td>
<td></td>
<td>RR-1 Residential Reserve</td>
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<td></td>
<td></td>
<td>OS-1 Open Space</td>
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<tr>
<td>Lawn/Garden Centers</td>
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<tr>
<td>Liquor Sales, Packaged Goods</td>
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<tr>
<td>Medical Equipment</td>
<td>Hearing aids, eyeglasses, prosthesis materials, etc.</td>
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<tr>
<td>Mobile Retail Vendors #</td>
<td>Refer to TMC 18.225</td>
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<tr>
<td>Office #, Professional Office</td>
<td>Includes medical offices</td>
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<tr>
<td>Oil/Gas Well Drilling</td>
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<tr>
<td>Parking, Surface Lot - As a</td>
<td>Temporary storage of vehicles as a principal use</td>
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<tr>
<td>stand alone Principal Use</td>
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<tr>
<td>Parking, Surface Lot, in</td>
<td>Temporary storage of vehicles as a principal use</td>
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<tr>
<td>association with a Principal</td>
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<tr>
<td>Use</td>
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<tr>
<td>Parking Garage, (Multi-Level)</td>
<td>Temporary storage of vehicles as a principal use</td>
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<tr>
<td>Pawn Shops/Second Hand Shops</td>
<td>For outdoor display, see Retail Merchandise Outdoor Display TMC18.225</td>
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<td></td>
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<tr>
<td>Personal Services #</td>
<td>Including beauty &amp; barber shops, laundrymat, dry-cleaning, tanning salons,</td>
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<tr>
<td>Pet Shops</td>
<td>Retail sales of drugs, prosthesis, rehabilitation equipment &amp; medicine.</td>
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<tr>
<td>Pharmacy &amp; Drugstores</td>
<td>Retail sales of drugs, prosthesis, rehabilitation equipment &amp; medicine.</td>
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<tr>
<td>Printing/ Copy Center</td>
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<tr>
<td>Radio &amp; TV Broadcasting/</td>
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<tr>
<td>Recording Studio</td>
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<tr>
<td>Retail Establishment</td>
<td>General equipment and domestic items</td>
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<tr>
<td>Restaurant, Family Dining,</td>
<td>Limited to 50 seats</td>
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<tr>
<td>carry-out # (Deli-cations)</td>
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<tr>
<td></td>
<td>Refer to TMC 18.225 for drive throughs</td>
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<tr>
<td>Restaurant, fast-food #</td>
<td>Refer to TMC 18.225 for drive throughs</td>
<td></td>
</tr>
<tr>
<td>Retail Merchandise, Outdoor</td>
<td>See TMC 18.225 on outdoor displays</td>
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<tr>
<td>Display</td>
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<tr>
<td>Retail / Service #</td>
<td>Special repair of items having a low intensity</td>
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<tr>
<td>Gun Sales and Service</td>
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<tr>
<td>Theaters #</td>
<td>Enclosed structure used for performances for admitted audiences</td>
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<tr>
<td>Tobacco Shop</td>
<td>Includes Tobacco &amp; Smoke shops/Hookah House/e cigarettes</td>
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<tr>
<td>Truck Stop</td>
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<tr>
<td>Use Description</td>
<td>R-1/R-2/R-3 Single Family Dwelling</td>
<td>R-4 Manufactured Homes</td>
</tr>
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<tr>
<td>Airport</td>
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<tr>
<td>Agriculture #</td>
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<tr>
<td>Agricultural Product Sales &amp; Storage</td>
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<tr>
<td>Automobile Wrecking and/or Salvage Yards #</td>
<td>Refer to TMC 5.135</td>
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<tr>
<td>Bottling Works</td>
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<tr>
<td>Contractor Yards</td>
<td></td>
<td></td>
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<tr>
<td>Landfill, Demolition #</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Laundry, Commercial #; Dry-Cleaning, Dyeing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Machinery and Equipment Repair and Restoration</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Manufacturing/Processing Type I #</td>
<td>Few if any off-site impacts</td>
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</tr>
<tr>
<td>Manufacturing/Processing Type II #</td>
<td>Up to medium off-site impacts</td>
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</tr>
<tr>
<td>Micro- Alcohol Production#</td>
<td>Refer to TMC 18.225</td>
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</tr>
<tr>
<td>Publishing Establishments and Distribution</td>
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<tr>
<td>Raw Material Extraction</td>
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<tr>
<td>Recycling Depot</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Research Lab, Testing or Development Laboratory</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Railroad Facilities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Self-Storage, type I #</td>
<td>Indoor storage with indoor access</td>
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</tr>
<tr>
<td>Self-Storage, type II (allows boat/RVs) #</td>
<td>Indoor and outdoor</td>
<td></td>
</tr>
<tr>
<td>Small Wind Energy System</td>
<td>Non-residential use only</td>
<td></td>
</tr>
<tr>
<td>Storage of non-merchandise, outdoor</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tower, Communication #; Transmission Tower #</td>
<td>Ground-mounted free-standing tower transmitting or receiving radio, &amp; microwave frequencies</td>
<td>Reference to TMC 18.20</td>
</tr>
<tr>
<td>Towers, Receiving and Commercial Broadcasting</td>
<td>For radio and television refer to TMC 18.20</td>
<td></td>
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<tr>
<td>Truck Freight Terminal</td>
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<tr>
<td>Bus Terminal</td>
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<td></td>
</tr>
<tr>
<td>Warehouse #, Storage #, Distribution Facilities</td>
<td>Structure for storing goods, wares, and merchandise. For accessory cargo containers refer to TMC 18.210.20 Accessory Uses.</td>
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</tr>
<tr>
<td>Welding, Insulating &amp; Machine Shop</td>
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</tbody>
</table>

# = See Definition in Chapter 18.55 Topeka Municipal Code

Approval Levels

* = Allowed Use
1 = Allowed per Special Use Requirements under Chapter 18.225
S/C = If unable to meet Special Use Requirements, may apply for CUP.
C = Conditional Use Permit (CUP) approved by Governing Body

See Design Standards for “X” & “D” Districts
### Density Dimensional Standards - RR, R, M Districts

<table>
<thead>
<tr>
<th>Standards</th>
<th>Notes</th>
<th>Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Lot Standards</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minimum Lot Area (sq. ft.)</td>
<td>New Lots [3,7,14]</td>
<td>20 acs 6,500 5,000 4,000 30,000 4,500 4,500 7,500 7,500</td>
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<tr>
<td>Maximum Building Coverage</td>
<td>% of lot area</td>
<td>10 45 50 50 50 50 50 60 60</td>
</tr>
<tr>
<td>Minimum Lot Width (ft.)</td>
<td>2-4 units per lot</td>
<td>300 60 40 40 40 50 50 50 50</td>
</tr>
<tr>
<td>Maximum Density</td>
<td>Dwelling units/acre</td>
<td>_ _ _ _ _ _ 6 10 15 30</td>
</tr>
<tr>
<td><strong>Principal Buildings</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Side [5][6] 7 7 5 0 5 5 5 5 5 5</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Rear 30 30 25 10 25 25 25 25 25 25</td>
</tr>
<tr>
<td>Maximum Height (ft.)</td>
<td></td>
<td>42 42 42 42 42 42 45 50 50 160</td>
</tr>
<tr>
<td>Minimum Number of Lots in District</td>
<td></td>
<td>_ _ _ _ _ _ _ _ _ 10 _ _ _ _ _ _</td>
</tr>
<tr>
<td><strong>Accessory Buildings (Detached)</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Side[5] [9] 3 3 3 3 3 3 3 3 3 3</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Rear 5 5 5 5 5 5 5 5 5 5</td>
</tr>
<tr>
<td></td>
<td></td>
<td>From other buildings [10] 6 6 6 6 6 6 6 6 6 6</td>
</tr>
<tr>
<td>Maximum Accessory Building Coverage Ratio</td>
<td>% of principal building coverage</td>
<td>90 90 90 90 90 90 90 90 90 90</td>
</tr>
<tr>
<td>Minimum Garage Entry Setback (ft.)</td>
<td>front entry</td>
<td>20 20 20 20 20 20 20 20 20 20</td>
</tr>
<tr>
<td>Minimum Garage Entry Setback (ft.)</td>
<td>rear entry (from alley)</td>
<td>10 10 10 10 10 10 10 10 10 10</td>
</tr>
<tr>
<td>Minimum Garage Entry Setback (ft.)</td>
<td>side entry (from alley)</td>
<td>5 5 5 5 5 5 5 5 5 5</td>
</tr>
<tr>
<td>Maintenance Accessory Building</td>
<td>Maximum size (sq. ft.)</td>
<td>_ _ _ _ _ _ _ _ _ _ 400 400</td>
</tr>
<tr>
<td></td>
<td>Maximum #</td>
<td>_ _ _ _ _ _ _ _ _ _ 1 1</td>
</tr>
</tbody>
</table>

**Notes:**

1. If the recorded plat of subdivision provides greater setbacks, the provisions of the plat shall prevail.

2. The side yard of a corner lot and rear yard of a double frontage lots shall conform to the minimum front yard requirements of its district.

3. In "RR-1" District, the minimum lot size is 20 acres unless the lots meets minimum compliance with Subdivision Regulations.
Density Dimensional Standards - RR, R, M Districts

[4] in the "R-3" District - First number represents front setback when an attached garage is designed for side entry. Second number represents front setback when attached garage is designed for front entry.

[5] In "R-3" District - District allows 0' side yard setback on one side; 10' on other side with a minimum of 10' between principal buildings. Accessory buildings for a zero lot line dwelling shall not be located in the required 10-foot side yard.

[6] For single family attached dwellings in "M" Districts, a 0 ft. side yard setback is allowed along the lot line separating the two units; a 5 ft setback is required on the other lot line.

[7] In "M-1" and "M-1a" Districts, the minimum lot area of 4,500 sq. ft. is "per unit".

[8] Accessory structures shall not be located within a required front yard or beyond the front face of the principal structure, whichever is more restrictive. However, a minimum setback of 20 feet from all street rights-of-way shall be provided for roadside stands, garages and carports. If, in the judgment of the planning director, construction of a roadside stand, garage or carport is compatible with the neighborhood, in respect to availability of land for public sidewalks, right-of-way needs, and the location of structures within the block, then such construction may occur with revised minimum setback(s) as determined by the planning director.

[9] An unenclosed carport located less than 6 feet from the principal building may extend to within 3 feet of a side property line.

[10] Setback from Principal Building. No portion of an accessory building, except for a carport, shall be located closer than six feet to the principal building or another accessory building on the same lot. However, an unenclosed breezeway may be extended between the principal structure and the accessory structure for the purpose of providing a covered walkway. In no event shall the construction of a covered walkway or a detached carport located next to another building be deemed to join the principal and accessory structures into one principal structure.

[11] Maximum Height. Accessory buildings and structures shall not exceed 15 feet when the principal building is one-story or 20 feet when the principal building is two-stories or more.

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

[13] Attached Accessory Buildings. Attached accessory buildings, except for side yards for carports as outlined above, shall be located pursuant to the requirements for principal buildings. Attached garages and carports shall be located on a lot so that a minimum 20-foot-length "aisle" between the building and the street right-of-way line is provided.

[14] The minimum lot area in the "R-4" District is the combined area needed for 10 contiguous lots.
# Density Dimensional Standards - O, C Districts

## Standards

<table>
<thead>
<tr>
<th>Standards</th>
<th>O&amp;I Office &amp; Institutional District</th>
<th>O&amp;I Office &amp; Institutional District</th>
<th>O&amp;I Office &amp; Institutional District</th>
<th>C1 Commercial District</th>
<th>C2 Commercial District</th>
<th>C3 Commercial District</th>
<th>C4 Commercial District</th>
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<tr>
<td>Minimum Lot Area (sq. ft.)</td>
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<td>7,500</td>
<td>7,500</td>
<td>7,500</td>
<td>10,000</td>
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<td>Maximum Building Coverage (% of lot area)</td>
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<td>60</td>
<td>40</td>
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<td>Minimum Lot Width (ft.)</td>
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<td>60</td>
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<td>50</td>
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<td><strong>Principal Buildings</strong></td>
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<tr>
<td>Setbacks (ft.) [1,2,3]</td>
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<td></td>
<td></td>
<td></td>
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<td></td>
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<tr>
<td>Front</td>
<td>25</td>
<td>25</td>
<td>25</td>
<td>25</td>
<td>25</td>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td>Side</td>
<td>7</td>
<td>7</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>Rear</td>
<td>25</td>
<td>25</td>
<td>25</td>
<td>25</td>
<td>25</td>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td>Maximum Building Size (sq. ft.)</td>
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<td></td>
<td></td>
<td>7,500</td>
<td>20,000</td>
<td>_</td>
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<tr>
<td><strong>Accessory Buildings (Detached)</strong></td>
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<td>Setbacks (ft.) [1,2]</td>
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<td></td>
<td>25</td>
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<td>From other buildings</td>
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<td></td>
<td>6</td>
<td>6</td>
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<td>Minimum Garage Entry Setback (ft.)</td>
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<td></td>
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<td>10</td>
<td>10</td>
<td>10</td>
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<tr>
<td>Minimum Garage Entry Setback (ft.)</td>
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<td></td>
<td></td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>5</td>
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<tr>
<td>Maximum Height (ft.) [6]</td>
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<td></td>
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<tr>
<td>Maintenance Accessory Building</td>
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<td></td>
<td></td>
<td>400</td>
<td>400</td>
<td>400</td>
<td>400</td>
</tr>
</tbody>
</table>

## Notes:

1. If the recorded plat of subdivision provides greater setbacks, the provisions of the plat shall prevail.
2. The side yard of a corner lot and rear yard of a double frontage lots shall conform to the minimum front yard requirements of the district.
3. During site plan review, side yard setbacks may be reduced to 0 feet where the buildings are attached along a common lot line.
4. Accessory structures shall not be located within a required front yard or beyond the front face of the principal structure, whichever is more restrictive. However, a minimum setback of 20 feet from all street rights-of-way shall be provided for garages and carports. If, in the judgment of the planning director, construction of a garage or carport is compatible with the neighborhood, in respect to availability of land for public sidewalks, right-of-way needs, and the location of structures within the block, then such construction may occur with revised minimum setback(s) as determined by the planning director.
5. Height restrictions of Airport Overlay District may be more restrictive.
6. Height shall not exceed the height of its principal structure.

City of Topeka Planning Department April 2017

APPROVED BY CITY COUNCIL 4/18/17
## Density Dimensional Standards - Other Districts

### Standards

<table>
<thead>
<tr>
<th>Standards</th>
<th>Notes</th>
<th>Lots</th>
<th>Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Lot Standards</strong></td>
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<td></td>
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</tr>
<tr>
<td>Minimum Lot Area (sq. ft.)</td>
<td>New lots</td>
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<td>10,000</td>
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<tr>
<td>Maximum Density</td>
<td>Dwelling units/acre</td>
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<tr>
<td>Maximum Building Coverage</td>
<td>% of lot area</td>
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<tr>
<td>Minimum Lot Width (ft.)</td>
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<tr>
<td>Setbacks (ft.) [1,2,7,10]</td>
<td>Front [5]</td>
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<td>0</td>
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<td>Side [4,7,10]</td>
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<td>5;10</td>
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<td>Maximum Height (ft.) [3,6,8, 16]</td>
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<td><strong>Accessory Buildings (Detached)</strong></td>
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</tr>
<tr>
<td>Maximum Accessory Building Coverage Ratio</td>
<td>% of principal building coverage</td>
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<td></td>
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<tr>
<td>Setbacks (ft.) [1,2]</td>
<td>Front [9,11]</td>
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<td>Side [10,14,15]</td>
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<tr>
<td>Rear [10,14]</td>
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</tr>
<tr>
<td>From other buildings [12]</td>
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<tr>
<td>Minimum Garage Entry Setback (ft.)</td>
<td>front entry [9]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minimum Garage Entry setback (ft.)</td>
<td>rear entry (from alley)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minimum Garage Entry Setback (ft.)</td>
<td>side entry (from alley)</td>
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<td></td>
</tr>
<tr>
<td>Maximum Height (ft.) [3,13]</td>
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<td></td>
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</table>

### Notes:

1. If the recorded plat of subdivision provides greater setbacks, the provisions of the plat shall prevail.
2. The side yard of a corner lot and rear yard of a double frontage lots shall conform to the minimum front yard requirements of the district.
3. Height restrictions of Airport Overlay District may be more restrictive.
4. "I" Districts: 10' rear or 7' side yard setback where that yard abuts any residential dwelling district.
5. "U" Districts: Where the frontage along one side of the street in that block abuts a residential district, then, the front yard requirements of the residential district shall apply.
6. "U" District: Minimum yard requirements and maximum height shall be in accordance with the approved Master Development Plan.
7. "MS-1" District: The side setbacks are 5' for buildings up to 50' in height and 10' for buildings taller than 50' in height.
Density Dimensional Standards - Other Districts

[8] "MS-1" District: Any other building or structure that is not a hospital shall not exceed a height of 100 feet; however, if located within 150 feet of the boundary of the district, it shall not exceed a height of 50 feet.

[9] "X" Districts: Setbacks with a range are determined at the discretion of the Planning Director.

[10] "X-2" District: Side and rear yard setbacks may be reduced if not abutting residential uses, as determined at the discretion of the Planning Director.

[11] Accessory structures shall not be located within a required front yard or beyond the front face of the principal structure, whichever is more restrictive. However, a minimum setback of 20 feet from all street rights-of-way shall be provided for roadside stands, garages and carports. If, in the judgment of the planning director, construction of a roadside stand, garage or carport is compatible with the neighborhood, in respect to availability of land for public sidewalks, right-of-way needs, and the location of structures within the block, then such construction may occur with revised minimum setback(s) as determined by the planning director. If more restrictive than provided above, setbacks as set forth by plats of subdivision shall apply to any and all accessory structures.

[12] Setback from Principal Building. No portion of an accessory building, except for a carport, shall be located closer than six feet to the principal building or another accessory building on the same lot. However, an unenclosed breezeway may be extended between the principal structure and the accessory structure for the purpose of providing a covered walkway. In no event shall the construction of a covered walkway or a detached carport located next to another building be deemed to join the principal and accessory structures into one principal structure.

[13] Maximum Height. In the "MS-1", "X", and "D-2" districts accessory buildings and structures shall not exceed 15 feet when the principal building is one-story or 20 feet when the principal building is two-...

[14] The Accessory building (detached) side and rear setbacks only applies to residential uses in the "X" and "MS-1" Districts.

[15] An unenclosed carport located less than 6 feet from the principal building may extend to within 3 feet of a side property line

[16] (i) In "D-1" District, no building hereafter erected or structurally altered shall exceed a height at the street line which is greater than the width of the street Right-of-Way times a factor of three. On corner lots, and where the widths of the two intersecting streets are varied, the larger street width shall be used to determine the height of any building or structure.

(ii) Exception. Within the state zoning area, as defined by K.S.A. 75-36320, the height of structures and buildings shall be regulated in accordance with the following provisions: no building shall exceed a height at the street line of six stories or 75 feet, but above the height permitted at the street line three feet may be added to the height of the building for each one foot that the building or portion thereof is set back from all sides of the lot, except that the cubical contents of such building shall not exceed the cubical contents of a prism having a base equal to the area of the lot and a height equal to two times the width of the street; provided, however, that a tower with a base not to exceed 20 percent of lot area not to have any side greater than 60 feet nor to have any wall closer than 20 feet to any lot line, may be constructed without reference to the above limitations. Any applicable provisions of Chapter 18.225 TMC shall apply to buildings erected in this district.

[17] "D-1" District: Refer to Downtown Topeka Urban Design Guidelines.
Chapter 18.65

RR-1 RESIDENTIAL RESERVE DISTRICT

Sections:
18.65.010 Purpose – Intent.
18.65.020 Repealed.
18.65.030 Principal, special, and conditional uses.
18.65.040 Density and dimensional requirements.
18.65.050 Other regulations.
18.65.060 Repealed.

18.65.010 Purpose – Intent.
This district is established to provide for a transitional area between urbanized development with intensive activity areas, and the rural-agricultural areas; and which is expected to become urbanized in subsequent planning periods. The limitations of this district are intended to allow for the gradual development of urban uses and activities, therefore providing for the coexistence with agricultural farmland activities based upon the availability and extension of municipal facilities and services. Such urban development will be permitted at appropriate intensity-density levels to assure that public improvement expenditures are appropriately planned for in advance of the conversion to urban uses. (Code 1995 § 48-3.00.)

18.65.020 Regulations generally.
Repealed by Ord. 19921. (Code 1995 § 48-3.01.)

18.65.030 Principal, special, and conditional uses.
(a) Principal uses identified in the use matrix table in TMC 18.60.010 shall be allowed.

(b) Special uses identified in the use matrix table in TMC 18.60.010 shall be allowed subject to the restrictions identified in Chapter 18.225 TMC.

(c) Conditional uses identified in the use matrix table in TMC 18.60.010 may be allowed in accordance with Chapter 18.215 TMC if approved by the governing body. (Ord. 19921 § 16, 9-23-14.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.65.040 Density and dimensional requirements.
All development shall comply with the density and dimensional standards in TMC 18.60.020. (Ord. 19921 § 17, 9-23-14.)

18.65.050 Other regulations.
All principal and accessory uses permitted within this zone are subject to the following requirements:

(a) Permitted Accessory Uses and Requirements. See Chapter 18.210 TMC.

(b) Off-Street Parking Requirements. See Chapter 18.240 TMC.

(c) Sign Regulations. See Chapter 18.20 TMC.

(d) Dimensional Requirements. See Chapter 18.230 TMC.

(e) Nonconforming Uses. See Chapter 18.220 TMC.

(f) Site Plan Regulations. See Chapter 18.260 TMC.

(g) Landscaping Requirements. See Chapter 18.235 TMC.

(h) Subdivision Regulations. See Chapters 18.30 through 18.45 TMC. (Ord. 19921 § 18, 9-23-14.)
18.65.060 Development alternatives.
Repealed by Ord. 19921. (Code 1995 § 48-3.05.)
Chapter 18.70

R-1 SINGLE-FAMILY DWELLING DISTRICT

Sections:
18.70.010  Purpose – Intent.
18.70.020  Repealed.
18.70.030  Principal, special, and conditional uses.
18.70.040  Density and dimensional requirements.
18.70.050  Other regulations.
18.70.060  Repealed.

18.70.010  Purpose – Intent.
This district is established to provide for the use of detached single-family dwellings together with specified accessory uses and other uses as may be approved. It is intended that the character and use of this district be for housing and living purposes free from the encroachment of incompatible uses. (Code 1995 § 48-4.00.)

18.70.020  Regulations generally.
Repealed by Ord. 19921. (Code 1995 § 48-4.01.)

18.70.030  Principal, special, and conditional uses.
(a) Principal uses identified in the use matrix table in TMC 18.60.010 shall be allowed.

(b) Special uses identified in the use matrix table in TMC 18.60.010 shall be allowed subject to the restrictions identified in Chapter 18.225 TMC.

(c) Conditional uses identified in the use matrix table in TMC 18.60.010 may be allowed in accordance with Chapter 18.215 TMC if approved by the governing body. (Ord. 19921 § 21, 9-23-14.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.70.040  Density and dimensional requirements.
All development shall comply with the density and dimensional standards in TMC 18.60.020. (Ord. 19921 § 22, 9-23-14.)

18.70.050  Other regulations.
All principal and accessory uses permitted within this zone are subject to the following requirements:

(a) Permitted Accessory Uses and Requirements. See Chapter 18.210 TMC.

(b) Off-Street Parking Requirements. See Chapter 18.240 TMC.

(c) Sign Regulations. See Chapter 18.20 TMC.

(d) Dimensional Requirements. See Chapter 18.230 TMC.

(e) Nonconforming Uses. See Chapter 18.220 TMC.

(f) Site Plan Regulations. See Chapter 18.260 TMC.

(g) Landscaping Requirements. See Chapter 18.235 TMC.

(h) Subdivision Regulations. See Chapters 18.30 through 18.45 TMC. (Ord. 19921 § 23, 9-23-14.)

18.70.060  Development alternatives.
Repealed by Ord. 19921. (Code 1995 § 48-4.05.)
Chapter 18.75

R-2 SINGLE-FAMILY DWELLING DISTRICT

Sections:
18.75.010 Purpose – Intent.
18.75.020 Repealed.
18.75.030 Principal, special, and conditional uses.
18.75.040 Density and dimensional requirements.
18.75.050 Other regulations.
18.75.060 Repealed.

18.75.010 Purpose – Intent.
This district is established to provide for the use of detached single-family dwellings together with specified accessory uses and other uses as may be approved. It is intended that the character and use of this district be for housing and living purposes free from the encroachment of incompatible uses. (Code 1995 § 48-5.00.)

18.75.020 Regulations generally.
Repealed by Ord. 19921. (Code 1995 § 48-5.01.)

18.75.030 Principal, special, and conditional uses.
(a) Principal uses identified in the use matrix table in TMC 18.60.010 shall be allowed.

(b) Special uses identified in the use matrix table in TMC 18.60.010 shall be allowed subject to the restrictions identified in Chapter 18.225 TMC.

(c) Conditional uses identified in the use matrix table in TMC 18.60.010 may be allowed in accordance with Chapter 18.215 TMC if approved by the governing body. (Ord. 19921 § 26, 9-23-14.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.75.040 Density and dimensional requirements.
All development shall comply with the density and dimensional standards in TMC 18.60.020. (Ord. 19921 § 27, 9-23-14.)

18.75.050 Other regulations.
All principal and accessory uses permitted within this zone are subject to the following requirements:

(a) Permitted Accessory Uses and Requirements. See Chapter 18.210 TMC.

(b) Off-Street Parking Requirements. See Chapter 18.240 TMC.

(c) Sign Regulations. See Chapter 18.20 TMC.

(d) Dimensional Requirements. See Chapter 18.230 TMC.

(e) Nonconforming Uses. See Chapter 18.220 TMC.

(f) Site Plan Regulations. See Chapter 18.260 TMC.

(g) Landscaping Requirements. See Chapter 18.235 TMC.

(h) Subdivision Regulations. See Chapters 18.30 through 18.45 TMC. (Ord. 19921 § 28, 9-23-14.)

18.75.060 Development alternatives.
Repealed by Ord. 19921. (Code 1995 § 48-5.05.)
Chapter 18.80

R-3 SINGLE-FAMILY DWELLING DISTRICT

Sections:
18.80.010 Purpose – Intent.
18.80.020 Repealed.
18.80.030 Principal, special, and conditional uses.
18.80.040 Density and dimensional requirements.
18.80.050 Other regulations.
18.80.060 Repealed.

18.80.010 Purpose – Intent.
This district is established to provide for the use of detached single-family dwellings together with specified accessory uses and to provide for an increased density that will promote compact housing development at affordable levels through reduced site area requirements, lot size and optional public improvement design standards. This district shall be established in conjunction with an approved subdivision which provides for the minimum standards set forth in these regulations. (Code 1995 § 48-6.00.)

18.80.020 Regulations generally.
Repealed by Ord. 19921. (Code 1995 § 48-6.01.)

18.80.030 Principal, special, and conditional uses.
(a) Principal uses identified in the use matrix table in TMC 18.60.010 shall be allowed.

(b) Special uses identified in the use matrix table in TMC 18.60.010 shall be allowed subject to the restrictions identified in Chapter 18.225 TMC.

(c) Conditional uses identified in the use matrix table in TMC 18.60.010 may be allowed in accordance with Chapter 18.215 TMC if approved by the governing body. (Ord. 19921 § 31, 9-23-14.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.80.040 Density and dimensional requirements.
All development shall comply with the density and dimensional standards in TMC 18.60.020. (Ord. 19921 § 32, 9-23-14.)

18.80.050 Other regulations.
All principal and accessory uses permitted within this zone are subject to the following requirements:

(a) Permitted Accessory Uses and Requirements. See Chapter 18.210 TMC.

(b) Off-Street Parking Requirements. See Chapter 18.240 TMC.

(c) Sign Regulations. See Chapter 18.20 TMC.

(d) Dimensional Requirements. See Chapter 18.230 TMC.

(e) Nonconforming Uses. See Chapter 18.220 TMC.

(f) Site Plan Regulations. See Chapter 18.260 TMC.

(g) Landscaping Requirements. See Chapter 18.235 TMC.

(h) Subdivision Regulations. See Chapters 18.30 through 18.45 TMC. (Ord. 19921 § 33, 9-23-14.)
18.80.060 Development alternatives.
Repealed by Ord. 19921. (Code 1995 § 48-6.05.)
Chapter 18.85

R-4 MANUFACTURED HOME DISTRICT

Sections:
18.85.010    Purpose – Intent.
18.85.020    Repealed.
18.85.030    Principal, special, and conditional uses.
18.85.040    Density and dimensional requirements.
18.85.050    Other regulations.
18.85.060    Repealed.

18.85.010    Purpose – Intent.
The primary purpose for the establishment of this district is to provide for the location and use of detached
double-family dwellings and manufactured homes as defined, together with specified accessory and supportive uses;
and to provide for housing development at affordable levels in a subdivision setting. This district may be established
in conjunction with an approved plat of subdivision for development in accordance with the provisions of the
dimensional requirements and general lot requirements established in TMC 18.230.020. (Ord. 19328 § 3, 11-3-09.
Code 1995 § 48-7.00.)

18.85.020    Regulations generally.
Repealed by Ord. 19921. (Code 1995 § 48-7.01.)

18.85.030    Principal, special, and conditional uses.
(a) Principal uses identified in the use matrix table in TMC 18.60.010 shall be allowed.
(b) Special uses identified in the use matrix table in TMC 18.60.010 shall be allowed subject to the restrictions
identified in Chapter 18.225 TMC.
(c) Conditional uses identified in the use matrix table in TMC 18.60.010 may be allowed in accordance with Chapter
18.215 TMC if approved by the governing body. (Ord. 19921 § 36, 9-23-14.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.85.040    Density and dimensional requirements.
All development shall comply with the density and dimensional standards in TMC 18.60.020. (Ord. 19921 § 37,
9-23-14.)

18.85.050    Other regulations.
(a) All principal and accessory uses permitted within this zone are subject to the following requirements:

(1) Permitted Accessory Uses and Requirements. See Chapter 18.210 TMC.

(2) Off-Street Parking Requirements. See Chapter 18.240 TMC.

(3) Sign Regulations. See Chapter 18.20 TMC.

(4) Dimensional Requirements. See Chapter 18.230 TMC.

(5) Nonconforming Uses. See Chapter 18.220 TMC.

(6) Site Plan Regulations. See Chapter 18.260 TMC.

(7) Landscaping Requirements. See Chapter 18.235 TMC.

(8) Subdivision Regulations. See Chapters 18.30 through 18.45 TMC.
(b) The development of R-4 manufactured home district shall apply to subdivided land of record which meets the objectives and requirements of this district, the subdivision of land regulations, and the applicable plat of subdivision stipulations.

(c) If the land subject to R-4 rezoning is not subdivided land of record, an application for a plat of subdivision shall be submitted concurrently with the R-4 zoning change application. The application for the plat of subdivision shall comply with Division 3 of this title. (Ord. 19921 § 38, 9-23-14.)

18.85.060 Development alternatives.
Repealed by Ord. 19328. (Code 1995 § 48-7.05.)
Chapter 18.90
M-1 TWO-FAMILY DWELLING DISTRICT

Sections:
18.90.010 Purpose – Intent.
18.90.020 Repealed.
18.90.030 Principal, special, and conditional uses.
18.90.040 Density and dimensional requirements.
18.90.050 Other regulations.
18.90.060 Repealed.

18.90.010 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 multifamily 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. (Ord. 19707 § 8, 2-28-12.)

18.90.020 Regulations generally.
Repealed by Ord. 19921. (Code 1995 § 48-8.01.)

18.90.030 Principal, special, and conditional uses. 
(a) Principal uses identified in the use matrix table in TMC 18.60.010 shall be allowed.

(b) Special uses identified in the use matrix table in TMC 18.60.010 shall be allowed subject to the restrictions identified in Chapter 18.225 TMC.

(c) Conditional uses identified in the use matrix table in TMC 18.60.010 may be allowed in accordance with Chapter 18.215 TMC if approved by the governing body. (Ord. 19921 § 40, 9-23-14.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.90.040 Density and dimensional requirements.
All development shall comply with the density and dimensional standards in TMC 18.60.020. (Ord. 19921 § 41, 9-23-14.)

18.90.050 Other regulations.
All principal and accessory uses permitted within this zone are subject to the following requirements:

(a) Permitted Accessory Uses and Requirements. See Chapter 18.210 TMC.

(b) Off-Street Parking Requirements. See Chapter 18.240 TMC.

(c) Sign Regulations. See Chapter 18.20 TMC.

(d) Dimensional Requirements. See Chapter 18.230 TMC.

(e) Nonconforming Uses. See Chapter 18.220 TMC.

(f) Site Plan Regulations. See Chapter 18.260 TMC.

(g) Landscaping Requirements. See Chapter 18.235 TMC.

(h) Subdivision Regulations. See Chapters 18.30 through 18.45 TMC. (Ord. 19921 § 42, 9-23-14.)
18.90.060 Development alternatives.

Repealed by Ord. 19921. (Code 1995 § 48-8.05.)
Chapter 18.95

M-1a LIMITED MULTIPLE-FAMILY DWELLING DISTRICT

Sections:
18.95.010 Purpose – Intent.
18.95.020 Repealed.
18.95.030 Principal, special, and conditional uses.
18.95.040 Density and dimensional requirements.
18.95.050 Other regulations.
18.95.060 Repealed.

18.95.010 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. (Ord. 19707 § 11, 2-28-12.)

18.95.020 Regulations generally.
Repealed by Ord. 19921. (Ord. 16720 § 2, 6-14-94. Code 1995 § 48-8a.01.)

18.95.030 Principal, special, and conditional uses.
(a) Principal uses identified in the use matrix table in TMC 18.60.010 shall be allowed.

(b) Special uses identified in the use matrix table in TMC 18.60.010 shall be allowed subject to the restrictions identified in Chapter 18.225 TMC.

(c) Conditional uses identified in the use matrix table in TMC 18.60.010 may be allowed in accordance with Chapter 18.215 TMC if approved by the governing body. (Ord. 19921 § 45, 9-23-14.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.95.040 Density and dimensional requirements.
All development shall comply with the density and dimensional standards in TMC 18.60.020. (Ord. 19921 § 46, 9-23-14.)

18.95.050 Other regulations.
All principal and accessory uses permitted within this zone are subject to the following requirements:

(a) Permitted Accessory Uses and Requirements. See Chapter 18.210 TMC.

(b) Off-Street Parking Requirements. See Chapter 18.240 TMC.

(c) Sign Regulations. See Chapter 18.20 TMC.

(d) Dimensional Requirements. See Chapter 18.230 TMC.

(e) Nonconforming Uses. See Chapter 18.220 TMC.

(f) Site Plan Regulations. See Chapter 18.260 TMC.

(g) Landscaping Requirements. See Chapter 18.235 TMC.

(h) Subdivision Regulations. See Chapters 18.30 through 18.45 TMC. (Ord. 19921 § 47, 9-23-14.)

18.95.060 Development alternatives.
Repealed by Ord. 19921. (Ord. 16720 § 2, 6-14-94. Code 1995 § 48-8a.05.)
Chapter 18.100
M-2 MULTIPLE-FAMILY DWELLING DISTRICT

Sections:
18.100.010 Purpose – Intent.
18.100.020 Repealed.
18.100.030 Principal, special, and conditional uses.
18.100.040 Density and dimensional requirements.
18.100.050 Other regulations.
18.100.060 Repealed.

18.100.010 Purpose – Intent.
This district is established to provide for the use of attached dwelling units containing three or more dwelling units, designed and intended for individual dwellings, group or community living facilities, congregate living facilities, and including townhouse, condominium or cooperative division of ownership. The location of this district is further intended to provide a transitional use between the districts of lesser and greater intensity. (Code 1995 § 48-9.00.)

18.100.020 Regulations generally.
Repealed by Ord. 19921. (Code 1995 § 48-9.01.)

18.100.030 Principal, special, and conditional uses.
(a) Principal uses identified in the use matrix table in TMC 18.60.010 shall be allowed.

(b) Special uses identified in the use matrix table in TMC 18.60.010 shall be allowed subject to the restrictions identified in Chapter 18.225 TMC.

(c) Conditional uses identified in the use matrix table in TMC 18.60.010 may be allowed in accordance with Chapter 18.215 TMC if approved by the governing body. (Ord. 19921 § 50, 9-23-14.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.100.040 Density and dimensional requirements.
All development shall comply with the density and dimensional standards in TMC 18.60.020. (Ord. 19921 § 51, 9-23-14.)

18.100.050 Other regulations.
All principal and accessory uses permitted within this zone are subject to the following requirements:

(a) Permitted Accessory Uses and Requirements. See Chapter 18.210 TMC.

(b) Off-Street Parking Requirements. See Chapter 18.240 TMC.

(c) Sign Regulations. See Chapter 18.20 TMC.

(d) Dimensional Requirements. See Chapter 18.230 TMC.

(e) Nonconforming Uses. See Chapter 18.220 TMC.

(f) Site Plan Regulations. See Chapter 18.260 TMC.

(g) Landscaping Requirements. See Chapter 18.235 TMC.

(h) Subdivision Regulations. See Chapters 18.30 through 18.45 TMC. (Ord. 19921 § 52, 9-23-14.)

18.100.060 Development alternatives.
Repealed by Ord. 19921. (Code 1995 § 48-9.05.)
Chapter 18.105

M-3 MULTIPLE-FAMILY DWELLING DISTRICT

Sections:
18.105.010 Purpose – Intent.
18.105.020 Repealed.
18.105.030 Principal, special, and conditional uses.
18.105.040 Density and dimensional requirements.
18.105.050 Other regulations.
18.105.060 Repealed.

18.105.010 Purpose – Intent.
It is the purpose of this district to provide for multiple-family dwelling structures which are in the moderate to high density range and at heights which allow for a high intensity of use and development. The location of this district is intended to complement high activity centers such as the central business district, employment centers or other similar locations. Since this district will have high levels of pedestrian activity, attention will be focused on ensuring a pleasant, safe and efficient pedestrian environment. (Ord. 19921 § 54, 9-23-14.)

18.105.020 Regulations generally.
Repealed by Ord. 19921. (Code 1995 § 48-10.01.)

18.105.030 Principal, special, and conditional uses.
(a) Principal uses identified in the use matrix table in TMC 18.60.010 shall be allowed.

(b) Special uses identified in the use matrix table in TMC 18.60.010 shall be allowed subject to the restrictions identified in Chapter 18.225 TMC.

(c) Conditional uses identified in the use matrix table in TMC 18.60.010 may be allowed in accordance with Chapter 18.215 TMC if approved by the governing body. (Ord. 19921 § 56, 9-23-14.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.105.040 Density and dimensional requirements.
All development shall comply with the density and dimensional standards in TMC 18.60.020. (Ord. 19921 § 57, 9-23-14.)

18.105.050 Other regulations.
All principal and accessory uses permitted within this zone are subject to the following requirements:

(a) Permitted Accessory Uses and Requirements. See Chapter 18.210 TMC.

(b) Off-Street Parking Requirements. See Chapter 18.240 TMC.

(c) Sign Regulations. See Chapter 18.20 TMC.

(d) Dimensional Requirements. See Chapter 18.230 TMC.

(e) Nonconforming Uses. See Chapter 18.220 TMC.

(f) Site Plan Regulations. See Chapter 18.260 TMC.

(g) Landscaping Requirements. See Chapter 18.235 TMC.

(h) Subdivision Regulations. See Chapters 18.30 through 18.45 TMC. (Ord. 19921 § 58, 9-23-14.)
18.105.060 Development alternatives.
Repealed by Ord. 19921. (Code 1995 § 48-10.05.)
Chapter 18.110

M-4 MULTIPLE-FAMILY DWELLING DISTRICT

(Repealed by Ord. 19921)
Chapter 18.115

E MULTIPLE-FAMILY DWELLING DISTRICT

(Repealed by Ord. 19888)
Chapter 18.120

D&O MULTIPLE-FAMILY DWELLING AND OFFICE DISTRICT

(Repealed by Ord. 19602)
Chapter 18.125
O&I-1 OFFICE AND INSTITUTIONAL DISTRICT

Sections:
18.125.010 Purpose – Intent.
18.125.020 Repealed.
18.125.030 Principal, special, and conditional uses.
18.125.040 Density and dimensional requirements.
18.125.050 Other regulations.
18.125.060 Repealed.

18.125.010 Purpose – Intent.
This district is established to provide for a limited range of nonresidential and noncommercial uses such as general purpose office, professional, or administrative operations. The district shall not permit those uses and activities pertaining to retail product display, installation, service, repair, or maintenance unless specifically provided for within the chapter. Among others, an objective of this district is to provide for a transitional buffer between the districts of lesser and greater intensity; and to restrict the intensity of use to a low to moderate range and to encourage a compatible design with the adjacent use and development. (Code 1995 § 48-12.00.)

18.125.020 Regulations generally.
Repealed by Ord. 19921. (Code 1995 § 48-12.01.)

18.125.030 Principal, special, and conditional uses.
(a) Principal uses identified in the use matrix table in TMC 18.60.010 shall be allowed.

(b) Special uses identified in the use matrix table in TMC 18.60.010 shall be allowed subject to the restrictions identified in Chapter 18.225 TMC.

(c) Conditional uses identified in the use matrix table in TMC 18.60.010 may be allowed in accordance with Chapter 18.215 TMC if approved by the governing body. (Ord. 19921 § 67, 9-23-14.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.125.040 Density and dimensional requirements.
All development shall comply with the density and dimensional standards in TMC 18.60.020. (Ord. 19921 § 68, 9-23-14.)

18.125.050 Other regulations.
All principal and accessory uses permitted within this zone are subject to the following requirements:

(a) Permitted Accessory Uses and Requirements. See Chapter 18.210 TMC.

(b) Off-Street Parking Requirements. See Chapter 18.240 TMC.

(c) Sign Regulations. See Chapter 18.20 TMC.

(d) Dimensional Requirements. See Chapter 18.230 TMC.

(e) Nonconforming Uses. See Chapter 18.220 TMC.

(f) Site Plan Regulations. See Chapter 18.260 TMC.

(g) Landscaping Requirements. See Chapter 18.235 TMC.

(h) Subdivision Regulations. See Chapters 18.30 through 18.45 TMC. (Ord. 19921 § 69, 9-23-14.)
18.125.060 Development alternatives.

*Repealed by Ord. 19921.* (Code 1995 § 48-12.05.)
Chapter 18.130

O&I-2 OFFICE AND INSTITUTIONAL DISTRICT

Sections:
18.130.010 Purpose – Intent.
18.130.020 Repealed.
18.130.030 Principal, special, and conditional uses.
18.130.040 Density and dimensional requirements.
18.130.050 Other regulations.
18.130.060 Repealed.

18.130.010 Purpose – Intent.
This district is established to provide for a limited range of nonresidential and noncommercial uses such as general purpose office, professional, or administrative operations. The district shall not permit those uses and activities pertaining to retail product display, installation, service, repair, or maintenance unless specifically provided for within the chapter. Among others, an objective of this district is to provide for a transitional buffer between the districts of lesser and greater intensity; and to restrict the intensity of use to a low to moderate range and to encourage a compatible design with the adjacent use and development. (Code 1995 § 48-13.00.)

18.130.020 Regulations generally.
Repealed by Ord. 19921. (Code 1995 § 48-13.01.)

18.130.030 Principal, special, and conditional uses.
(a) Principal uses identified in the use matrix table in TMC 18.60.010 shall be allowed.

(b) Special uses identified in the use matrix table in TMC 18.60.010 shall be allowed subject to the restrictions identified in Chapter 18.225 TMC.

(c) Conditional uses identified in the use matrix table in TMC 18.60.010 may be allowed in accordance with Chapter 18.215 TMC if approved by the governing body. (Ord. 19921 § 72, 9-23-14.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.130.040 Density and dimensional requirements.
All development shall comply with the density and dimensional standards in TMC 18.60.020. (Ord. 19921 § 73, 9-23-14.)

18.130.050 Other regulations.
All principal and accessory uses permitted within this zone are subject to the following requirements:

(a) Permitted Accessory Uses and Requirements. See Chapter 18.210 TMC.

(b) Off-Street Parking Requirements. See Chapter 18.240 TMC.

(c) Sign Regulations. See Chapter 18.20 TMC.

(d) Dimensional Requirements. See Chapter 18.230 TMC.

(e) Nonconforming Uses. See Chapter 18.220 TMC.

(f) Site Plan Regulations. See Chapter 18.260 TMC.

(g) Landscaping Requirements. See Chapter 18.235 TMC.

(h) Subdivision Regulations. See Chapters 18.30 through 18.45 TMC. (Ord. 19921 § 74, 9-23-14.)
18.130.060 Development alternatives.

*Repealed by Ord. 19921.* (Code 1995 § 48-13.05.)
Chapter 18.135
O&I-3 OFFICE AND INSTITUTIONAL DISTRICT

Sections:
18.135.010 Purpose – Intent.
18.135.020 Repealed.
18.135.030 Principal, special, and conditional uses.
18.135.040 Density and dimensional requirements.
18.135.050 Other regulations.
18.135.060 Repealed.

18.135.010 Purpose – Intent.
This district is established to provide for a wide range of nonresidential and noncommercial uses such as general purpose office, professional and service, or administrative operations, research, testing and development. Among others, an objective of this district is to provide for a high intensity of use of considerable magnitude and located on a sufficient land area to accommodate the factors of employment, transportation and other land use considerations. The district shall permit uses and activities pertaining to product showrooms for the display, demonstration, training, selection and sale of goods not for delivery on the premises. Product installation, service, repair and maintenance is not permitted in the district. (Code 1995 § 48-14.00.)

18.135.020 Regulations generally.
Repealed by Ord. 19921. (Code 1995 § 48-14.01.)

18.135.030 Principal, special, and conditional uses.
(a) Principal uses identified in the use matrix table in TMC 18.60.010 shall be allowed.
(b) Special uses identified in the use matrix table in TMC 18.60.010 shall be allowed subject to the restrictions identified in Chapter 18.225 TMC.
(c) Conditional uses identified in the use matrix table in TMC 18.60.010 may be allowed in accordance with Chapter 18.225 TMC if approved by the governing body. (Ord. 19921 § 77, 9-23-14.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.135.040 Density and dimensional requirements.
All development shall comply with the density and dimensional standards in TMC 18.60.020. (Ord. 19921 § 78, 9-23-14.)

18.135.050 Other regulations.
All principal and accessory uses permitted within this zone are subject to the following requirements:
(a) Permitted Accessory Uses and Requirements. See Chapter 18.210 TMC.
(b) Off-Street Parking Requirements. See Chapter 18.240 TMC.
(c) Sign Regulations. See Chapter 18.20 TMC.
(d) Dimensional Requirements. See Chapter 18.230 TMC.
(e) Nonconforming Uses. See Chapter 18.220 TMC.
(f) Site Plan Regulations. See Chapter 18.260 TMC.
(g) Landscaping Requirements. See Chapter 18.235 TMC.
(h) Subdivision Regulations. See Chapters 18.30 through 18.45 TMC. (Ord. 19921 § 79, 9-23-14.)
18.135.060 Development alternatives.

Repealed by Ord. 19921. (Code 1995 § 48-14.05.)
Chapter 18.140
C-1 COMMERCIAL DISTRICT

Sections:
18.140.010 Purpose – Intent.
18.140.020 Repealed.
18.140.030 Principal, special, and conditional uses.
18.140.040 Repealed.
18.140.050 Density and dimensional requirements.
18.140.060 Other regulations.
18.140.070 Repealed.

18.140.010 Purpose – Intent.
This district is established to provide for limited commercial facilities which are to serve as convenient services to a residential neighborhood or limited geographic area of the community. Shops in this district should be useful to the majority of the neighborhood residents, should be economically supportable by nearby population, and should not draw community-wide patronage. The location of this district will be determined based upon the compatibility and design considerations of the limited geographic area affected. (Code 1995 § 48-15.00.)

18.140.020 Regulations generally.
Repealed by Ord. 19921. (Code 1995 § 48-15.01.)

18.140.030 Principal, special, and conditional uses.
(a) Principal uses identified in the use matrix table in TMC 18.60.010 shall be allowed.

(b) Special uses identified in the use matrix table in TMC 18.60.010 shall be allowed subject to the restrictions identified in Chapter 18.225 TMC.

(c) Conditional uses identified in the use matrix table in TMC 18.60.010 may be allowed in accordance with Chapter 18.215 TMC if approved by the governing body. (Ord. 19921 § 82, 9-23-14.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.140.040 Use limitations and conditions of the district.
Repealed by Ord. 19921. (Code 1995 § 48-15.03.)

18.140.050 Density and dimensional requirements.
All development shall comply with the density and dimensional standards in TMC 18.60.020. (Ord. 19921 § 84, 9-23-14.)

18.140.060 Other regulations.
All principal and accessory uses permitted within this zone are subject to the following requirements:

(a) Permitted Accessory Uses and Requirements. See Chapter 18.210 TMC.

(b) Off-Street Parking Requirements. See Chapter 18.240 TMC.

(c) Sign Regulations. See Chapter 18.20 TMC.

(d) Dimensional Requirements. See Chapter 18.230 TMC.

(e) Nonconforming Uses. See Chapter 18.220 TMC.

(f) Site Plan Regulations. See Chapter 18.260 TMC.

(g) Landscaping Requirements. See Chapter 18.235 TMC.
(h) Subdivision Regulations. See Chapters 18.30 through 18.45 TMC. (Ord. 19921 § 85, 9-23-14.)

18.140.070 Development alternatives.

Repealed by Ord. 19921. (Code 1995 § 48-15.06.)
Chapter 18.145

C-2 COMMERCIAL DISTRICT

Sections:
18.145.010 Purpose – Intent.
18.145.020 Repealed.
18.145.030 Principal, special, and conditional uses.
18.145.040 Density and dimensional requirements.
18.145.050 Other regulations.
18.145.060 Repealed.
18.145.070 Repealed.

18.145.010 Purpose – Intent.
This district is established to provide for those commercial activities which serve a major segment of the total community population. In addition to a variety of retail goods and services, these centers may typically feature a number of large traffic generators that require access from major thoroughfares. The extent and range of activities permitted are in the moderate to medium intensity range with a ground floor area limitation and a prohibition on outside sales and storage of supplies, materials, products, and equipment. (Ord. 19921 § 87, 9-23-14.)

18.145.020 Regulations generally.
Repealed by Ord. 19921. (Code 1995 § 48-16.01.)

18.145.030 Principal, special, and conditional uses.
(a) Principal uses identified in the use matrix table in TMC 18.60.010 shall be allowed.

(b) Special uses identified in the use matrix table in TMC 18.60.010 shall be allowed subject to the restrictions identified in Chapter 18.225 TMC.

(c) Conditional uses identified in the use matrix table in TMC 18.60.010 may be allowed in accordance with Chapter 18.215 TMC if approved by the governing body. (Ord. 19921 § 89, 9-23-14.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.145.040 Density and dimensional requirements.
All development shall comply with the density and dimensional standards in TMC 18.60.020. (Ord. 19921 § 90, 9-23-14.)

18.145.050 Other regulations.
All principal and accessory uses permitted within this zone are subject to the following requirements:

(a) Permitted Accessory Uses and Requirements. See Chapter 18.210 TMC.

(b) Off-Street Parking Requirements. See Chapter 18.240 TMC.

(c) Sign Regulations. See Chapter 18.20 TMC.

(d) Dimensional Requirements. See Chapter 18.230 TMC.

(e) Nonconforming Uses. See Chapter 18.220 TMC.

(f) Site Plan Regulations. See Chapter 18.260 TMC.

(g) Landscaping Requirements. See Chapter 18.235 TMC.

(h) Subdivision Regulations. See Chapters 18.30 through 18.45 TMC. (Ord. 19921 § 91, 9-23-14.)
18.145.060 Special provisions.  
Repealed by Ord. 19921. (Code 1995 § 48-16.05.)

18.145.070 Development alternatives.  
Repealed by Ord. 19921. (Code 1995 § 48-16.06.)
Chapter 18.150

C-3 COMMERCIAL DISTRICT

Sections:
18.150.010 Purpose – Intent.
18.150.020 Repealed.
18.150.030 Principal, special, and conditional uses.
18.150.040 Density and dimensional requirements.
18.150.050 Other regulations.
18.150.060 Repealed.
18.150.070 Repealed.

18.150.010 Purpose – Intent.
This district is established to provide for those commercial activities which serve a major segment of the total community population. In addition to a variety of retail goods and services, these centers may typically feature a number of large traffic generators that require access from major thoroughfares. The extent and range of activities permitted are in the moderate to medium intensity range with a prohibition on outside display and storage of supplies, materials, products, and equipment, except for display of gardening and yard supplies and permitted vehicles for sale. (Ord. 19921 § 94, 9-23-14.)

18.150.020 Regulations generally.
Repealed by Ord. 19921. (Code 1995 § 48-17.01.)

18.150.030 Principal, special, and conditional uses.
(a) Principal uses identified in the use matrix table in TMC 18.60.010 shall be allowed.
(b) Special uses identified in the use matrix table in TMC 18.60.010 shall be allowed subject to the restrictions identified in Chapter 18.225 TMC.
(c) Conditional uses identified in the use matrix table in TMC 18.60.010 may be allowed in accordance with Chapter 18.215 TMC if approved by the governing body. (Ord. 19921 § 96, 9-23-14.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.150.040 Density and dimensional requirements.
All development shall comply with the density and dimensional standards in TMC 18.60.020. (Ord. 19921 § 97, 9-23-14.)

18.150.050 Other regulations.
All principal and accessory uses permitted within this zone are subject to the following requirements:
(a) Permitted Accessory Uses and Requirements. See Chapter 18.210 TMC.
(b) Off-Street Parking Requirements. See Chapter 18.240 TMC.
(c) Sign Regulations. See Chapter 18.20 TMC.
(d) Dimensional Requirements. See Chapter 18.230 TMC.
(e) Nonconforming Uses. See Chapter 18.220 TMC.
(f) Site Plan Regulations. See Chapter 18.260 TMC.
(g) Landscaping Requirements. See Chapter 18.235 TMC.
(h) Subdivision Regulations. See Chapters 18.30 through 18.45 TMC. (Ord. 19921 § 98, 9-23-14.)
18.150.060 Special provisions.
Repealed by Ord. 19921. (Code 1995 § 48-17.05.)

18.150.070 Development alternatives.
Repealed by Ord. 19921. (Code 1995 § 48-17.06.)
Chapter 18.155

C-4 COMMERCIAL DISTRICT

Sections:
18.155.010 Purpose – Intent.  
18.155.020 Repealed.  
18.155.030 Principal, special, and conditional uses.  
18.155.040 Density and dimensional requirements.  
18.155.050 Other regulations.  
18.155.060 Repealed.

18.155.010 Purpose – Intent.
This district is established to provide for commercial uses and activities which are intended to serve as community or regional service areas. Uses and activities permitted are typically characterized by outdoor display, storage and/or sale of merchandise, by repair of motor vehicles, by outdoor commercial amusement and recreational activities, or by activities or operations conducted in buildings and structures not completely enclosed. The extent and range of activities permitted are highly intensive and therefore special attention must be directed toward buffering the negative aspects of these uses upon any residential use. (Code 1995 § 48-18.00.)

18.155.020 Regulations generally.  
Repealed by Ord. 19921. (Code 1995 § 48-18.01.)

18.155.030 Principal, special, and conditional uses.  
(a) Principal uses identified in the use matrix table in TMC 18.60.010 shall be allowed.

(b) Special uses identified in the use matrix table in TMC 18.60.010 shall be allowed subject to the restrictions identified in Chapter 18.225 TMC.

(c) Conditional uses identified in the use matrix table in TMC 18.60.010 may be allowed in accordance with Chapter 18.215 TMC if approved by the governing body. (Ord. 19921 § 102, 9-23-14.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.155.040 Density and dimensional requirements.
All development shall comply with the density and dimensional standards in TMC 18.60.020. (Ord. 19921 § 103, 9-23-14.)

18.155.050 Other regulations.
All principal and accessory uses permitted within this zone are subject to the following requirements:

(a) Permitted Accessory Uses and Requirements. See Chapter 18.210 TMC.

(b) Off-Street Parking Requirements. See Chapter 18.240 TMC.

(c) Sign Regulations. See Chapter 18.20 TMC.

(d) Dimensional Requirements. See Chapter 18.230 TMC.

(e) Nonconforming Uses. See Chapter 18.220 TMC.

(f) Site Plan Regulations. See Chapter 18.260 TMC.

(g) Landscaping Requirements. See Chapter 18.235 TMC.

(h) Subdivision Regulations. See Chapters 18.30 through 18.45 TMC. (Ord. 19921 § 104, 9-23-14.)
18.155.060 Development alternatives.

Repealed by Ord. 19921. (Code 1995 § 48-18.05.)
Chapter 18.160

C-5 COMMERCIAL DISTRICT

(Repealed by Ord. 20062)
Chapter 18.165

I-1 LIGHT INDUSTRIAL DISTRICT

Sections:
18.165.010    Purpose – Intent.
18.165.020    Repealed.
18.165.030    Principal, special, and conditional uses.
18.165.040    Density and dimensional requirements.
18.165.050    Other regulations.
18.165.060    Repealed.

18.165.010 Purpose – Intent.
This district is established to provide for a wide range of uses except specified uses which are obnoxious or offensive by reason of odor, dust, smoke, gas or noise. The extent and range of uses are highly intensive. Residential dwellings are not permitted in this district except for on-site caretakers or watchmen or correctional placement residence or facility, limited or general. (Ord. 18237 § 22, 6-15-04. Code 1995 § 48-20.00.)

18.165.020 Regulations generally.
Repealed by Ord. 19921. (Code 1995 § 48-20.01.)

18.165.030 Principal, special, and conditional uses.
(a) Principal uses identified in the use matrix table in TMC 18.60.010 shall be allowed.

(b) Special uses identified in the use matrix table in TMC 18.60.010 shall be allowed subject to the restrictions identified in Chapter 18.225 TMC.

(c) Conditional uses identified in the use matrix table in TMC 18.60.010 may be allowed in accordance with Chapter 18.215 TMC if approved by the governing body. (Ord. 19921 § 112, 9-23-14.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.165.040 Density and dimensional requirements.
All development shall comply with the density and dimensional standards in TMC 18.60.020. (Ord. 19921 § 113, 9-23-14.)

18.165.050 Other regulations.
All principal and accessory uses permitted within this zone are subject to the following requirements:

(a) Permitted Accessory Uses and Requirements. See Chapter 18.210 TMC.

(b) Off-Street Parking Requirements. See Chapter 18.240 TMC.

(c) Sign Regulations. See Chapter 18.20 TMC.

(d) Dimensional Requirements. See Chapter 18.230 TMC.

(e) Nonconforming Uses. See Chapter 18.220 TMC.

(f) Site Plan Regulations. See Chapter 18.260 TMC.

(g) Landscaping Requirements. See Chapter 18.235 TMC.

(h) Subdivision Regulations. See Chapters 18.30 through 18.45 TMC. (Ord. 19921 § 114, 9-23-14.)

18.165.060 Development alternatives.
Repealed by Ord. 19921. (Code 1995 § 48-20.05.)
Chapter 18.170

I-2 HEAVY INDUSTRIAL DISTRICT

Sections:
18.170.010 Purpose – Intent.
18.170.020 Repealed.
18.170.030 Principal, special, and conditional uses.
18.170.040 Density and dimensional requirements.
18.170.050 Other regulations.
18.170.060 Repealed.

18.170.010 Purpose – Intent.
This district is established to provide for the use and location of all other uses excluded in other districts except for residential dwellings. The intensity and use of land as permitted by this district is intended to facilitate the total range of industrial uses. (Code 1995 § 48-21.00.)

18.170.020 Regulations generally.
Repealed by Ord. 19921. (Code 1995 § 48-21.01.)

18.170.030 Principal, special, and conditional uses.
(a) Principal uses identified in the use matrix table in TMC 18.60.010 shall be allowed.

(b) Special uses identified in the use matrix table in TMC 18.60.010 shall be allowed subject to the restrictions identified in Chapter 18.225 TMC.

(c) Conditional uses identified in the use matrix table in TMC 18.60.010 may be allowed in accordance with Chapter 18.215 TMC if approved by the governing body. (Ord. 19921 § 117, 9-23-14.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.170.040 Density and dimensional requirements.
All development shall comply with the density and dimensional standards in TMC 18.60.020. (Ord. 19921 § 118, 9-23-14.)

18.170.050 Other regulations.
All principal and accessory uses permitted within this zone are subject to the following requirements:

(a) Permitted Accessory Uses and Requirements. See Chapter 18.210 TMC.

(b) Off-Street Parking Requirements. See Chapter 18.240 TMC.

(c) Sign Regulations. See Chapter 18.20 TMC.

(d) Dimensional Requirements. See Chapter 18.230 TMC.

(e) Nonconforming Uses. See Chapter 18.220 TMC.

(f) Site Plan Regulations. See Chapter 18.260 TMC.

(g) Landscaping Requirements. See Chapter 18.235 TMC.

(h) Subdivision Regulations. See Chapters 18.30 through 18.45 TMC. (Ord. 19921 § 119, 9-23-14.)

18.170.060 Development alternatives.
Repealed by Ord. 19921. (Code 1995 § 48-21.05.)
Chapter 18.175

U-1 UNIVERSITY DISTRICT

Sections:
18.175.010 Purpose – Intent.
18.175.020 Repealed.
18.175.030 Principal, special, and conditional uses.
18.175.040 Density and dimensional requirements.
18.175.050 Other regulations.
18.175.060 Repealed.

Cross References: Washburn University of Topeka and the board of regents, TMC 2.05.050.

18.175.010 Purpose – Intent.
This district is established to provide for the use of a college or university as a special zoning district. All development, redevelopment or enlargements shall be in accordance with an approved master development plan.
(Ord. 16754 § 14, 9-13-94. Code 1995 § 48-22.00.)

18.175.020 Regulations generally.
Repealed by Ord. 19921.

18.175.030 Principal, special, and conditional uses.
(a) Principal uses identified in the use matrix table in TMC 18.60.010 shall be allowed.

(b) Special uses identified in the use matrix table in TMC 18.60.010 shall be allowed subject to the restrictions identified in Chapter 18.225 TMC.

(c) Conditional uses identified in the use matrix table in TMC 18.60.010 may be allowed in accordance with Chapter 18.215 TMC if approved by the governing body. (Ord. 19921 § 122, 9-23-14.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.175.040 Density and dimensional requirements.
All development shall comply with the density and dimensional standards in TMC 18.60.020. (Ord. 19921 § 123, 9-23-14.)

18.175.050 Other regulations.
All principal and accessory uses permitted within this district are subject to the following requirements:

(a) Permitted Accessory Uses and Requirements. See Chapter 18.210 TMC.

(b) Off-Street Parking Requirements. See Chapter 18.240 TMC.

(c) Sign Regulations. See Chapter 18.20 TMC.

(d) Dimensional Requirements. See Chapter 18.230 TMC.

(e) Nonconforming Uses. See Chapter 18.220 TMC.

(f) Site Plan Regulations. See Chapter 18.260 TMC.

(g) Landscaping Requirements. See Chapter 18.235 TMC.

(h) Subdivision Regulations. See Chapters 18.30 through 18.45 TMC. (Ord. 19921 § 124, 9-23-14.)
18.175.060 Development alternatives.
Repealed by Ord. 19921. (Ord. 16754 § 16, 9-13-94. Code 1995 § 48-22.05.)
Chapter 18.180

MS-1 MEDICAL SERVICE DISTRICT

Sections:
18.180.010 Purpose – Intent.
18.180.030 Principal, special, and conditional uses.
18.180.040 Density and dimensional requirements.
18.180.050 Other regulations.
18.180.060 Repealed.

Editor's Note: Ord. No. 17410, § 10, adopted Sept. 28, 1999, amended the title of this chapter to read as herein set out.

18.180.010 Purpose – Intent.
This district is established to provide for the location and use of a regional medical center together with related medical facilities and supporting ancillary-service uses, including residential dwellings. It is not the purpose nor the intention of this zoning district to preclude the similar use of land or buildings as provided herein from other districts as may be permitted by this division. (Code 1995 § 48-23.00.)

18.180.020 Regulations generally.
Repealed by Ord. 19921. (Code 1995 § 48-23.01.)

18.180.030 Principal, special, and conditional uses.
(a) Principal uses identified in the use matrix table in TMC 18.60.010 shall be allowed.

(b) Special uses identified in the use matrix table in TMC 18.60.010 shall be allowed subject to the restrictions identified in Chapter 18.225 TMC.

(c) Conditional uses identified in the use matrix table in TMC 18.60.010 may be allowed in accordance with Chapter 18.215 TMC if approved by the governing body. (Ord. 19921 § 127, 9-23-14.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.180.040 Density and dimensional requirements.
All development shall comply with the density and dimensional standards in TMC 18.60.020. (Ord. 19921 § 128, 9-23-14.)

18.180.050 Other regulations.
All principal and accessory uses permitted within this zone are subject to the following requirements:

(a) Permitted Accessory Uses and Requirements. See Chapter 18.210 TMC.

(b) Off-Street Parking Requirements. See Chapter 18.240 TMC.

(c) Sign Regulations. See Chapter 18.20 TMC.

(d) Dimensional Requirements. See Chapter 18.230 TMC.

(e) Nonconforming Uses. See Chapter 18.220 TMC.

(f) Site Plan Regulations. See Chapter 18.260 TMC.

(g) Landscaping Requirements. See Chapter 18.235 TMC.

(h) Subdivision Regulations. See Chapters 18.30 through 18.45 TMC. (Ord. 19921 § 129, 9-23-14.)
18.180.060 Development alternatives.
Repealed by Ord. 19921. (Code 1995 § 48-23.05.)
Chapter 18.185

X MIXED USE DISTRICTS

Sections:
18.185.010 Purpose and regulations.
18.185.020 Mixed use district classifications.
18.185.030 Applicability of mixed use districts.
18.185.040 Principal, special, and conditional use regulations for X-1 mixed use district.
18.185.050 Principal, special, and conditional use regulations for X-2 mixed use district.
18.185.060 Principal, special, and conditional use regulations for X-3 mixed use district.
18.185.070 Dimensional and performance standards.
18.185.080 Parking.
18.185.090 Additional requirements for mixed use district.
18.185.100 Legal nonconforming uses for the X mixed use districts.

18.185.010 Purpose and regulations.
(a) Purpose. The mixed use districts may be located in traditional neighborhood settings and, to a limited extent, in areas envisioned for mixed use development by the comprehensive plan, and are provided to encourage a compatible mixed use environment. The X mixed use districts serve to implement neighborhood land use plans and the comprehensive plan.

(b) Regulations. The regulations set forth in this chapter or set forth elsewhere in this division are the district regulations for the X mixed use districts. (Ord. 20062 § 22, 4-18-17.)

18.185.020 Mixed use district classifications.
There are three classifications of mixed use districts as follows:

(a) X-1 Mixed Use District. This district facilitates a compatible mixed use activity center within a traditional residential neighborhood and, to a limited extent, in areas envisioned for mixed use development by the comprehensive plan. The district includes a balance of compatible residential, office, civic, and neighborhood commercial retail/service uses of low to moderate intensity that complement and support dense neighborhood residential areas and pedestrian usage with quality urban design.

(b) X-2 Mixed Use District. This district facilitates a mixed use area that transitions from a higher intensity industrial use area to lower intensity neighborhood-scale residential areas and includes a balance of compatible residential, office, commercial service, and light industrial uses.

(c) X-3 Mixed Use District. This district facilitates a destination-oriented mixed use district in the area known as the North Crossings area of North Topeka that serves as the northern entertainment/cultural anchor of downtown. The objectives of the district include:

1. Improving the area as a 24-hour destination for urban, cultural, entertainment, community, and residential experiences; and

2. Retention and attraction of businesses, workplaces and residences through adaptive reuse and rehabilitation of existing buildings as a preference; and

3. Redeveloping vacant and under-utilized properties through appropriately scaled in-fill development; and

4. High quality development and urban design standards that maintain a sense of history, human scale, and pedestrian orientation. (Ord. 20062 § 23, 4-18-17.)

18.185.030 Applicability of mixed use districts.
(a) The X districts shall only be permitted on an area-wide basis as designated by a specific land use policy set forth in the comprehensive plan for that area. The X district shall be identified as an area that merits special design

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considerations, involving a variety of property owners and uses within a developed urban environment. The X district shall be sufficiently cohesive and substantial to achieve a common objective as identified in the comprehensive plan.

(b) The procedure for amending the district map to include X mixed use districts shall be in accordance with the procedures of TMC 18.245.020.

(c) Properties in the X districts may be allowed more than one principal structure per zoning lot and more than one use per building. (Ord. 20062 § 24, 4-18-17.)

18.185.040 Principal, special, and conditional use regulations for X-1 mixed use district.
(a) Principal uses identified in the use matrix table in TMC 18.60.010 shall be allowed.

(b) Special uses identified in the use matrix table in TMC 18.60.010 shall be allowed subject to the restrictions identified in Chapter 18.225 TMC.

(c) Conditional uses identified in the use matrix table in TMC 18.60.010 may be allowed in accordance with Chapter 18.215 TMC if approved by the governing body. (Ord. 19921 § 131, 9-23-14.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.185.050 Principal, special, and conditional use regulations for X-2 mixed use district.
(a) Principal uses identified in the use matrix table in TMC 18.60.010 shall be allowed.

(b) Special uses identified in the use matrix table in TMC 18.60.010 shall be allowed subject to the restrictions identified in Chapter 18.225 TMC.

(c) Conditional uses identified in the use matrix table in TMC 18.60.010 may be allowed in accordance with Chapter 18.215 TMC if approved by the governing body. (Ord. 19921 § 132, 9-23-14.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.185.060 Principal, special, and conditional use regulations for X-3 mixed use district.
(a) Principal uses identified in the use matrix table in TMC 18.60.010 shall be allowed.

(b) Special uses identified in the use matrix table in TMC 18.60.010 shall be allowed subject to the restrictions identified in Chapter 18.225 TMC.

(c) Conditional uses identified in the use matrix table in TMC 18.60.010 may be allowed in accordance with Chapter 18.215 TMC if approved by the governing body. (Ord. 19921 § 133, 9-23-14.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.185.070 Dimensional and performance standards.
(a) All development in the X districts shall comply with the density and dimensional standards in TMC 18.60.020.

(b) Within the North Crossings and traditional neighborhood areas as designated by the comprehensive metropolitan plan, all new development, including permitted commercial, office, institutional, multifamily residential, industrial uses, or combination thereof, or change of uses with exterior modifications shall be consistent with the following applicable design standards:

(1) Comprehensive Metropolitan Plan. Building design guidelines as adopted within the applicable neighborhood plan of the comprehensive metropolitan plan.

(2) Setbacks, Massing, and Form. Minimize building setbacks within traditional neighborhood or downtown district settings so as to reflect and align with existing setbacks of buildings on the block or facing block. Massing and form of building shall also be compatible with buildings on block, facing block, or neighborhood.
(3) Building Types. Permitted building types shall include a rear yard building that occupies the front of its lot at full width, a side yard building that occupies one side of the lot at full depth, or a courtyard building that occupies all or most of the edges of its lot while internally defining one or more private spaces.

(4) Parking Lots. Parking lots shall not dominate the frontage of pedestrian-oriented and image streets or conflict with pedestrian crossings. No parking space shall be closer to the primary frontage street than the building.

(5) Facades. Blank walls in excess of 50 feet shall be avoided. Buildings with multiple storefronts should be unified in character, compatible with any upper floors, and pedestrian-oriented.

(6) Outdoor Activity. Buildings should accommodate outdoor activity with balconies, arcades, terraces, decks and courtyards for patrons’, residents’, or workers’ interaction to the extent reasonably feasible.

(7) Outdoor Cafes. Restaurants should be encouraged to operate outdoor cafes on sidewalks, within buildings’ setbacks or courtyards; provided, that pedestrian circulation and access to store entrances is not impaired, the space is well-kept, and street furniture/coverings are compatible with architectural character of the building/block.

(8) Pedestrian Circulation. Adequate pedestrian circulation must be maintained at all times. Pedestrian linkages between parking lots, alleys, parks, and the street or building fronts shall be provided for within the public right-of-way or by dedicated easement.

(9) Access. Vehicular access shall be consistent with adopted traffic access management standards and use rear lot access where applicable.

(10) Transition Yards and Landscaping. Where a commercial or industrial lot abuts a residential use(s), a landscaped yard consisting of, but not limited to, trees, vegetation, wood fencing, landscaped earthen berm, or other plantings shall be provided for as a visual buffer that creates spatial separation and meets crime prevention through environmental design principles. Front yard setback areas shall be landscaped.

(11) Open Storage. Any open storage visible from the street, adjacent to residential uses or within image areas designated by the comprehensive metropolitan plan shall be screened to substantially reduce visual impact by fencing, landscaping, or other appropriate means.

(12) Fences. For all office and commercial uses within the X-1, X-2, and X-3 mixed use districts, no fence, hedge or freestanding wall greater than four feet in height may be constructed within a front yard setback beyond the front face of a structure on an adjoining lot. Where no structure exists on an adjoining lot, no fence, hedge or freestanding wall greater than four feet in height may be constructed within a front yard parallel to the front face of the principal structure or building. Decorative open fences, constructed of wrought or cast iron, wood, or masonry, or similar material, greater than four feet in height may be permitted by the planning director upon review of the site and fence plans. Fences, walls, or hedges may be erected up to a height of eight feet in any side or rear yard where not in conflict with these regulations. For a corner lot, the fence height shall not exceed four feet in height beyond the face of a principal structure on an adjoining lot. Fences in conjunction with all residential, institutional, and industrial uses shall be allowed consistent with TMC 18.210.040.

(c) Within the North Crossings and traditional neighborhood areas as designated by the comprehensive metropolitan plan, detached single-family, duplex, and triplex unit development shall be consistent with the residential design guidelines as adopted within the applicable neighborhood plan of the comprehensive metropolitan plan and M-1 two-family zoning district minimum yard requirements.

(d) The planning director may waive any of the above-listed design standards if he determines it to be unnecessary to the scope and nature of the proposed development.

(e) New development within nontraditional neighborhood areas shall be consistent with applicable site plan regulations of this division.
(f) Any property owner who is adversely impacted by a decision of the planning director regarding compliance or noncompliance with the dimensional and performance standards contained herein, may appeal the planning director’s decision to the Topeka planning commission. (Ord. 19921 § 134, 9-23-14.)

Cross References: Planning department, TMC 2.30.090; planning commission, Chapter 2.65 TMC.

18.185.080 Parking.
(a) Off-street parking requirements for the X-2 mixed use district shall be consistent with Chapter 18.240 TMC.
(b) Minimum off-street parking requirements for the X-1 and X-3 mixed use districts shall be consistent with the following:

(1) Residential dwellings: one space per dwelling unit.

(2) Private clubs, drinking establishments, and restaurants with 50 percent of gross income in food sales: one space per four occupants permitted.

(3) Private clubs, drinking establishments, and restaurants with 50 percent of gross income in alcoholic or cereal malt beverage sales: one space per three occupants permitted.

(4) Retail and office uses: one space per 300 square feet of floor area.

(5) All other uses not specified shall be consistent with Chapter 18.240 TMC.

(c) Minimum off-street parking requirements for permitted uses within the X-1 and X-3 mixed use districts may be exempted by the planning director for any change of use or expansion of an existing building, provided adequate off-street or on-street parking can be demonstrated, it does not impose an unreasonable hardship on a residential neighborhood, and it is consistent with any adopted neighborhood or area plan.

(d) A maximum number of off-street parking spaces for a particular use may be imposed by the planning director to conserve open space, prevent unnecessary demolition of buildings and damage to the historic integrity of a district, or to remain consistent with adopted development performance standards. (Ord. 17502 § 8, 5-22-00. Code 1995 § 48-23a.07.)

Cross References: Planning department, TMC 2.30.090.

18.185.090 Additional requirements for mixed use district.
(a) The planning director shall give written approval for conformity to the performance standards within the X districts prior to the issuance of a building permit pursuant to TMC 18.245.060.

(b) The planning director shall give written approval for conformity to the performance standards within the X districts prior to the issuance of a building permit pursuant to TMC 18.245.060 for any use allowed by conditional use permit.

(c) Not more than two of the following uses may be established, operated, or maintained within 1,000 feet of each other: billiard parlor, amusement center, or tattoo studio.

(d) Any permitted commercial or industrial use operating between 10:00 p.m. and 5:00 a.m. may require a conditional use permit.

(e) Any permitted uses with new buildings or additions to existing buildings greater than 30,000 square feet in floor area shall be subject to a conditional use permit.

(f) Within residentially classified blocks of the North Crossings as identified in the Historic North Topeka revitalization plan, establishment of a permitted commercial use within the X-3 district that is more than 50 feet from another legally permitted commercial use shall require a conditional use permit. (Ord. 17502 § 9, 5-22-00. Code 1995 § 48-23a.08.)

Cross References: Planning department, TMC 2.30.090.
18.185.100  **Legal nonconforming uses for the X mixed use districts.**

(a) Any use which is not listed as a permitted use in the mixed use districts but which was permitted for a specific parcel of property pursuant to district regulations in effect for such parcel and which physically existed upon such parcel prior to the enactment of the mixed use districts shall be permitted as a legal nonconforming use.

(b) Legal nonconforming uses located within any of the X districts zoning classifications may expand up to 10 percent of the use intensity of the site. If the expansion of legal nonconforming use exceeds 10 percent, then the following standards must be met before the expansion can occur:

1. The expansion will not result in a reduction of acceptable levels of off-street parking, lot coverage ratio and landscaping; and

2. The expansion will not result in an increase of noise, odor, traffic, light or dust which is incompatible with the surrounding neighborhood or land uses; and

3. The expansion is consistent with the applicable redevelopment plan, if any; and

4. The expansion is consistent with the performance standards of the X districts. (Ord. 17502 § 10, 5-22-00. Code 1995 § 48-23a.09.)
Chapter 18.190

PUD PLANNED UNIT DEVELOPMENT DISTRICT

Sections:
18.190.010 Purpose – Intent.
18.190.020 Regulations generally.
18.190.030 Use regulations.
18.190.040 Requirements and development standards for the planned unit development district.
18.190.050 Procedure for securing approval of a planned development and the establishment of a planned development district.
18.190.060 Planned unit development approval by the governing body.
18.190.070 Amendments to planned unit development plans.
18.190.080 Planned unit development plan variance procedures.

18.190.010 Purpose – Intent.
This district is established to permit greater flexibility and more creative, innovative and imaginative design for the development of areas that are generally not possible under the strict application of the regulations of the other districts. It is further intended to promote more economical and efficient use of the land while providing for a pleasing and harmonious development and environment, including opportunities to provide for a high level of urban amenities, and the preservation of open spaces. The regulations of this district are intended to encourage the use of this district in order to integrate multiple uses into the development; to adapt the proposed use(s) to meet the conditions of the site; and to affect certain economics in public facilities.

Due to the nature and implications of a district zone which provides for such a broad spectrum of land use and a more challenging responsibility of the delivery of public services, considerations and quasijudicial deliberations relating to the compatibility of the district to a particular site shall permit greater discretionary review and broad latitude in applying conditions and limitations for a permitted development. The compliance with all standards set forth in this division and the submittal of all specified documents and data shall not entitle an applicant to this district classification. (Ord. 19997 § 1, 5-3-16.)

18.190.020 Regulations generally.
The regulations set forth in this chapter or set forth elsewhere in this title when referred to in this chapter are the district regulations for the PUD planned unit development district. A development plan shall not be inconsistent with the following general standards for use of land, and the use, type, bulk, design and location of buildings, the density or intensity of use, the common open space, the public facilities and the development by geographic division of the site as well as with the surrounding or adjacent properties.

One or more use groups, referring to one or more of the zoning districts, shall be established on the master plan. The use regulations, dimensional requirements, off-street parking regulations and sign regulations for each of the use groups shall be as set forth in each of the corresponding zoning districts contained in this code, unless other requirements are specifically set forth on the master plan or the site plan. (Ord. 19218 § 1, 2-3-09. Code 1995 § 48-24.01.)

18.190.030 Use regulations.
(a) Permitted Uses. A planned unit development district may provide for any use or combination of uses that are listed in the use regulations of the various districts contained in this division, subject to applicable limitations, provisions or conditions specified therein and in accordance with the following regulations:

(1) All approved permitted uses of this district shall be geographically designated and grouped by category on all plans in like manner as other districts contained in this division, either by individual group or in combination therewith.

(2) Permitted use categories and any approved conditional uses provided by the individual categories shall be specifically designated on all approved plans and shall be set forth in the adopting ordinance or resolution.
(3) Provided, that all applicable limitations, provisions and conditions specified by use and set forth in this
district are complied with, there may be use changes or relocations within each group category; provided, that
the approved plan is not modified except as otherwise provided for by the procedures of this district.

(b) Setback and Height Regulations. The height and front, side and rear yard setbacks for individual structures
within the planned unit development shall be determined in conjunction with the final approval of the planned unit
development plan.

c) Off-Street Parking Regulations. The provisions of Chapter 18.240 TMC, Off-Street Parking Requirements, shall
apply to the planned unit development district in all respects except for the specified standards establishing the
required number of spaces. Off-street parking regulations shall be based on the applicable requirements for each
proposed use as set forth in this code. The planning director can provide a downward variance from this requirement
based on factors provided by the applicant, including, but not limited to, the use of shared parking, nearby public
parking or other factors that justify a lesser parking requirement.

d) Signs. The number, location, size, area, height and type of signs shall be determined in conjunction with the
approval process. (Ord. 19218 § 2, 2-3-09. Code 1995 § 48-24.02.)

Cross References: Planning department, TMC 2.30.090.

18.190.040 Requirements and development standards for the planned unit development district.
The following performance criteria shall be required of all planned unit developments and shall be addressed by the
master plan:

(a) Size of Parcel.

(1) One Acre. Except as provided in subsection (a)(2) of this section, the minimum site size for a planned unit
development district shall be one acre.

(2) Less Than One Acre.

(i) Less Than One Acre – Transition Area. Parcels containing less than one acre may be reclassified to a
planned unit development district where the planning director determines the proposed PUD to be a
“transition area,” defined as an area that separates a nonresidential use group classification (O&I, C, or I
districts alone or within a PUD) from another nonresidential use group classification or a residential use
group classification (R or M districts alone or within a PUD). The determination of the planning director
may be appealed to the planning commission.

(ii) Less Than One Acre – Reuse of Building – Zoning Change. Parcels containing less than one acre may
be reclassified to a planned unit development district where the plan includes a reuse of an existing
building and the proposed use would require a zoning change to a less restrictive classification.
Conditional uses may be allowed as indicated in TMC 18.190.030(a)(2).

(b) Additional Standards and Requirements for Projects on Less Than One Acre.

(1) The use group category assignment of the planned unit development will be compatible with surrounding
properties in the neighborhood. Restrictions may be imposed to ensure the proposed use is compatible with
surrounding properties or uses.

(2) The density and design of the planned unit development shall be compatible in use, size and type of
structure, relative amount of open space, traffic circulation and general layout with adjoining land use, and shall
be integrated into the neighborhood.

(3) The development shall not have any greater impact on existing streets and utilities than that anticipated for a
conventional development of the site.

(4) The development shall not adversely affect views, light and air, and use and enjoyment of neighboring
properties any more than would a conventional development.
(5) The master planned unit development plan shall also include building elevations for all structures and
details of materials to be used for external construction, when determined necessary by the planning director.
The determination of the planning director may be appealed to the planning commission.

c) Property Owners’ Association. Areas within the planned unit development which are designated as private
streets, private utility services, common areas, recreation areas, or other open space set aside for the benefit of
tenants and property owners, shall be maintained by the property owners’ association or, in the alternative, property
owners within the planned unit development. In the event the property owners’ association or property owners
within the planned unit development fail to maintain such areas, the governing body may proceed under applicable
ordinances and/or resolutions to maintain such areas. All costs incurred by the governing body in maintaining such
areas shall be assessed against the lots within the planned unit development as provided for by law. Nothing
contained herein shall be construed as creating a duty on behalf of the governing body to enforce any of the duties,
obligations, or responsibilities of the property owners’ association or, in the alternative, individual property owners.

d) Platting. Building or zoning permits shall not be issued nor any development initiated on any property designated
as planned unit development until such time that the property has been platted as a subdivision; or replatted as a
subdivision when determined by the planning director that conditions and circumstances relating to utility extension
and service, street or alley right-of-way, topographic and drainage factors, easements, or vehicular access warrant
said replat.

e) Access.

(1) All drives, lanes, streets, culs-de-sac, and other accessways within the planned unit development shall be
owned and maintained by the property owners’ association or owners within the planned unit development
unless it is determined by the planning commission that there is a public need for local streets and/or major
trafficways to transverse the district. In such instances, the transversing streets and/or trafficway right-of-way
shall be dedicated by the developer in accordance with the plat subdivision regulations.

(2) All drives, lanes, streets, culs-de-sac and other privately owned accessways providing accessibility to
individual structures, buildings, and uses within the planned unit development shall, by the nature and intent of
the district, be considered and serve as mutual rights of access for owners, tenants, invited guests, clients,
customers, support and utility service personnel and emergency service providers, including law enforcement,
fire protection and ambulance services. No gates, structures or other barriers shall be constructed across said
accessways which may impede, limit, or restrict the above rights of access.

(3) The site will be accessible from public streets which are adequate to carry the traffic that will be imposed
upon them by the proposed development. Streets and driveways on the site of the proposed development will
be adequate to serve the residents, occupants, or users of the proposed development. Traffic control signals will
be provided without expense to the city when such signals are required to prevent traffic hazards or congestion
in adjacent streets.

(4) All drives, lanes, streets, culs-de-sac, accessways, and parking lots shall comply with all applicable
provisions of Chapter 18.240 TMC in respect to surfacing, design, screening, lighting, and drainage.

(f) Other Standards. Other developmental standards, requirements, and provisions of applicable jurisdictional units
including but not limited to those of public works, fire and water district, law enforcement, utilities, and parks
and recreation, and which may not be specifically set forth in this division, shall apply and the master and final planned
unit development plans should account for such and reflect a development design accordingly; provided, that
variances and waivers are not granted by the appropriate authority. (Ord. 19997 § 2, 5-3-16.)

Cross References: City council – mayor, Chapter 2.15 TMC; fire department, TMC 2.30.030; planning department, TMC
2.30.090; police department, TMC 2.30.100; public works department, TMC 2.30.110; planning commission, Chapter 2.65 TMC.

18.190.050 Procedure for securing approval of a planned development and the establishment of a planned
development district.
Prior to any use or development within the planned unit development district, the district shall be established in
accordance with the provisions of this division, including the approval of all plans set forth in the procedure.
(a) Application to Amend to the District. Except as set forth by this division, a petition to reclassify property to the planned unit development district shall be as established in Chapter 18.245 TMC, Amendments, and include like contents. Additionally, the application shall include the specified number of copies of the planned unit development master plan which shall consist of the following documents, information and graphics unless determined to be unnecessary by the planning director. The planning director may waive the submittal of the master plan in circumstances where the conditions of approval, restrictions, and limitations of the planned unit development can be addressed in the ordinance reclassifying the property.

(1) Legal description of the proposed district in its entirety, total acreage, and planned unit development name/designation.

(2) Legal description of each proposed use group category with corresponding acreage.

(3) The site plan shall identify the name of the planned unit development in large, bold letters centered across the top of all plan sheets; the general location and arrangement of all existing structures; the proposed traffic circulation pattern within the development; the approximate location of proposed and existing major streets and major pedestrian and bicycle routes, including major points of access; the areas to be developed for parking; the points of ingress and egress including access streets where required; the relationship of abutting land uses and zoning districts; proposed types of signage; proposed lots and blocks, if any; proposed public or common open space, if any, including parks, playgrounds, school sites, and recreational facilities.

(4) The site plan of the development shall be at a minimum scale of one inch equals 50 feet, composed of one or more sheets with an outer dimension of 24 inches by 36 inches. A single-line border shall be provided around all plan sheets measuring exactly one inch from the edge of the sheet except along the left side of the sheet which line shall measure exactly two inches from the edge. The scale, north point and most recent date of preparation shall be so indicated on the plan.

(5) Graphically reflect the geographic location and designation of each use group category proposed.

(6) The anticipated density, number, maximum height and type of residential units; and floor area, maximum height and types of business, commercial and industrial use presented in tabular form in comparison to minimum applicable standards.

(7) Existing topographical character of the land at a contour appropriate with the scale of the project; all watercourses, floodplains, unique natural features, including wildlife areas and vegetative cover, and recognized historical sites and structures. Further, all existing streets, alleys, easements, utility lines, and existing land use shall be included on the plan.

(8) Total land area, approximate location, and amount of open space included in the residential, business, commercial, and industrial areas.

(9) When a planned development includes provisions for common open space, streets, utilities, drainageways or recreational facilities, a statement describing the provision that is to be made for the care and maintenance of such open space, streets, utilities, drainageways, or recreational facilities.

(10) A preliminary plat of subdivision pursuant to the applicable ordinances, rules and regulations relating to subdivision approval; or a copy of the existing recorded plat which is appropriate for the intended plan.

(11) Area shown on the site plan shall extend beyond the property lines of the proposal to include a survey of the area within 150 feet of the proposal, exclusive of public right-of-way, at the same scale as the proposal and include the following:

   (i) Land uses, location of principal structures, and major existing landscape features.

   (ii) Traffic circulation system.

   (iii) General topographical mapping at same scale as master plan.
(12) Traffic impact analysis as defined by this division; provided, however, if in the opinion of the public works director, upon determination at preapplication conference that the intensity and scope of the requested planned unit development is of such nature that said impact analysis is not warranted, the director may waive said requirement.

(13) A development phasing schedule including the sequence for each phase, approximate size in areas of each phase, and proposed phasing of construction of public improvements, recreation, and common open space areas.

(14) One 11-by-17-inch reproducible electronic and paper copy of master plan.

(15) Indicate “Book,” “Page,” “Date,” and “Time” in upper right-hand corner of all plan sheets.

(16) Immediately below the “Book,” “Page,” “Date” and “Time” entries, provide the following signature block:

Recorded With The Shawnee County Register of Deeds:
(Registrar’s Name) – Register of Deeds

(17) Include the following statement on the plan sheet:

This Planned Unit Development (PUD) Master Plan has been reviewed and approved in accordance with the provisions of Chapter 18.190 of the Comprehensive Zoning Regulations of the City of Topeka and Shawnee County, Kansas, and may be amended only as prescribed in TMC 18.190.070 and as set forth on this document or as may subsequently be approved and recorded.

(18) Notarized owner’s certification of acceptance of conditions and restrictions set forth on the master plan as follows:

OWNER’S CERTIFICATE: (Type Name) agrees to comply with the conditions and restrictions as set forth on the master PUD plan.

In Testimony Whereof:

The Owner(s) of the above described property, (Type Name), have signed these presents this ________ day of ________, (Year) ________.

(Type Name and Title) (Type Name and Title)

Be it remembered that on this ________ date of ________, A.D. ________ (Year) before me, a notary public in and for said County and State come ________, Owner(s) of the above described property.

I hereby set my hand and affix my notarial seal the day and year last written above.

____________________
Notary Public

My Commission Expires:_______

(19) Notarized certification of master PUD plan approval by the secretary to the planning commission as follows:

Certification of Master PUD Plan Approval:

(Planning Director’s Name) (Date)

Secretary to Planning Commission
Be it remembered that on this ________ date of ________, A.D. ________ (Year), before me, the undersigned, a notary public in and for said County and State came (Planning Director’s Name) who is personally known to me to be the same person who executed the within instrument of writing, and such person duly acknowledged the execution of the same.

In Witness Whereof, I hereby set my hand and affix my notarial seal the day and year last written above.

____________________
Notary Public

My Commission Expires:_______

(b) Action on the Petition and Master Plan of the Planned Unit Development Plan by the Planning Commission and Governing Body. Upon filing of a petition to amend a district to the planned unit development district as set forth in Chapter 18.245 TMC, Amendments, and as further provided by this division, the planning commission shall review, consider, and act on the petition in a like manner and procedure as provided in Chapter 18.245 TMC. The appropriate governing body shall consider such proposal upon report and recommendation by the planning commission also in a like procedure as provided in Chapter 18.245 TMC. (Ord. 19997 § 3, 5-3-16.)

Cross References: City council – mayor, Chapter 2.15 TMC; planning department, TMC 2.30.090; public works department, TMC 2.30.110; planning commission, Chapter 2.65 TMC.

18.190.060 Planned unit development approval by the governing body.
(a) Form of Ordinance. An ordinance approving a planned unit development and establishing a planned unit development district shall specify the restrictions that will, pursuant to the development plan, apply in the planned development district and shall describe the boundaries of such district or set such boundaries out on a map that is incorporated and published as a part of such document. Such document shall also specify the conditions and restrictions that have been imposed by the governing body on the planned development and shall designate geographic areas by use group category. Prior to consideration of an ordinance by the city council, the applicant shall submit the plan on a permanent-type drafting film material on sheets 24 inches by 36 inches suitable for recording.

(b) Recording. For those proposals which are approved to be reclassified to the planned unit development district, the master plan, and site plan (if concurrent approval is requested by the applicant) as approved by the governing body with all conditions, revisions, and restrictions as set forth or imposed by said action of the governing body shall be recorded within 60 days of the action date of the city council by the applicant with the register of deeds. Failure by the applicant to record the plan within the prescribed time period or provide the planning department 15 copies of the recorded plan within 90 days of the action by the governing body shall deem the zoning petition as null and void. The planning director upon written request of the applicant and for good cause shown may extend this time period an additional 30 days. Upon recordation, any changes, revisions, or modifications to the plan shall be in accordance with this division and again recorded in a similar manner; provided, however, if the cause of the delay was one of circumstances beyond the control of the applicant, the planning director may grant an additional extension of 90 days.

(c) Site Development Plan Review. If the site plan was not submitted and approved concurrently with the master plan, the following procedure shall apply: following the recording of the master planned unit development plan and prior to application for any building development on the site, the applicant shall be required to submit a site development plan in accordance with the procedures set forth as follows:

(1) Submission of Site Development Plan. A site development plan shall be submitted for the entire area as per the approved master planned unit development plan or for a subarea (single use group area) within the planned development, provided: (i) the plan of the subarea meets all the requirements of the master planned unit development plan; (ii) the dwelling unit density for residential development or total floor area for nonresidential development does not exceed the dimensional standards established by the master plan unit development plan; (iii) the subarea can function as an independent development unit with adequate access,
services, utilities, open space; etc.; and (iv) the subarea is more than two acres in size. The applicant shall submit 15 copies of the site development plan which shall contain the following information:

(i) The title of the project, centered across the top of the plan sheet, and the names of the engineer or surveyor and names of the developer; and a signature panel for the planning director’s approval.

(ii) A north point, scale, date and vicinity map.

(iii) Existing zoning and improvement of immediately adjacent properties.

(iv) The boundaries of the entire planned unit development or the specific land use area for which development is sought; all existing property lines; setback lines; the right-of-way and pavement dimension of existing streets; the location, dimension, height and square feet of all existing buildings and identification of those to be retained or removed; location, alignment and area of watercourses, waterways or lakes; and other physical features in or adjoining the proposed development.

(v) The right-of-way and pavement dimension of all proposed streets, loading and parking areas; location, height, type of fixture, and intensity of illumination of all exterior lighting; location and dimension of storm drainage facilities and all curb cuts and access points.

(vi) The location, dimension, height, and square footage of all proposed buildings, main and accessory, including dwelling type and number of dwelling units per building.

(vii) The location of trash receptacles, including the type and height of trash enclosures.

(viii) The location and dimension of proposed recreation areas, open spaces, and other amenities and improvements.

(ix) The location, character, size, height, and orientation of existing and proposed signs.

(x) The location, type, height, and materials of all fences and walls.

(xi) The location and type of all existing trees with a caliper of eight inches or greater. The plan shall indicate which of the trees are to be retained and which are to be removed.

(xii) A landscape plan in compliance with the requirements of the provisions of Chapter 18.235 TMC, Landscape Requirements.

(xiii) A tabulation of the total number of acres in the project, total number of acres in the land use area for which site plan approval is sought, the percentage and acreage thereof proposed to be allocated to residential use, nonresidential uses, off-street parking, common open space, parks, schools, and other reservations.

(xiv) A tabulation of the total number of dwelling units in a residential area and the overall project density in dwelling units per gross acre. Tabulation of floor area by use in a nonresidential area.

(xv) The type, location, and size of all existing and proposed utilities and utility easements extending through or adjacent to the site.

(xvi) A topographic survey showing the elevation of streets, buildings, structures, watercourses, and their names. The topography shall be shown by adequate spot elevations.

(2) Review and Approval of Site Development Plan. Site plans shall be approved administratively by the planning director after first circulating the plan and all attachments to all applicable reviewing departments and agencies for written comment. This provision, however, shall not prohibit the planning director from requesting a recommendation from the planning commission. The site development plan shall be reviewed for conformity with the provisions of the master planning unit plan and other applicable codes and regulations of the appropriate jurisdiction. The planning director may approve the site development plan as submitted, approve
with modifications, remand back to the applicant for modifications, or deny. If the plan is approved, the
director shall certify thereon his approval and state the conditions of approval, if any. If the plan is disapproved,
he shall indicate his disapproval and the reasons therefor in writing to the applicant. Appeals of any decision
of the planning director shall be submitted to the planning commission for review and determination. Appeals of
any decision of the planning commission shall be submitted to the city council for final action.

(3) Amendments or modifications to approved site development plans must be submitted to the planning
department for review and determination. Such modifications shall be submitted to all applicable reviewing
agencies and departments for review and comment. The planning director shall approve, modify, or deny the
proposed amendment in the same manner as the submission of the original site development plan. The planning
director again may submit the proposed amendment to the planning commission for recommendation.

(4) A stop work order shall be put on a project if any improvements required on the approved site development
plan are not adhered to during the development of the site. (Ord. 19218 § 5, 2-3-09. Code 1995 § 48-24.05.)

Cross References: City council – mayor, Chapter 2.15 TMC; planning department, TMC 2.30.090; planning commission,
Chapter 2.65 TMC.

18.190.070 Amendments to planned unit development plans.
Each applicant petitioning for a planned unit development district shall, as part of the application, designate a
prescribed manner as to who may initiate amendment(s) to the approved planned unit development master plan. In
addition to the planning commission or city council, the owner may solely initiate amendments to the plan. The
terms and provisions of the plan shall extend to and be binding upon the heirs, executors, administrators, trustees,
and assignees of the owner. Should more than one entity hold title, then all such affected owners of all such title as
determined by the planning director shall be required to execute any such amendment. In lieu of all owners
individually executing such document, the planning director may approve a homeowners’ or property owners’
association to execute any such amendment if they present evidence their organization has the authority to represent
all owners within the PUD.

(a) Minor Amendments to Master Plan. Minor changes to a planned unit development master plan may be approved
administratively, if at all, by the planning director. Such changes may be authorized without additional public
hearings, at the discretion of the planning director. This provision shall not prohibit the planning director from
requesting a recommendation from the planning commission.

(1) Minor Amendment Criteria. Amendments shall be deemed as minor if the cumulative revisions to the most
recent approved master plan of record which was considered at a public hearing do not include:

(i) A change to the use and character of the development.

(ii) The possible creation of obstacles, barriers and service problems to traffic circulation, fire protection,
public safety, and public utility services due to the revision(s).

(iii) A reduction by greater than 10 percent of the designated open space.

(iv) An increase by greater than 10 percent in the approved number of residential dwelling units.

(v) Increase the floor area proposed for nonresidential use by more than 10 percent.

(vi) Increase by greater than 20 percent the approved signage including, but not limited to, height or sign
face area.

(2) Submittal of Revised Master Plan with Minor Amendments. The proposed revised master plan shall be
submitted to the planning director for consideration of approval. Said plan shall be presented on reproducible
tracing material in like manner, and substance as reflected on the most recent approved plan. All other data,
conditions, and information other than that proposed for amendment shall be identical to the most recently
approved plan. Space for acknowledgement of approval by the planning director with date space shall be
reflected on said plan. A letter of transmittal from the designated applicant setting forth in detail all proposed
amendments shall accompany the submittal. Upon approval of any revised plan, the applicant shall furnish 16
copies of such plan with the planning agency for distribution to public agencies and utilities. The original tracing will remain on file in the planning agency and the revised master plan shall be rerecorded with the register of deeds in like manner as established with the original filing.

(b) Major Amendments to Master Plan. Major changes shall include any modifications that do not meet all the minor amendment criteria set forth above. A major amendment is processed and approved in the same manner as the original application. Amendments that add a permitted use group and/or change the location of a use group by legal description are subject to protest as provided for under state law for any other rezoning. (Ord. 19218 § 6, 2-3-09. Code 1995 § 48-24.06.)

Cross References: City council – mayor, Chapter 2.15 TMC; planning department, TMC 2.30.090; planning commission, Chapter 2.65 TMC.

18.190.080 Planned unit development plan variance procedures.
The planning commission is solely empowered to grant variances to the provisions of this chapter and only under the following circumstances:

(a) The applicant demonstrates that the plan as submitted more effectively accomplishes the goals and objectives of the comprehensive plan than such plan incorporating the provision for which a variance is requested; or

(b) The strict application of any provision would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of such property; provided, that the variance may be granted without substantial detriment to the public good and without substantially impairing the purpose of this chapter. (Ord. 19218 § 7, 2-3-09. Code 1995 § 48-24.07.)

Cross References: Planning commission, Chapter 2.65 TMC.
Chapter 18.195
OS-1 OPEN SPACE DISTRICT

Sections:
18.195.010 Purpose and regulations.
18.195.020 Principal, special, and conditional uses.

18.195.010 Purpose and regulations.
(a) Purpose. The open space district is intended to preserve and protect existing and potential public park land, open land, greenways, recreational space, floodways, trails and lands that have other physical, aesthetic or cultural characteristics which preclude their inclusion in other less restrictive districts. It is intended that these areas provide opportunities for passive and active outdoor recreation, preserve scenic views, and protect sensitive or fragile environmental areas. It is further the intent of this district to protect these areas from urban, non-open space or incompatible development.

(b) Regulations. The regulations set forth in this chapter or set forth elsewhere in this division are the district regulations for the OS-1 open space district. (Ord. 17502 § 11, 5-22-00. Code 1995 § 48-24a.)

18.195.020 Principal, special, and conditional uses.
(a) Principal uses identified in the use matrix table in TMC 18.60.010 shall be allowed.

(b) Special uses identified in the use matrix table in TMC 18.60.010 shall be allowed subject to the restrictions identified in Chapter 18.225 TMC.

(c) Conditional uses identified in the use matrix table in TMC 18.60.010 may be allowed in accordance with Chapter 18.215 TMC if approved by the governing body. (Ord. 19921 § 135, 9-23-14.)

Cross References: City council – mayor, Chapter 2.15 TMC.
Chapter 18.200

D DOWNTOWN DISTRICTS

Sections:
18.200.010 Purpose and regulations.
18.200.020 Downtown district classifications.
18.200.030 Principal, special and conditional uses.
18.200.040 Repealed.
18.200.050 Repealed.
18.200.060 Dimensional and performance standards.
18.200.070 Parking.
18.200.080 Legal nonconforming uses.
18.200.090 Design guidelines and sign standards.

18.200.010 Purpose and regulations.
(a) Purpose. The downtown districts are unique to the downtown Topeka area and are provided to encourage a compatible mixed use activity. The D downtown districts serve to implement the downtown Topeka redevelopment plan, which is part of the city of Topeka’s comprehensive plan.

(b) Regulations. The regulations set forth in this chapter or set forth elsewhere in this division are the district regulations for the D downtown districts. (Ord. 20062 § 25, 4-18-17.)

18.200.020 Downtown district classifications.
There are three classifications of downtown districts as follows:

(a) D-1 District. The purpose of this district is to facilitate a compatible mixed use activity center within the core area of downtown Topeka. The district is predominately composed of state offices, as well as local and federal facilities, commercial and retail uses. The district includes compatible residential, office, civic, and commercial retail/service uses which complement and support a high density of activity and facilitate pedestrian usage.

(b) D-2 District. The purpose of this district is to integrate a compatible mixed use activity with urban residential neighborhoods. The district includes a balance of compatible residential, office, cultural, and neighborhood commercial retail/service uses of low to moderate intensity that complement and support neighborhood residential areas and pedestrian usage.

(c) D-3 District. The purpose of this district is to reestablish the linkage between downtown and the Kansas River through intensive redevelopment of the area north of Crane Street to the Kansas River. The district includes housing, commercial and office uses that emphasize the relationship between downtown and the river, as well as expand cultural opportunities in the general downtown area. (Ord. 17661 § 2, 8-20-01. Code 1995 § 48-24b.00.)

18.200.030 Principal, special and conditional uses.
(a) Principal uses identified in the use matrix table in TMC 18.60.010 shall be allowed.

(b) Special uses identified in the use matrix table in TMC 18.60.010 shall be allowed subject to the restrictions identified in Chapter 18.225 TMC.

(c) Conditional uses identified in the use matrix table in TMC 18.60.010 may be allowed in accordance with Chapter 18.215 TMC if approved by the governing body. (Ord. 20062 § 26, 4-18-17.)

18.200.040 Use regulations for D-2 district.
Repealed by Ord. 20062. (Ord. 19311 § 29, 9-22-09. Code 1995 § 48-24b.02.)

18.200.050 Use regulations for D-3 district.
Repealed by Ord. 20062. (Ord. 19311 § 30, 9-22-09. Code 1995 § 48-24b.03.)
18.200.060 Dimensional and performance standards.
All development shall comply with the density and dimensional standards in TMC 18.60.020. (Ord. 20062 § 29, 4-18-17.)

18.200.070 Parking.
(a) No off-street parking requirements for the D-1, D-3 use districts.

(b) Minimum off-street parking requirements for the D-2 use districts shall be consistent with the following:

1. Residential dwellings: one space per dwelling unit.
2. Private clubs, drinking establishments, and restaurants: one space per four occupants permitted.
3. Retail and office uses: one space per 500 square feet of usable retail or office floor area.
4. All other uses not specified shall be consistent with Chapter 18.240 TMC.

(c) A maximum number of off-street parking spaces for a particular use may be required by the planning director to conserve open space, prevent unnecessary demolition of buildings and damage to the historic integrity of a district, or to remain consistent with adopted development performance standards. (Ord. 17661 § 7, 8-20-01. Code 1995 § 48-24b.05.)

Cross References: Planning department, TMC 2.30.090.

18.200.080 Legal nonconforming uses.
(a) Any use which is not listed as a permitted use in these downtown zoning districts but which was permitted for a specific parcel of property pursuant to zoning district regulations in effect for such parcel and which physically existed upon such parcel prior to the enactment of the districts shall be permitted as a legal nonconforming use in accordance with Chapter 18.220 TMC.

(b) Expansion of legal nonconforming uses and/or structures is prohibited unless a determination of “no adverse impact” by the planning director is obtained based on the following:

1. The use intensity on the site of the proposed expansion will not increase by more than 10 percent cumulatively; and
2. The expansion will not result in a reduction of acceptable levels of off-street parking, lot coverage ratio, landscaping by more than five percent; and
3. The expansion will not result in an increase of noise, odor, traffic, light, or dust incompatible with the surrounding neighborhood and/or uses; and
4. The expansion is consistent with any adopted neighborhood, area, or redevelopment plan; and
5. The expansion is consistent with the development performance standards of these districts. (Ord. 17661 § 8, 8-20-01. Code 1995 § 48-24b.06.)

Cross References: Planning department, TMC 2.30.090.

18.200.090 Design guidelines and sign standards.
(a) Within the D-1, D-2 and D-3 districts, all new development, including permitted commercial, office, institutional, multifamily residential, industrial uses, or combination thereof, or change of uses with exterior modifications shall be consistent with the following design guidelines. No building permit shall be issued unless it is in compliance with the design guidelines which are set forth in Exhibit A at the end of this section.

(b) Compliance shall be determined by the planning director by evaluating site plans and exterior elevations for conformity with the design guidelines.

(c) Decisions on conformity with the guidelines shall be made within 10 working days of submission.
(d) An appeal from the planning director’s decision as to compliance with the downtown Topeka general design
guidelines may be made to the board of zoning appeals pursuant to Chapter 2.45 TMC.

(e) On-premises signs in the D-2 district shall comply with the standards for signs in the X (mixed use) districts
pursuant to TMC 18.20.020(e). Off-premises signs shall be regulated by Chapter 18.25 TMC, Article IV.

(f) D-1 and D-3 District Sign Standards.

(1) Wall Signs.

(i) Each establishment is permitted one or more wall signs at the first floor on each building face occupied
by said establishment. The accumulated area of wall signs on each building face shall be limited to 20
percent of the area of the exterior building elevation at the pedestrian level or 150 square feet, whichever
is less.

(ii) Wall signage above the first floor shall be limited to no more than one sign not exceeding 150 square
feet, for every 50 lineal feet of street frontage, on the exterior wall of the floor on which the signage is
located. For buildings in excess of three floors or exceeding 40 feet in height, one wall sign per building
face is permitted no larger than 300 square feet and located above the third floor or above 40 feet,
whichever is the least. For signage above the third floor, the planning director, or the historic landmarks
commission if the sign is located on a historic landmark or in a historic district, may approve signage of
greater than 300 square feet to the extent the applicant demonstrates signage exceeding 300 square feet is
necessary for visibility and legibility of the sign.

(2) Painted Exterior Wall Signs.

(i) A painted exterior wall sign identifies a use or on-premises establishment and consists entirely of copy
that is painted directly on the exterior material of a building not including the exterior surface of a
window, awnings, or other appurtenances.

(ii) Any painted exterior wall sign applied to the front or side of a building directly facing a street shall be
regulated in the same manner as a wall sign. Any painted exterior wall sign applied to the side or rear of a
building that does not directly abut a street is permitted provided the area of all such signs does not exceed
300 square feet on the wall on which the signage is applied. In determining the number of square feet, only
text or logos pertaining to the business, industry, or activity conducted on or within the premises shall be
included. Art and graphic representations associated with the painted exterior wall sign that are not text or
logos shall not be subject to the area restriction.

(3) Awning and Marquee Signs. Awning and marquee signs are signs incorporated in the awning material or
attached flat to the face of an awning or marquee. A marquee is a roof-like projection or shelter, typically over
the entrance to an entertainment venue, and typically containing an illuminated flat area for static or changeable
sign copy. Signage attached such that the sign face is parallel with, or at an angle between zero and less than 45
degrees of the building facade, shall be regulated in the same manner as wall signs. Signs attached in such a
way as to be at a 45-degree or greater angle to the building facade shall be regulated in the same manner as
projecting signs. For marquees electronic message centers (EMCs) may comprise 100 percent of the face of the
marquee and 100 percent of the size allowed for marquee signs.

(4) Window Signs. Window signs are signs on the inside or outside of the window that are visible from the
outside of the window. Window signs are permitted provided all window signs in aggregate constitute no more
than 50 percent of the area of all windows for each tenant and for each side of the building on which the
window signs are located.

(5) Projecting Signs. Each establishment is permitted a maximum of one projecting sign, visible from any
single angle, mounted to the exterior of the first or second floors. The area of the projecting signs shall be
limited to 10 percent of the building face at the level on which the establishment is located or 75 square feet,
whichever is less.
(6) Ground Signs.

(i) A ground sign is any sign placed upon, or supported by, the ground independently of any building or structure on the property. Ground signs permitted in the D-1 district include monument signs and pylon signs. A monument sign is a ground sign for which the width of the widest part of the base or pylon cover of the sign is at least 75 percent of the width of the widest part of the sign face, and for which the total height of the sign does not exceed five feet. A pylon sign is a ground sign whose sign face or cabinet is above ground level and is supported by poles, pylons, or posts.

(ii) Any parcel of land located in a historic district is allowed one monument sign per street frontage not to exceed two signs, to a height not to exceed 10 feet. For each sign, the sign area shall not exceed one-half square foot per lineal foot of frontage on the street to which it is oriented or 50 square feet, whichever is less. A pylon sign located on a base that is within two feet of the exterior building wall may be mounted on a pylon or similar support structure and the dimensional standards for projecting signs shall apply.

(iii) Any parcel of land located outside of a historic district shall be permitted one monument or pylon sign per street frontage not to exceed two signs, to a height not to exceed 20 feet. For each sign, the cumulative sign area shall not exceed three-quarter square foot per foot of frontage on the street to which it is oriented or 120 square feet, whichever is less.

(iv) Parcels of land with frontage on two or more streets may utilize a single ground sign in lieu of two ground signs provided the total area of said sign does not exceed 150 percent of the sign area allowed for any of the ground signs and in no instance is greater than 75 square feet in the downtown Topeka historic district and no more than 150 square feet in area outside of the historic district.

(v) The poles or pylons used to support the cabinet of a pylon sign shall be contained within the pole or pylon covers of a material and color compatible with the sign and adjacent buildings. Pole or pylon covers shall have an outside diameter of one foot or more.

(vi) Legal nonconforming ground signs may be refaced or have cabinets replaced without being required to comply with the standards in subsections (f)(6)(i) through (iii) of this section. Legal nonconforming signs shall comply with the standards in subsections (f)(6)(i) through (iii) of this section in the event they are removed or pole, pylon, or base is replaced.

(7) Roof Signs. Each building that exceeds three floors or 40 feet is permitted one roof sign no larger than 300 square feet. The height of a roof sign, measured from the top of the highest parapet to the top of the sign, shall not exceed 25 percent of the height of the building or 30 feet, whichever is most restrictive. Roof signs shall comply with all applicable engineering and construction code requirements. The planning director, or the historic landmarks commission if the sign is located on a historic landmark or in a historic district, may approve signage exceeding the above dimensional standards to the extent the applicant demonstrates signage exceeding the dimensional standards is necessary for visibility and legibility of the sign.

(8) Electronic Message Centers (EMC). EMCs may be incorporated in whole or in part into any of the above sign types. One EMC sign is permitted per street frontage per establishment provided the size of the EMC is limited to 50 percent of the allowable sign area for the type of sign in which it is incorporated. EMCs that are part of a marquee are allowed 100 percent of the allowed sign area and may comprise 100 percent of the face of the marquee. All aspects of EMCs not specifically addressed herein are subject to the sign standards in Division 2 of this title.

(9) Directional Signs. A directional sign provides direction to pedestrian or vehicular traffic into and out of a site, or within a site. In addition to the ground signs provided in TMC 18.20.020(g), up to two directional signs, constructed as ground signs, whether as a monument or pylon type, each not to exceed six square feet and five feet in height, are permitted for each 50 feet of street frontage not to exceed four per parcel. All other directional signs shall be regulated in accordance with subsections (f)(1) through (5), (7), (8) and (10) of this section.
(10) Illumination. Internal, flood illumination, or direct (i.e., neon) are permitted. Flashing, strobing, blinking, fluttering, chasing, and similar lighting features are prohibited unless they are determined by the planning director to contribute to or consistent with the historic character of the sign and building.

EXHIBIT A

DOWNTOWN TOPEKA URBAN DESIGN GUIDELINES

PURPOSE

The purpose of these guidelines is to provide the regulatory authority to ensure that new construction and renovation of existing structures is consistent with the established urban form of downtown. These guidelines are to be used as criteria for the design of new public and private projects and to be utilized in the evaluation of new projects. These guidelines seek to balance private property rights against the public interest of protecting the appearance and existing investments downtown.

The design guidelines offer a vision for an approach to downtown design that can be beneficial both to developers and the community. The concepts for downtown development encourage the highest level of design quality and creativity while emphasizing key downtown design concepts such as, but not limited to:

- Maintaining the street wall at the front property line;
- Enhancing the design of street facades;
- Ensuring pedestrian compatibility;
- Designing public spaces at a pedestrian scale;
- Creating visual interest; and
- Maintaining design integrity and compatibility with surrounding structures.

A mix of uses (including office, retail, housing, or other uses) within a given project is encouraged, whether it is a single building or a redevelopment district.

APPLICABILITY

These guidelines apply to the D zoning districts with the exception of projects located within designated historic districts or individually listed historic properties. For these exceptions, projects must follow the applicable design guidelines or other standards that specifically govern alterations to those properties in place of these guidelines. Within the boundaries of the D zoning district’s designated National Register Historic Districts, these guidelines...
are amended by separate design guidelines as adopted. Any project requiring a building permit must comply with approved design guidelines.

The guidelines established herein are not intended to restrict creative solutions. These guidelines describe ways to achieve the stated purpose of the guidelines and offer flexibility in meeting the key concepts for good downtown design. Not all guidelines will or are intended to be met. The “should,” “recommended,” or “encouraged” statements offer flexibility and indicate that the city is open to design features that are equal to or better than those stated, so long as the intent is satisfied.

Compliance with the guidelines will be determined in conjunction with the review and approval of a development site plan, all in accordance with site plan regulations. Submission of plans for all elevations of a proposed building is required.

WAIVER/EXCEPTION

Relief from the application of certain design guidelines may be granted by the planning director if warranted by public safety, site constraints, and functionality considerations.

DEFINITIONS

If in the course of administration of these guidelines, a question arises as to the meaning of any word, phrase, or section, the planning director shall determine the interpretation.

INFILL DEVELOPMENT

1. Exterior additions to existing buildings or adjacent infill construction should be compatible with the character of the site, and take into account the size, proportions, facade composition, rhythm and proportion of openings, materials, and colors of neighboring buildings. Techniques to help ensure compatibility with neighboring buildings include:
   • Maintaining the street wall by locating the new building at the sidewalk;
   • Ensuring the street level facade fits in contextually with neighboring properties;
   • Differentiating the upper stories of the building from the street level facade by setting back the upper stories at the plane above the street level facade; and
   • Using different wall materials than the lower facade.

2. New on-site parking, loading docks or ramps should be designed to be unobtrusive and compatible with the primary use of the site. On-site parking should not be located along or adjacent to the street frontage. In those instances where parking is located along a street frontage, efforts to maintain the street wall will be imperative. Options include landscaping, low walls, etc.

STREET ORIENTATION

1. Buildings should generally be built up to the edge of the sidewalk in a consistent plan with the other buildings on the street.

2. Other street-level setbacks, plazas and widened sidewalks from the building line should be strategically placed in accordance with an overall open space plan. The new open spaces should be located to relate to other land uses such as retail, entertainment and transit routes.

STREET LEVEL FORM

1. The street frontage of buildings should contain public or semi-public uses such as commercial, office, retail or entertainment uses with direct entry from the street. Non-public/semi-public uses are appropriate on the first floor if located to the rear of the street.
2. New buildings should express a principal public facade and entrance on the adjacent street, and entries from parking facilities should be considered as secondary.

3. Retail activities within buildings should be oriented towards the street and have direct access from sidewalks through storefront entries.

4. Ground floor storefront restaurants are encouraged to have a strong connection between the interior of the structure and the exterior street environments.

5. Upper floor balconies should not extend structural supports into the public right-of-way below.

6. Sidewalk cafes should not impair pedestrian circulation nor store entrance access. There should be at least a six-foot contiguous and unobstructed walkway for use by pedestrians.

**BUILDINGS FACADES**

1. New buildings should be open and inviting in both their principal and secondary facades. Blank walls, or any wall with less than 30 percent glass, should not be placed along public streets, but may be placed along alleys and service lanes.

2. Entryways should be generously proportioned and visually transparent so as to encourage connections to the public realm.

3. Decorative and functional elements such as signage, awnings, and ornamentation should be used to create human scale elements on the street-level facades to further encourage openness.

4. Loading docks and garage entrances should not be located on the major pedestrian street side of new buildings.

5. New curb cuts that conflict with safe pedestrian travel and existing on-street parking are discouraged.

6. Retail storefronts are strongly encouraged along the ground floor of all new and renovated buildings. These should be visually transparent to the interior.
with large areas of window display and should provide for direct entry from the sidewalk. The rhythm of windows and storefronts should be consistent.

PARKING FACILITY DESIGN

1. Facades of parking facilities should be treated with an architectural finish and given vertical articulation and emphasis. The facade should distinguish a base, middle and top by using different materials, or other methods, and also respond to the context of surrounding buildings by using similar materials. The facade should be designed so as to visually screen cars at street level. Sloping interior floors should not be visible or expressed on the exterior face of the building.

2. Retail storefronts or other business uses should be placed at the street level along the principal street and are encouraged along all adjacent streets except service alleys.

3. Pedestrian entries should be clearly visible and architecturally expressed on the exterior of the garage. Expression of the vertical pedestrian circulation (stairs and elevators) on the exterior of the garage is encouraged.

4. Surface parking lots should provide landscaping in compliance with Topeka’s landscape ordinance. Required landscaping should take the form of planter strips, landscaped areas and perimeter landscaping.

5. The existing street setback should be maintained along the principal street frontage in developed areas and established in new districts or developments. Tools for accomplishing this can include walls, fences, row of trees, hedges or any combination of these elements. The height and placement of
such features should be in accordance with CPTED (crime prevention through environmental design) principles.

6. While it is important to provide adequate interior lighting for safety and comfort, it should be controlled to avoid spill out on the adjacent streets creating excessive glare.

ARCHITECTURE AND CONTEXT

1. The architectural design of new buildings and the rehabilitation of existing buildings should be sensitive to the existing built and natural environment within which they are constructed. The architecture of the existing downtown buildings should provide examples of architectural themes, rhythm, materials and forms.

2. New construction is not required to implement any particular architectural style, but should be designed to be compatible with the scale, form and materials of surrounding structures, by applying these guidelines.

PUBLIC INFRASTRUCTURE IMPROVEMENTS

1. All new public infrastructure projects (roads, sidewalks, public buildings, and streetlights) should meet high standards of design quality and provide significant
secondary benefits in the form of major public space improvements. These projects should be subject to the same standards of Downtown design that would be required of all other projects.

2. Public art projects are encouraged to be incorporated into every major public infrastructure project such as bridges, highways and roadways.

PUBLIC SPACES

1. New public spaces should consist of renovated or enhanced streets, or strategically selected places that are directly linked to the street system.

2. Generally, pedestrian ways should not be separated from streets and sidewalks, unless in riverfront parks. They should maintain direct access from the adjacent streets. They should be open along the adjacent sidewalk and allow for multiple points of entry. A passerby should be able to see directly into the space.

3. New public spaces should be developed with pedestrian amenities, such as follows:
   - Landscaping.
   - Open space.
   - Seating.
   - Public art.
• However, walls, fences and dense planting that visually seclude the interior space from the sidewalk should be avoided.

HISTORY AND IDENTITY

1. All projects are encouraged to express local history and identity through functional and ornamental design elements and works of public art.

2. New development projects or renovation of existing structures should be designed to preserve the historic resources that exist on the site and reinforce the historical context within which they are developed.

3. In the event that it is not possible to preserve the entirety of a historic building the retention of historic facades is encouraged.

STREET AND BLOCK ORGANIZATION

1. New buildings and development should respect the existing organization of the city and the street and block patterns that exist.

2. Superblock developments that join together one or more blocks are discouraged.

3. Where it is feasible, street grids should be extended, reestablished or newly created in areas of large-scale redevelopment.

4. New buildings or pedestrian bridges should not bridge across or block access to existing streets.

ENTRANCES AND VISTAS

1. Buildings and new development projects should be sensitively designed and sited so as to preserve the key vistas and gateways to downtown and views of the State Capitol.

2. New buildings should not block the view corridors defined by the city streets, either by bridging across streets or the use of pedestrian bridges.

(Ord. 20062 § 30, 4-18-17.)
Cross References: Planning department, TMC 2.30.090; planning commission, Chapter 2.65 TMC.
Chapter 18.205

FORBES FIELD AND PHILIP BILLARD AIRPORTS HAZARD ZONING

Sections:
18.205.010 Short title.
18.205.020 Definitions.
18.205.030 Airport zones established.
18.205.040 Airport zone height limitations.
18.205.050 Use restrictions.
18.205.060 Nonconforming uses.
18.205.070 Permits.
18.205.080 Enforcement of chapter.
18.205.090 Penalty for violation of chapter.
18.205.100 Conflicting regulations.

Cross References: Metropolitan Topeka airport authority, TMC 2.05.070; planning, Chapters 2.65 and 18.05 TMC; buildings and building regulations, TMC Title 14.

State Law References: Aircraft and airfields, K.S.A. Chapter 3; airport zoning regulations, K.S.A. 3-701 et seq.

18.205.010 Short title.
This chapter shall be known and may be cited as “Forbes Field and Philip Billard Airports hazard zoning.” (Code 1981 § 4-55. Code 1995 § 22-26.)

18.205.020 Definitions.
The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Airport” means the Forbes Field Airport and the Philip Billard Airport.

“Airport elevation” means the highest point of an airport’s usable landing area measured in feet from mean sea level.

“Airport hazard” means any structure or object of natural growth located on or in the vicinity of a public airport, or any use of land near such airport, which obstructs the airspace required for the flight of aircraft in landing or takeoff at such airport or is otherwise hazardous to such landing or takeoff of aircraft.

Approach, Transitional, Horizontal and Conical Zones. These zones apply to the area under the approach, transitional, horizontal and conical surfaces defined in Federal Aviation Regulation Part 77.

“Board of zoning appeals” means a board consisting of not less than three nor more than seven members appointed by the board of county commissioners or the mayor of the city.

Height. For the purpose of determining the height limits in all zones set forth in this chapter and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

“Nonconforming use” means any preexisting structure, object of natural growth, or use of land which is inconsistent with the provisions of this chapter or any amendment thereto.

“Nonprecision instrument runway” means a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area-type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned, and for which no precision approach facilities are planned or indicated on an FAA planning document or military service’s military airport planning document.

“Person” means an individual, firm, partnership, corporation, company, association, joint stock association or governmental entity. It includes a trustee, receiver, assignee or similar representative of any of them.
“Precision instrument runway” means a runway having an existing instrument approach procedure utilizing an instrument landing system (ILS) or a precision approach radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an FAA-approved airport layout plan or a military service’s military airport planning document.

“Primary surface” means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway.

The width of the primary surface of a runway will be that width prescribed in Part 77 of the Federal Aviation Regulations (FAR) for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

“Runway” means a defined area of an airport prepared for the landing and takeoff of aircraft along its length.

“Structure” means an object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, earth formations and overhead transmission lines.

“Tree” means any object of natural growth.

“Utility runway” means a runway that is constructed for an intended use by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.


Cross References: Definitions generally, TMC 1.10.020.

18.205.030 Airport zones established.

(a) Zones Defined. In order to carry out the provisions of this chapter, there are hereby created and established certain zones which include all of the land lying within the approach zones, transitional zones, horizontal zones, and conical zones as they apply to a particular airport. Such zones are shown on the airport hazard zoning map prepared by the Metropolitan Topeka Airport Authority which is attached to Ordinance No. 14650 and made a part of this chapter by reference. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. Utility Runway Visual Approach Zone. The inner edge of the utility runway visual approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface, its centerline being the continuation of the centerline of the runway.

2. Runway Larger Than Utility Visual Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 1,500 feet at a horizontal distance of 5,000 feet from the primary surface, its centerline being the continuation of the centerline of the runway.

3. Runway Larger Than Utility with a Visibility Minimum Greater Than Three-Fourths-Mile Nonprecision Instrument Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface, its centerline being the continuation of the centerline of the runway.

4. Runway Larger Than Utility with a Visibility Minimum as Low as Three-Fourths-Mile Nonprecision Instrument Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 4,000 feet at a
horizontal distance of 10,000 feet from the primary surface, its centerline being the continuation of the
centerline of the runway.

(5) Precision Instrument Runway Approach Zone. The inner edge of the precision instrument runway approach
zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands
outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface, its
centerline being the continuation of the centerline of the runway.

(6) Transitional Zones. Transitional zones are hereby established as the area beneath the transitional surfaces.
These surfaces extend outward and upward at a 90-degree angle to the runway centerline and the runway
centerline extended at a slope of seven feet horizontally for each foot vertically from the sides of the primary
and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional zones for those
portions of the precision approach zones which project through and beyond the limits of the conical surface
extend a distance of 5,000 feet measured horizontally from the edge of the approach and at 90-degree angles to
the extended runway centerline.

(7) Horizontal Zone. The horizontal zone is hereby established by swinging arcs of specified radii from the
center of each end of the primary surface to each runway. The radius of each arc is 5,000 feet for all runways
designated as utility or visual; and 10,000 feet for all other runways. The radius of the arc specified for each
end of a runway will have the same arithmetical value. That value will be the highest determined for either end
of the runway. When a 5,000-foot arc is encompassed by tangents connecting two adjacent 10,000-foot areas,
the 5,000-foot arc shall be disregarded on the construction of the perimeter of the horizontal surface, and
connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the
approach and transitional zones.

(8) Conical Zone. The conical zone is hereby established as the area that commences at the periphery of the
horizontal zone and extends outward there from a horizontal distance of 4,000 feet. The conical zone does not
include the precision instrument approach zones and the transitional zones.

(b) Determination of Zones Where Uncertainty May Arise. The location of all zones as indicated and described on
the airport zoning map shall prevail where there is uncertainty in application to any or all lands located within such
zones. Such determination of the zones, including all real property, shall be made by scaling and using mathematical
methods in conjunction with property descriptions. The responsibility for making such determination shall be with
the Topeka-Shawnee County metropolitan planning commission staff. (Code 1981 § 4-57. Code 1995 § 22-28.)

Cross References: Planning commission, Chapter 2.65 TMC.

State Law References: Zones authorized, K.S.A. 3-703.

18.205.040 Airport zone height limitations.
Except as otherwise provided in this chapter, no structure or tree shall be erected, altered, allowed to grow, or be
maintained in any zone created by this chapter to a height in excess of the height limit established in this section for
such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

(a) Utility Runway Visual Approach Zone. Slopes upward 20 feet horizontally for each foot vertically, being at the
end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the
extended runway centerline.

(b) Runway Larger Than Utility Visual Approach Zone. Slopes upward 20 feet horizontally for each foot vertically
beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of
5,000 feet along the extended runway centerline.

(c) Runway Larger Than Utility with a Visibility Minimum Greater Than Three-Fourths-Mile Nonprecision
Instrument Approach Zone. Slopes upward 34 feet horizontally for each foot vertically beginning at the end of and
at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended
runway centerline.
(d) Runway Larger Than Utility with a Visibility Minimum as Low as Three-Fourths-Mile Nonprecision Instrument Approach Zone. Slopes upward 34 feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

(e) Precision Instrument Runway Approach Zone. Slopes upward 50 feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward 40 feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.

(f) Transitional Zones. Slopes upward and outward seven feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the primary surface and the approach zones, and extending to a height of 150 feet above the airport elevation which is 1,079 feet above mean sea level at Forbes Field and 880 feet above mean sea level at Philip Billard Airport. In addition to the foregoing, there are established height limits sloping upward and outward seven feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the approach zones, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, height limits sloping upward and outward seven feet horizontally for each foot vertically shall be maintained beginning at the sides of and at the same elevation as the precision instrument runway approach surface, and extending to a horizontal distance of 5,000 feet measured at 90-degree angles to the extended runway centerline.

(g) Horizontal Zone. One hundred fifty feet above the airport elevation or a height of 1,229 feet above sea level at Forbes Field and 1,030 feet above mean sea level at Philip Billard Airport.

(h) Conical Zone. Slopes upward and outward 20 feet horizontally for each foot vertically beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

(i) Excepted Height Limitations. Nothing in this section shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a height up to 75 feet above the surface of the land.

Where an area is covered by more than one height limitation, the more restrictive limitation shall prevail. (Code 1981 § 4-58. Code 1995 § 22-29.)

State Law References: Height restrictions authorized, K.S.A. 3-703.

18.205.050 Use restrictions.
Notwithstanding any other provisions of this chapter, no use may be made of land or water within any zone established by this chapter in such a manner as to:

(a) Create electrical interference with navigational signals or radio communication between airport and aircraft;

(b) Make it difficult for pilots to distinguish between airport lights and others;

(c) Result in a glare in the eyes of pilots using the airport;

(d) Impair visibility in the vicinity of the airport; or

(e) Otherwise in any way create a hazard or endanger the landing, takeoff or maneuvering of aircraft intending to use the airport. (Code 1981 § 4-59. Code 1995 § 22-30.)

State Law References: Use restrictions authorized, K.S.A. 3-703.

18.205.060 Nonconforming uses.
(a) Regulations Not Retroactive. The regulations prescribed by this chapter shall not be construed to require the removal, lowering or other changes or alteration of any structure or tree not conforming to the regulations as of May 13, 1980, or otherwise interfere with the continuance of nonconforming use.
(b) Marking and Lighting. Notwithstanding the provisions of subsection (a) of this section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the executive director of the metropolitan airport authority to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights shall be installed, operated and maintained at the expense of the metropolitan Topeka airport authority.

(Code 1981 § 4-60. Code 1995 § 22-31.)

State Law References: Nonconforming uses, K.S.A. 3-706.

18.205.070 Permits.

(a) Future Uses. No material change shall be made in the use of land and no structure or tree shall be erected, altered, planted or otherwise established in any zone created under this chapter unless a permit therefor shall have been applied for and granted.

(1) However, a permit for a tree or structure of less than 75 feet of vertical height above the ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 4,200 feet from each end of the runway, except when such tree or structure, because of terrain, land contour or topographic features, would extend above the height limit prescribed for the respective zone.

(2) Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particulars to determine whether the resulting use, structure or tree would conform to the regulations prescribed in this chapter. If such determination is in the affirmative, the permit shall be granted.

(b) Existing Uses. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure or tree to become a greater hazard to air navigation than it was on May 13, 1980, or on the effective date of any amendments to this chapter, or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

(c) Nonconforming Uses Abandoned or Destroyed. Whenever the chief building inspector or county zoning administrator, within his respective jurisdiction, determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

(d) Variances. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his property not in accordance with the regulations prescribed in this chapter may apply to the city or county board of zoning appeals, dependent upon jurisdiction, for a variance from such regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and relief granted would not be contrary to the public interest but will do substantial justice and be in accordance with the spirit of this chapter.

(e) Hazard Marking and Lighting. Any permit or variance granted, if such action is deemed advisable to effectuate the purpose of this chapter and to be reasonable under the circumstances, may be so conditioned as to require the owner of the structure or tree in question to permit the metropolitan Topeka airport authority, at its own expense, to install, operate and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard. (Code 1981 § 4-61. Code 1995 § 22-32.)

Cross References: Board of zoning appeals, Chapter 2.45 TMC.

State Law References: Permits and variances, K.S.A. 3-707.

18.205.080 Enforcement of chapter.

It shall be the duty of the code enforcement director of the city or the county zoning administrator to administer and enforce the regulations prescribed in this chapter. Applications for a variance shall be made to the appropriate enforcement agency upon a form furnished by it. Applications required by this chapter to be submitted to the code enforcement director of the city or to the county zoning administrator shall be promptly considered and granted or denied. Application for action by the city or county board of zoning appeals shall be forthwith transmitted by the appropriate enforcement officer. (Code 1981 § 4-62. Code 1995 § 22-33.)
Cross References: Board of zoning appeals, Chapter 2.45 TMC; building code enforcement division, Chapter 2.50 TMC.

18.205.090 Penalty for violation of chapter.
Each violation of this chapter or of any regulation, order or ruling promulgated under this chapter shall constitute a misdemeanor and be punishable as provided in TMC 1.10.070. (Code 1981 § 4-63. Code 1995 § 22-34.)

State Law References: Judicial enforcement of airport zoning ordinances, K.S.A. 3-710.

18.205.100 Conflicting regulations.
Where there exists a conflict between any of the regulations or limitations prescribed in this chapter and any other regulations applicable to the same area, whether the conflict is with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail. (Code 1981 § 4-64. Code 1995 § 22-35.)

Chapter 18.210
ACCESSORY USES

Sections:

Accessory uses, buildings and land customarily associated with, and clearly incidental to, a permitted use, special use requirement or conditional use permit shall be permitted provided they are:

(a) Located on the same lot or parcel as a principal use and commonly associated with a principal building or use.

(b) Subordinate in area, extent and purpose to the principal building. The cumulative footprint of all accessory buildings shall not exceed 90 percent of the principal building’s footprint and as restricted by Chapter 18.60 TMC density/dimensional standards.

(c) Operated and maintained under the same ownership and are contributory to the comfort, convenience or necessity of the occupants, business or industry in the principal building or use served.

(d) Time of Construction. No accessory building shall be constructed or established more than 120 days prior to the time of completion of the construction or establishment of the principal building or use to which it is an accessory. (Ord. 20062 § 31, 4-18-17.)

The accessory uses, buildings and other structures permitted in each zone may include the following:

(a) In the RR-1 district:

   (1) Open or enclosed storage of farm materials and equipment.

   (2) Farm buildings, including barns, stables, sheds, toolrooms, shops, tanks, bins and silos.

   (3) Fuel storage tanks and dispensing equipment for fuels used solely for farming operations. No wholesale/retail sales of such fuels shall be allowed as an accessory use.

   (4) Wholesale and retail sales of agricultural products grown or raised upon the premises.

   (5) Roadside stands for the sale of produce grown on the premises; provided, that such a stand shall not contain more than 600 square feet of floor area, the stand is located no closer than 20 feet from the right-of-way, and access to the stand is from an entrance to the farm or residence.

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


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

(10) Private garages and carports.

(11) Private greenhouses or conservatories.

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

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

(14) Residential accessory storage buildings for the storage of wood, lumber, lawn or gardening equipment and other materials and equipment, exclusively for the personal use of the residents of the premises, but not including a storage building for commercial purposes.

(15) Signs as regulated by Chapter 18.20 TMC.

(16) Statuary, arbors, trellises, flagpoles, and barbecue stoves.

(17) Structures for the shelter of household pets except kennels.

(18) Temporary construction buildings for on-site construction purposes, including cargo containers, for a period not to exceed the duration of the construction project.

(19) Little free libraries associated with residential uses are limited to a height of six feet, a width of two feet, and volume of six cubic feet, and to a height of six feet, width of four feet, and volume of 10 cubic feet when associated with nonresidential uses.

(b) In the R-1, R-2, R-3, R-4, M-1 and M-1a districts: in addition to the accessory uses included in subsections (a)(6) through (a)(19) of this section, the following shall be permitted:

(1) Storage buildings and garages for the storage of wood, lumber, lawn or gardening equipment and other materials and equipment, exclusively for the personal use of the residents of the premises, but not including storage for commercial purposes. Truck bodies and cargo containers are not allowed as accessory uses. However, cargo containers may be used on a temporary basis as regulated by TMC 18.210.050.

(2)(i) No farming equipment or farming machinery shall be parked or stored on a lot or tract of land unless within an enclosed lawful structure, or screened from view from any abutting property or street. No truck, excluding a pickup truck, trailer, boat, bus, tractor, or similar vehicle, machinery, or equipment with a curb weight (unloaded vehicle weight) or manufacturer’s gross vehicle weight rating exceeding six tons shall be parked or stored any place on a lot or tract of land within an R, M-1 or M-1a district.

(ii) No commercial vehicles or commercial equipment, machinery or materials of any kind shall be stored any place on a lot or tract of land, except if such vehicles, equipment, machinery or materials are in temporary usage to actively accomplish permitted temporary activities on the premises such as construction, repair, moving, and other similar activities. In such case they shall be removed from the lot or tract of land within 48 hours of completion of said activity.

(3) Off-street parking as regulated by Chapter 18.240 TMC.

(4) A child’s playhouse.

(c) In the M-2 and M-3 districts: in addition to the accessory uses included in subsection (b) of this section, the following shall be permitted:

(1) A maintenance storage building incidental to a permitted use, provided no such structure shall exceed 160 square feet in gross floor area, and shall be in keeping with the principal structure.
(2) A facility for leasing, managing and/or maintenance of a multiple-family dwelling or planned unit development, provided such facility is of such size and scale which is in keeping with, and is accessory in nature to, said multiple-family dwelling or planned unit development, all as determined by the planning director.

(d) In the O&I-1, O&I-2 and O&I-3 districts:

(1) For residential uses, the accessory uses included in subsection (c) of this section shall be permitted.

(2) Off-street parking as regulated by Chapter 18.240 TMC.

(3) A storage building incidental to a permitted use, provided no such structure shall exceed 400 square feet in gross floor area, and shall be in keeping with the principal structure.

(4) Employee restaurants and cafeterias, when located in a principal structure.

(5) Signs as regulated by Chapter 18.20 TMC.


(7) Flagpoles and statuary.

(8) Private garages and carports.

(e) In the C-1, C-2, C-3, C-4 and D districts: in addition to the accessory uses included in subsection (d) of this section, the following shall be permitted:

(1) Restaurants, drugstores, gift shops, clubs, lounges, newsstands, and travel agencies when located in a permitted hotel or motel.

(2) One independent, freestanding commercial structure of 400 square feet or less in the C-1 district and 600 square feet in the other districts shall be permitted on a zoning lot. Such accessory structure shall not be required to provide off-street parking, but shall be located as to not interfere with or reduce the amount of required parking for the principal use. The location of such accessory structure shall be reviewed and approved by the planning director at the time of building permit application, provided such location does not conflict or interfere with site access and interior vehicular circulation.

(f) In the I-1 and I-2 districts, the following shall be permitted:


(2) Off-street parking as regulated by Chapter 18.240 TMC.

(3) Signs as regulated by Chapter 18.20 TMC.

(4) Gatehouse.

(5) Employee recreational facilities.

(6) Flagpoles and statuary.

(7) Employee restaurants and cafeterias when located in the principal building of the use served.

(8) Employee child care facilities.

(9) Storage and warehousing.

(10) Caretaker’s or night watchmen’s quarters.
(g) In the U-1 district: the accessory uses included in subsection (c) of this section.

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

(i) In the X-1, X-2 and X-3 districts: the accessory uses included in subsections (b), (c), (d), (e) and (f) of this section shall be in compliance with any applicable performance standards of the X mixed use districts. (Ord. 20062 § 32, 4-18-17.)

Cross References: Planning department, TMC 2.30.090.

Repealed by Ord. 19921. (Ord. 19628 § 1, 8-23-11.)

Home occupations shall be permitted provided the same does not detract from the residential character of a neighborhood and will not cause excessive traffic, nuisance or hazards to safety; provided further, that each home occupation shall comply with the following standards and permit requirements:

(a) Standards. The following shall apply to any home occupation:

(1) The use or activity shall be carried on by a resident of the dwelling.

(2) Not more than one employee not a resident of the dwelling is permitted at any one time.

(3) The exterior of the dwelling shall not be changed or modified in any way, nor shall any exterior signs be erected that will indicate any accessory use of the property nor adversely affect the residential character of the neighborhood.

(4) The sale of any commodity, goods or products on the premises is prohibited.

(5) All equipment, materials, work in progress and work areas shall be confined to the principal dwelling and not extend into an attached or detached garage or storage building.

(6) The projection of any obnoxious sound, odor, smoke, vibration, light or dust is prohibited.

(7) The home occupation shall not occupy more than 25 percent of the total floor area (including a basement) of the dwelling, excluding any attached garage.

(8) The home occupation shall not be available or open to the public except during the hours between 8:00 a.m. and 8:00 p.m.

(9) The home occupation shall not create a need for off-street parking, pedestrian and vehicular traffic, sanitary sewer and storm sewer usage, public water usage as well as other municipal services in excess of the normal and usual levels for other residential dwellings.

(10) Only one such accessory use or activity shall be carried on in a dwelling during the period authorized by a home occupation permit.

(b) Permit Required. Prior to the establishment of any accessory use or activity as defined herein as a home occupation, the owner(s) of the subject property shall make an application to the planning department. At such time as the planning director has determined that the proposed accessory use or activity meets the standards as set forth herein, a home occupation permit shall be issued.

(1) The planning director shall have the authority to specify conditions and requirements as deemed necessary to assure compliance with the standards as set forth herein.

(2) The home occupation permit shall specify the conditions, requirements and duration of said permit. The permit shall be displayed within the interior of the dwelling and at the location of the proposed activity.
(3) A home occupation permit may be issued to a tenant or occupant of a dwelling who is to be engaged in the accessory use or activity, provided the owner(s) of record of the property have endorsed and/or certified the application.

(4) A home occupation permit shall not be transferable or assignable. Discontinuance or abandonment of the home occupation for a period of 60 days or more shall render the permit void.

(c) Enforcement. The enforcement and administration of this section shall rest with the planning director. Upon a finding that any of the foregoing provisions have not been complied with, the planning director shall direct the home occupation permit invalid and shall order the use therein to be vacated. The planning director shall have the right to inspect the premises at any reasonable time. Failure to allow periodic inspections by planning director at any reasonable time shall result in the immediate revocation of the home occupation permit. In the event of a revocation, one year shall elapse prior to an application by the same owner of the same residential dwelling structure for a new permit. (Ord. 19394 § 5, 3-16-10. Code 1995 § 48-29.025.)

Cross References: Planning department, TMC 2.30.090.


(a) Location and Height. Fences and hedges shall be subject to the following location and height requirements:

(1) Except as provided in subsection (d) of this section, no portion of a fence shall exceed eight feet in height.

(2) Fences and hedges shall be located so no part thereof extends into public right-of-way nor is located closer than one foot from a public sidewalk.

(3) In R and M districts, fences beyond the front face of the principal structure shall not exceed four feet in height. On corner lots, but not including reversed corner lots, fences beyond the front face of the principal structure where the fence is located along an arterial street that runs perpendicular to the corner lots’ established rear yard shall not exceed six feet in height. On reversed corner lots, fence heights shall be limited to four feet within all required front yards. On double frontage lots, fence heights shall be limited to four feet where such lots abut the established minimum front yard of any adjoining lot. The following diagram illustrates the setback requirements established in this section:
(b) Hazards. Notwithstanding subsection (a) of this section, no fence shall be constructed:

1. Upon determination by the city engineer that the proposed fence constitutes a traffic hazard;

2. The location of the fence creates a site obstruction, such as within a site distance triangle, as prohibited by Chapter 12.20 TMC, Public Traffic Hazards; or

3. In such a manner or design as to be hazardous or dangerous to persons or animals.

(c) Construction Methods and Materials. Fences in all districts shall be constructed of normally used fencing materials such as chain link, wood slats, masonry, iron, vinyl, or other materials typically supplied by vendors of fencing materials. The finished side of the fence shall face the street.

(d) The following shall constitute exceptions to the requirements of subsection (a)(1) of this section:

1. Fences located in or upon parks and/or recreational facilities; provided, however, this exception shall not apply to recreational facilities which are accessory to a single-family dwelling.

2. Fences located in or upon public use facilities or public utility facilities, such as electrical substations or pumping stations, shall be limited to eight feet in height unless the planning director determines that additional height, not to exceed 10 feet, is necessary for public health and safety.

(e) Fences in X districts shall comply with TMC 18.185.070. (Ord. 20062 § 33, 4-18-17.)

Cross References: Planning department, TMC 2.30.090; city engineer, TMC 2.30.110.


Cargo containers as an accessory use are permitted in the I-1 and I-2 districts. In all other districts cargo containers are permitted only in accordance with the following provisions and standards.
(a) In a residential zoning district, one cargo container used as a moving pod no larger than 160 square feet and no more than nine feet tall may be used on a temporary basis for up to 30 days within a calendar year.

(b) In a nonresidential or mixed use zoning district, cargo containers no larger than 320 square feet and no more than nine feet tall may be used on a temporary basis for up to 30 days within a calendar year.

(c) In commercial zoning districts C-3, C-4, X-2 and where accessory to institutional uses in other zoning districts, cargo containers shall not be visible from a public street either by placement or opaque fence/landscape screening. Any cargo container only visible from the front of buildings on adjacent property shall be set against the primary building and color matched with the building, and shall be limited to one cargo container. In addition, cargo containers shall:

1. Not displace or interfere with required parking, circulation, or emergency access;
2. Not be used as a base, platform, or location for business identification signs;
3. Not be located in any required front or side yard setback adjoining a street right-of-way; and
4. Be located at grade level and not stacked.

(d) Exceptions to the requirements in subsections (a) through (c) of this section include:

1. Cargo containers used for allowed on-site construction purposes for a period not to exceed the duration of a construction project with a valid building permit and for no more than 180 days for construction projects not requiring a building permit.
2. Cargo containers used where accessory to public or institutional athletic fields as the primary use.

(e) Any legally existing cargo containers made nonconforming on the effective date of the ordinance codified in this section shall conform on or before September 1, 2017. (Ord. 20062 § 34, 4-18-17.)
Chapter 18.215
CONDITIONAL USE PERMITS

Sections:
18.215.010  Purpose – Procedure.
18.215.020  Application.
18.215.030  Guidelines for evaluation.
18.215.040  Recommendation of planning commission.
18.215.050  Failure to commence permitted use.
18.215.060  Revocation.
18.215.070  Amendments.

Cross References: City council – mayor, Chapter 2.15 TMC; planning department, TMC 2.30.090; planning commission, Chapter 2.65 TMC.

18.215.010  Purpose – Procedure.
(a) The purpose of a conditional use permit, as authorized in the individual district use regulations, is to protect the integrity and character of the district, surrounding properties, and neighborhoods from the potentially adverse effects of certain uses. The uses listed as conditional are normally compatible with the other uses listed in the respective zoning district, but have characteristics that may need to be mitigated and may not be appropriate in all locations.

(b) The design, location and character of a conditional use is subject to the review by the planning commission. The planning commission shall submit its recommendation to the governing body which will decide in accordance with K.S.A. 12-757(d) and amendments thereto.

(c) The granting of a conditional use permit shall be by resolution and shall be assignable to the subject property by legal description and not a person, firm or corporation. (Ord. 19691 § 1, 1-17-12.)

18.215.020  Application.
An application for a conditional use permit shall be submitted and processed in accordance with TMC 18.245.020(b). The applicant shall submit an application form; site plan, map, or diagram showing the existing property, proposed use, and surrounding area; and a statement indicating the physical and operational characteristics of the proposed use, how the use conforms to the guidelines listed in TMC 18.215.030, and any actions taken to lessen adverse impacts upon the surrounding area. The planning director may waive the site plan component if the planning director determines the following:

(a) An applicant has demonstrated the use proposes no physical, site, or building alterations that modify existing building and parking coverage; and

(b) Any conditions imposed can be addressed in the resolution. (Ord. 19691 § 2, 1-17-12.)

18.215.030  Guidelines for evaluation.
The following guidelines shall apply when evaluating a conditional use permit application:

Guidelines

(a)

Land use compatibility

(1) Development density

Site area per unit, or intensity of use, should be similar to surrounding uses if not separated by major physical improvements or natural features.

(2) Height and floor area

Development should minimize difference in height and building size from surrounding structures. Substantial differences shall be...
Guidelines

(3) Setbacks
Development should respect preexisting setback lines in surrounding area. Variations shall be justified by significant site features or operating characteristics.

(4) Building coverage
Building coverage should be similar to that displayed in surrounding areas. Higher coverage should be mitigated by landscaping, buffering or other site amenities.

(b) Site development

(1) Parking and internal circulation
Parking and circulation should serve all structures with minimal vehicular and pedestrian conflicts.

(2) Stormwater management
Development design shall comply with all required stormwater runoff best management practices, as approved by the public works director or designee.

(3) Building design
(i) Architectural design and building materials should be compatible with surrounding properties if located adjacent to residential districts or in highly visible locations.

(ii) The adaptive reuse and restoration of historically significant structures shall be considered. “Historically significant structures” means structures listed on the National Register of Historic Places, the State Register of Historic Places, or structures having obtained local landmark status.

(c) Operating characteristics

(1) Traffic capacity
Projects should not materially reduce the existing level of service on adjacent streets. Projects will be required to make street improvements and/or dedicate right-of-way to mitigate negative effects.

(2) External traffic
Project design should minimize nonresidential traffic through residential neighborhoods.

(3) External effects
Projects with operating hours, noises or visual distractions that impact surrounding properties may be required to mitigate these impacts.

(4) Outside storage
If permitted, outside storage areas should be screened from adjacent streets and less intensive zoning districts and uses.
Guidelines

(d) Comprehensive plan  Projects should be consistent with the Topeka Comprehensive Plan and all its elements.

(e) Additional regulations  Conditional uses shall be required to conform to any other applicable regulations specifically listed for a use as set forth in Chapter 18.225 TMC or elsewhere in the code.

(Ord. 19691 § 3, 1-17-12.)

18.215.040 Recommendation of planning commission.
The planning commission may recommend approval, approval with conditions/restrictions, or denial of permit. Conditions may require renewal of the permit or an expiration date for the use. (Ord. 19691 § 4, 1-17-12.)

18.215.050 Failure to commence permitted use.
(a) This use permitted by a conditional use permit shall commence within three years from the date of the resolution. Failure to commence such use within such time period shall render the permit null and void. “Commence” means that the applicant has begun operation of the authorized use or has secured a building permit on file with the city which has not expired.

(b) Conditional use permits approved prior to March 1, 2012, shall expire on March 1, 2015, unless the property owner has commenced the permitted use prior to March 1, 2015, or has secured a building permit prior to March 1, 2015, that is on file with the city and has not expired. (Ord. 19691 § 5, 1-17-12.)

18.215.060 Revocation.
(a) The planning commission may recommend revocation of a conditional use permit to the governing body; provided, that the commission has notified in writing the property owner and has given the property owner an opportunity to appear before the planning commission.

(b) Revocation may occur if any of the following applies:

   (1) Failure to comply with any of the conditions established in the permit;

   (2) The use has expanded or deviated from its original use and purpose; or

   (3) The use has been found by a court of law, federal or state agency to be an illegal activity or nuisance.

(c) The planning commission shall submit its recommendation to the governing body which will decide in accordance with K.S.A. 12-757(d) and amendments thereto. (Ord. 19691 § 6, 1-17-12.)

18.215.070 Amendments.
(a) Amendments to a conditional use permit may be initiated by the property owner(s), planning commission, or governing body and shall be binding upon the heirs, executors, administrators, trustees, and assignees of said property owner.

(b) Minor Amendments. Minor changes to either the conditions of approval in the resolution of a conditional use permit or the conditional use permit site plan may be approved administratively by the planning director as herein provided. Such changes may be authorized without additional public hearings, at the discretion of the planning director. This provision shall not prohibit the planning director from requesting a recommendation from the planning commission if the planning director determines the changes are not consistent with the use or conditions approved by the governing body.

   (1) Minor Amendment Criteria. Amendments shall be deemed minor if the cumulative revisions to the approved conditional use permit on record with the planning department do not include any of the following:
(i) An increase in the conditional use permit boundary area, as shown on the plan or as legally described in the approving resolution.

(ii) An increase by greater than 10 percent of the height, floor area, any development threshold, or building coverage, as approved by the original conditional use permit.

(iii) The possible creation of obstacles, barriers, and service problems to traffic circulation, fire protection, public safety, and public utility services due to the revision(s).

(iv) An increase by greater than 20 percent to any approved signage including, but not limited to, height or sign face area.

(2) Submittal of Minor Revisions to an Approved Conditional Use Permit. The proposed revised conditional use permit site plan or changes to the conditions within the resolution of the conditional use permit shall be submitted to the planning director for consideration of approval. If the conditional use permit site plan is revised it shall include all data, conditions, and information identical to the most recently approved plan in addition to the proposed revisions. A letter of transmittal from the applicant setting forth in detail all proposed changes shall accompany the submittal of the application. The planning director may approve; approve with the inclusion of additional or revised conditions of approval; or deny the proposed minor amendment.

(3) If the planning director denies the amendment, the applicant may pay the applicable fee and appeal to the planning commission utilizing the procedure in TMC 18.245.020(b).

(c) If the planning director determines that a proposed amendment to a conditional use permit involves changes identified in subsection (b)(1) of this section, the applicant shall submit an application for amendment utilizing the procedure in TMC 18.245.020(b). (Ord. 19691 § 7, 1-17-12.)
Chapter 18.220

LEGAL NONCONFORMING USES

Sections:
18.220.010 Purpose – Intent.
18.220.020 Continuance of nonconforming uses.
18.220.030 Destruction of structures.
18.220.040 Use discontinued.

18.220.010 Purpose – Intent.
The purpose of this chapter is to identify and describe the legal requirements and specific conditions with respect to the use of land and/or structures which existed as legal nonconforming uses prior to the date of the adoption of these regulations and which did not comply with then-existing regulations of their assigned district. (Code 1995 § 48-28.00.)

18.220.020 Continuance of nonconforming uses.
The legal nonconforming use of any land and/or structure that existed at the time of adoption of this zoning ordinance, may be continued, although such use does not conform with the provisions hereof; provided, no structural alterations, except as may be required or authorized by law or ordinance, are made hereafter. A nonconforming use may be changed to another nonconforming use of the same or more restricted classification as determined by the code enforcement director of the city of Topeka or the Shawnee County zoning administrator, as applicable. A change in the district map shall not affect the status of a nonconforming use except in such case when the change brings the use into conformity. Whenever a nonconforming use has been changed or converted to a more restricted use or to a conforming use, such use shall not thereafter be changed or converted to a lesser restricted use. (Code 1995 § 48-28.01.)

Cross References: Building code enforcement division, Chapter 2.50 TMC.

18.220.030 Destruction of structures.
No building or structure which has been damaged by fire, explosion, act of God or the public enemy, to the extent of more than 50 percent of its fair market value, shall be restored except in conformity with the regulations of this zoning ordinance. (Code 1995 § 48-28.02.)

18.220.040 Use discontinued.
Upon the discontinuance of any nonconforming building, structure or land for a period of one year, the use thereof shall thereafter conform to the regulations of the district in which it is located. (Code 1995 § 48-28.03.)

No existing building, structure or premises devoted to a use not permitted by existing zoning regulations in the district in which such building or premises is located, except when required to do so by law or ordinance, shall be enlarged, extended, reconstructed or structurally altered, unless such use is changed to one permitted in the district in which such building or premises is located, or an exception has been granted by the board of zoning appeals. (Code 1995 § 48-28.04.)

Cross References: Board of zoning appeals, Chapter 2.45 TMC.
Chapter 18.225

SPECIFIC USE REQUIREMENTS

Sections:
18.225.010 Special use requirements.

Cross References: City council – mayor, Chapter 2.15 TMC; planning department, TMC 2.30.090; public works department, TMC 2.30.110; planning commission, Chapter 2.65 TMC; traffic engineer, TMC 10.10.010.

18.225.010 Special use requirements.
The special uses identified in the use matrix table at TMC 18.60.010 are subject to the additional requirements of this chapter. In case of any conflict between the regulations of the district in which the use is allowed and the additional regulations of this chapter, the most restrictive regulations shall govern:

(a) Automobile or Vehicle Dealership. This use includes the sales, leasing, and service of vehicles and trailers having a gross vehicle weight rating over 12,000 pounds, watercraft, recreational vehicles, heavy construction equipment, and agricultural equipment.

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

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

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

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

(b) Automobile or Vehicle Car Wash Facility.

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

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

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

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

(5) The traffic circulation plan for the facility shall be subject to the approval of the traffic engineer or authorized designee of the public works department.

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

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

(1) Automobile sales, leasing, and service of vehicles are restricted to automobiles, pickup trucks, motorcycles and other vehicles that do not exceed a gross vehicle weight rating of 12,000 pounds in the C-3 district.
(2) The inventory of vehicles for sale, lease, or service shall be parked only on paved areas and shall not displace the minimum required number of off-street parking spaces.

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

(d) Automotive Service Station.

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

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

   (i) Lubrication.
   (ii) Tire repair and replacement.
   (iii) Brake repair and wheel balancing and alignment.
   (iv) Muffler and exhaust system repair and replacement.
   (v) Shock absorber and strut 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, GPS, rear cameras, and similar electronics installation and repair.
   (ix) Glass replacement.
   (x) Trailer hitch and wiring installation and repair.
   (xi) 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.

(3) Type 3. 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, motorcycles, trailers, and other vehicles.

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

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

(1) Storage of damaged vehicles needing body shop repairs shall only be parked on paved areas in rear yards or screened from view from public roadways.
(2) Vehicle wrecking and dismantling for salvage purposes are prohibited.

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

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

(f) Cemetery.

(1) Areas. Any cemetery established after the effective date of the ordinance codified in this division shall be located on a site containing not less than 20 acres.

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

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

(4) All on-site private drive locations and their widths shall be reviewed by the traffic engineer or designee of the applicable department of public works in respect to providing efficient vehicular access and traffic flow; and to minimize vehicle conflict with pedestrians. Development of the cemetery shall not commence until approval of the aforementioned drive locations and their widths have been secured.

(g) Community Gardens.

(1) All community gardens shall be allowed only after the owner or applicant has registered the community garden with the planning department and has paid a fee of $50.00. The planning director shall adopt administrative procedures necessary to govern the registration requirements and ensure compliance with the requirements.

(2) Community gardens shall be the primary use of the lot. The gardens may be divided into plots for cultivation by one or more individuals and/or groups or may be cultivated by individuals and/or groups collectively.

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

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

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

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

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

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

(9) Compost bins shall be set back at least 10 feet from all side and rear property lines and 25 feet from the front property line. Compost bins shall be screened and maintained in such a manner as to not attract insects, vermin, reptiles and other animals. Appropriate best management practices shall be used to minimize odor.
(10) The site shall be designed and maintained so that no water, fertilizers, or pesticides drain onto adjacent property.

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

(12) Signage is limited to one permanent identification sign per property frontage consisting of up to 10 square feet per sign face and temporary signs are allowed in accordance with TMC 18.25.230(a).

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

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

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

   (ii) Maximum height of 12.5 feet.

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

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

   (v) Each structure shall meet the required setbacks from property lines as outlined in TMC 18.60.020. If the area of cultivated land exceeds one acre, a 50-foot setback is required between properties with existing dwelling units and any cultivated area or accessory structures.

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

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

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

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

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

(h) Day Care Facility, Type I.

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

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

(i) Day Care Facility, Type II.

   (1) An on-site automobile drop-off/pickup area for a minimum of two vehicles shall be provided for a facility which only has street frontage on a roadway that is classified as a collector or arterial roadway on the Shawnee
(j) Demolition Landfill.

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

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

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

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

(l) 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. In addition to the standard application components required of an applicant to petition for a conditional use permit, a request for the subject use shall identify the specific raw material and type of operation under consideration and furthermore, shall include the below-listed additional information, plans and data:

(1) Site Plan. A site plan prepared by a registered civil engineer, drawn to scale on a sheet measuring 24 inches by 36 inches in size and including the following:

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

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

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

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

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

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

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

(viii) Show location of at least five borings, which show depths to ground water.

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

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

(i) North point, scale and date.

(ii) Extent of area to be excavated.
(iii) Location, dimension and intended use of proposed structures.

(iv) Location of all areas on the property subject to inundation or flood hazard, and the location, width, and directions of flow of all watercourses and flood control channels that may be affected by the excavation.

(v) Benchmarks.

(vi) Typical cross-section, at sufficient intervals, showing the extent of overburden, extent of sand and gravel deposits or rock, and the water table.

(vii) Identification of processing and storage areas, the boundaries of which to be shown to scale.

(viii) Proposed fencing, gates, parking areas and signs.

(ix) Sequences of operation showing approximate areas involved shall be shown to scale and serially numbered with a description of each.

(x) Ingress/egress roads including on-site haul roads and proposed surface treatment and means to limit dust.

(xi) A map showing access routes between the property and the nearest arterial road.

(xii) Location of screening berms shall be shown to scale, and notes shall be provided indicating when they will be used as reclamation material. In the same manner overburden storage areas shall be identified and noted.

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

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

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

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

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

(iii) Estimated type and volume of the excavation.

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

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

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

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

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

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

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

(iii) A phasing plan, if the excavation of the site is to be accomplished in phases. This plan shall indicate the area and extent of each phase and the approximate timing of each phase.
(iv) The method of disposing of any equipment or structures used in the operation of the excavation upon completion of the excavation.

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

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

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

(m) Golf Course – Country Club.

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

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

(3) All patron parking lots, clubhouses and recreational facilities other than those for golf, shall be located a minimum distance of 500 feet from all property boundaries of the golf course or country club.

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

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

(n) Indoor Gun Range.

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

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

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

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

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

(o) Outdoor Storage of Nonmerchandise. When storage is located in a yard that abuts or is located across the street from residentially zoned property it shall be screened from public view by a solid, opaque screen, fence or sight prohibitive landscaping of not less than six feet in height, except in front yards where it may be reduced to three feet or replaced with shrubs designed to grow two to three feet in height. If storage is adjacent to driveways or intersections, screening may be reduced to comply with site distance triangles, as outlined in TMC 12.20.020.

(p) Reception, Conference and Assembly Facility.

(1) As an independent principal use within any subdistrict of the residential dwelling and multiple-family dwelling districts, the facility shall be located only within a structure that exists on the date of the adoption of these regulations, except for the RR-1 district; and further, vehicle parking lots shall not be permitted within the established front yard setback.
(2) All applications requesting a conditional use permit shall include and address the following considerations in respect to:

(i) Maximum occupant load at any one time.

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

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

(B) Any permitted outdoor activities.

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

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

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

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

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

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

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

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

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

(r) Religious Assembly.

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

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

(s) Relocation, Remodeling or Rebuilding of Legal Nonconforming Billboards. No application for a conditional use permit to relocate, remodel, or rebuild an existing legal nonconforming billboard shall be approved unless the governing body, upon recommendation by the planning commission, shall determine that the proposed billboard is appropriate in the location proposed based upon its consideration of the standards set forth below.

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

(2) The structural members of all billboard materials shall be constructed entirely of noncombustible materials excepting only the sign face, ornamental molding and platform and shall be installed only on single-pole structures.
(3) The proposed relocated sign shall not be larger than the existing billboard proposed to be removed, but not to exceed 750 square feet including extensions; nor shall such relocated sign have more than two sign faces.

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

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

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

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

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

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

(10) No billboard shall be so designed to include the vertical stacking of billboards on the sign pole. Each billboard shall be comprised of a single sign face oriented in a given direction. This provision does not preclude double-sided billboards where arranged back to back on the sign pole.

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

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

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

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

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

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

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

(u) Retail Merchandise Outdoor Display. Items for sale that are displayed outside buildings, exclusive of very large items such as vehicles and construction materials, shall meet the following standards:

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

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

(3) The inventory of vehicles and equipment for sale, lease, or service shall not displace the minimum required number of off-street parking spaces.
(4) In D and X districts, retail merchandise outdoor display areas shall occur only during normal business hours. The outdoor display area shall provide adequate pedestrian clearance and shall not obstruct vehicular or pedestrian circulation.

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

1. Any new building shall have exterior design characteristics similar to retail buildings in the area.
2. Only one large common dock/garage door opening shall be allowed per building and shall not face any street frontage unless appropriately screened.
3. All items being stored must be inside of an enclosed building.
4. No business activity shall be conducted in the individual storage units.
5. No living quarters are allowed within the individual units but the overall premises may have one dwelling unit for the caretaker.
6. The storage of hazardous, toxic, or explosive substances is prohibited.

(w) Animal Care and Services, Type I.

1. Medical treatment or care of large animals such as horses, cattle, sheep, goats, swine, etc., shall not be permitted on the premises.
2. Medical treatment or care shall be provided only within the confines of an enclosed building or structure.
3. The building or structure shall be constructed in such a manner as to prevent audible noise and/or odor from adversely impacting adjoining properties.

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

1. A site plan or plans drawn to scale of one inch equals 30 feet or larger and identifying the site boundary; tower(s); guy wire anchors; existing and proposed structures; vehicular parking and access; existing vegetation to be retained, removed, or replaced; and uses, structures, and land use designations on the site and abutting parcels.
2. A plan drawn to scale showing any proposed landscaping, including species type, size, spacing, and other features.
3. The applicant shall provide written communications obtained from the Federal Communications Commission and the Federal Aviation Administration indicating whether the proposed tower complies with applicable regulations administered by that agency or that the tower is exempt from those regulations. If each applicable agency does not provide a requested statement after the applicant makes a timely, good-faith effort to obtain it, the application is complete. The applicant shall send a subsequently received agency statement to the planning director.
4. The applicant shall demonstrate that the tower complies with any applicable provisions of the airport hazard zone regulations if the tower site is located within the hazard zone as established by said regulations.

(y) Vehicle Surface Parking Lot.

1. The parking lot site shall be of like district zoning classification as that of an associated principal use or that of a less restrictive district. The parking lot site shall not be separated from the associated principal use by an intervening zoning district of a more restrictive classification.
(2) The parking lot site shall not be separated from an associated principal use by an intervening public street right-of-way classified as a collector or arterial roadway on the Shawnee County functional classification of roadways map.

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

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

(z) Bed and Breakfast Home.

(1) Specific Requirements. Requests to establish a bed and breakfast home shall conform to all of the following requirements:

   (i) The bed and breakfast shall operate as an ancillary use to the principal use of the residence as a single-family dwelling.

   (ii) The bed and breakfast shall be located in an existing single-family dwelling and no new structure shall be built expressly for a bed and breakfast establishment.

   (iii) The bed and breakfast shall be operated within the single-family dwelling and not in any accessory structure.

   (iv) The primary entrance to all guestrooms shall be from within the dwelling. A guestroom can retain an original secondary exterior entrance opening onto a porch or balcony.

   (v) The exterior of the dwelling and premises shall outwardly remain and appear to be a single-family dwelling giving no appearance of a business use.

   (vi) Individual guestrooms shall not contain cooking facilities.

   (vii) The bed and breakfast shall not be used for weddings, receptions, parties, business meetings, or similar such activities.

   (viii) One nonilluminated nameplate sign, attached flat on the face of the principal dwelling, shall be permitted not to exceed nine square feet. The nameplate shall be styled and detailed architecturally with the principal building and shall be limited to the name of the bed and breakfast or owner or both.

   (ix) Retail sales of a nature clearly incidental and subordinate to the primary use of the premises as a bed and breakfast establishment shall be permitted subject to the following requirements:

       (A) The merchandise offered for sale shall be confined to the dwelling and not located within a garage or accessory structure, whether attached or detached.

       (B) Merchandise offered for sale shall be restricted to that produced on site; souvenir items bearing the name and/or logo of the establishment; and those items customarily provided for the convenience of resident guests.

       (C) There shall be no advertising, display or other indication of merchandise offered for sale on the premises.

       (D) No commercial telephone listing, newspaper, radio or television service shall be used to advertise the sale of merchandise.

       (E) The total area devoted to the display or merchandise shall not exceed five percent of the gross floor area of the dwelling, excluding an attached garage.
(aa) Bed and Breakfast Inn.

(1) Specific Requirements. Requests to establish a bed and breakfast inn shall conform to all of the following requirements:

(i) The bed and breakfast shall be located in an existing single-family dwelling and no new structure shall be built expressly for a bed and breakfast establishment.

(ii) The bed and breakfast shall be operated within the single-family dwelling and not in any accessory structure.

(iii) The primary entrance to all guestrooms shall be from within the dwelling. A guestroom can retain an original secondary exterior entrance opening onto a porch or balcony.

(iv) The exterior of the dwelling and premises shall outwardly remain and appear to be a single-family dwelling giving no appearance of a business use.

(v) Individual guestrooms shall not contain cooking facilities.

(vi) One nonilluminated nameplate sign, attached flat on the face of the principal dwelling, shall be permitted not to exceed nine square feet. The nameplate shall be styled and detailed architecturally with the principal building and shall be limited to the name of the bed and breakfast or owner or both.

(vii) Retail sales of a nature clearly incidental and subordinate to the primary use of the premises as a bed and breakfast establishment shall be permitted subject to the following requirements:

(A) The merchandise offered for sale shall be confined to the dwelling and not located within a garage or accessory structure, whether attached or detached.

(B) Merchandise offered for sale shall be restricted to that produced on site; souvenir items bearing the name and/or logo of the establishment; and those items customarily provided for the convenience of resident guests.

(C) There shall be no advertising, display or other indication of merchandise offered for sale on the premises.

(D) No commercial telephone listing, newspaper, radio or television service shall be used to advertise the sale of merchandise.

(E) The total area devoted to the display or merchandise shall not exceed five percent of the gross floor area of the dwelling, excluding an attached garage.

(F) In the RR-1 district, a bed and breakfast inn shall not be established on less than a three-acre parcel. In all other districts where permitted, a bed and breakfast inn shall be established on a parcel having a minimum size equivalent to 500 square feet per guestroom plus the minimum lot area of the district, for a single-family dwelling, in which located.

(G) Social events such as weddings, receptions, parties, business engagements or similar activities may be accommodated in conjunction with a bed and breakfast inn, subject to the following requirements:

a. The scheduling and conduct of social events shall be incidental and subordinate to the principal use of the premises as a bed and breakfast inn.

b. All scheduled events shall be by prearranged contract or agreement. Such event shall not be open to the general public.

c. No amplified sound or music, noise or glare shall be allowed outside the inn nor be perceptible from beyond the property line.
d. Social events shall be restricted to between the hours of 9:00 a.m. and 11:00 p.m.

e. Submission of a plan of operation which shall include:

1. Types of social events anticipated to be scheduled at the inn including the types of services to be offered in conjunction with a social event and the anticipated maximum number of guests to be accommodated.

2. Days of the week and hours of operation for which social events would be scheduled.

3. Any permitted outdoor activities and the location on the premises that may be used for such activities.

4. Supervision of guests and arrangements for enforcement of any provisions of the conditional use permit, when applicable.

5. Any proposed screening, buffering, or landscaping to mitigate potential negative effects.

6. Arrangements for parking. Specify the added number and location of guest parking in conjunction with social events. Additional on-site parking shall not interfere with accessing guest parking spaces nor conflict with internal traffic circulation.

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

(bb) Management/Leasing Office and Maintenance Facility.

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

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

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

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

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

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

(cc) Automobile Rental Establishments.

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

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

(3) No on-site vehicle maintenance or mechanical service shall be permitted except to clean and prepare a vehicle for rental.

(4) No gasoline service shall be provided on site.
(5) No exterior storage or display of products, materials, supplies or equipment shall be permitted except for the rental vehicles.

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

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

(dd) Group Residence, General – Group Residence, Limited – Correctional Placement Residence or Facility, General – Correctional Placement Residence or Facility, Limited – Home Care, Type II. In considering an application for a conditional use permit for a correctional placement residence or facility, general; a correctional placement residence or facility, limited; home care, type II; a group residence, general; or a group residence, limited, the planning commission and governing body will give consideration to the following criteria:

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

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

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

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

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

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

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

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

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

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

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

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

(ff) Micro-Alcohol Production in X-2 and X-3 and D Districts.

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

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

(3) Any portion of the building that fronts a public street shall have a store front facade and include windows and door openings along the street frontage.
(4) The area of the building used for manufacturing, processing, brewing, fermenting, distilling, or storage shall be above or below the ground floor or located to the rear of the building or otherwise subordinate in area and extent.

(gg) Artisan Manufacturing.

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

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

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

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

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

(hh) Drive-Up/Drive-Through Facilities.

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

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

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

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

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

(6) Approval of a traffic impact analysis by the city traffic engineer may be required.

(7) The principal use of the building is allowed in the zoning district. (Ord. 20062 § 35, 4-18-17.)
Chapter 18.230

DIMENSIONAL REQUIREMENTS

Sections:
18.230.010 General.
18.230.020 General lot requirements.
18.230.030 General yard requirements.
18.230.040 Permitted encroachments in required yards.
18.230.050 Exceptions to height limitations.
18.230.060 Restrictions on access.

18.230.010 General.
Any building, structure or use hereafter erected, enlarged or structurally altered, shall comply with the lot, yard and height requirements of the district in which located, except as specified herein. (Code 1995 § 48-27.00.)

18.230.020 General lot requirements.
(a) Existing Lots of Record. An individual lot (platted or unplatted) of record in the office of the Shawnee County register of deeds on the effective date of the ordinance codified in this division which has less than the minimum required lot area, lot width, or lot depth, and where no adjoining undeveloped land fronting on the same street was under the same ownership on said effective date, may be occupied according to the permitted uses of the district on which the lot is located, provided, all front, side and rear yard requirements are met and all other requirements of this division are complied with.

(b) Street Frontage and Access Required. No lot shall hereafter be created nor shall any principal building be constructed or placed on any lot unless such lot has frontage on either a public street or on a private street which has been approved as part of a planned unit development. In order to be approved such street shall provide permanent and unobstructed vehicular access, have a roadway of adequate width and surface, and meet all other applicable standards and requirements established by the applicable city or county engineer.

(c) Number of Structures per Zoning Lot. Every building or structure hereafter erected, enlarged or structurally altered shall be located on a lot as herein defined, and in no case shall there be more than one principal building or structure located upon such lot or zoning lot as proposed in conjunction with submission of a site plan. Site plans shall be submitted to the planning department for review and approval in accordance with city of Topeka Ordinance 17913 and Shawnee County Resolution 2002-272. The site plan shall state the intended purpose, design and character of the proposed development along with the arrangements to be made with respect to common area maintenance, access drives, parking, and, any other common amenities. All other requirements of this division shall be met except for internal adjustments which may be approved by the planning director consistent with the stated design, purpose and character of the project.

(d) Lots Held in Common Ownership. Where two or more contiguous substandard recorded lots are in common ownership and are of a size as together constitute at least one conforming zoning lot, such lots or portions thereof shall be joined, developed, and used for the purpose of forming an effective and conforming zoning lot or lots.

(e) Public Improvement Projects. Where a public improvement project results in the creation of a setback, yard or other deviation from the requirements of this division, the same shall be deemed to be in accordance with the requirements of this division.

(f) Administrative Variances to Minimum Lot Size Requirements. An individual lot (platted or unplatted) of record in the office of the Shawnee County register of deeds, for which application for zoning reclassification of said lot has been filed with the Topeka-Shawnee County metropolitan planning department and which does not comply with the minimum lot size requirements as set forth for the desired zoning classification may be granted an administrative variance by the director of the planning department; provided, that:

(1) The individual lot of record comprises 90 percent or greater of the minimum lot size requirement of the desired zoning district;
(2) The use group of the desired zoning district will be comparable to that of surrounding properties in the neighborhood;

(3) The proposed zoning reclassification of the individual lot does not conflict with, or alternatively, promotes the policies or objectives as stated in the adopted metropolitan comprehensive plan. (Ord. 18085 § 1, 9-9-03; Ord. 17912 § 1, 11-21-02. Code 1995 § 48-27.01.)

Cross References: Planning department, TMC 2.30.090; city engineer, TMC 2.30.110.

18.230.030 General yard requirements.

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

(b) Yard Requirements for Open Land. If a zoning lot is, or will be, occupied by a permitted use without buildings or structures, then the minimum yards that would otherwise be required for said zoning lot shall be provided and maintained unless some other provision of this division requires or permits a different minimum yard. The minimum yards shall not be required on zoning lots used for gardening purposes without structures except for community gardens as described in TMC 18.225.010, or on zoning lots used for public recreational areas.

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

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

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

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

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

(e) Yards for Corner and Double Frontage Lots. Front yard requirements included in the district regulations within which the zoning lot is located shall apply on both frontages. A double frontage lot shall have two front yards, two side yards, and no rear yard. A corner lot shall have two front yards, one side yard, and one rear yard. The corner lot’s rear yard shall be opposite the front yard, which is the yard having the least street frontage, unless the applicant desires otherwise or doing so would create a reversed corner lot. The planning director may approve the creation of an alternative layout when doing so would result in a better development pattern based on existing and anticipated future development. A property owner may appeal the decision of the planning director by filing an appeal to the planning commission within 10 days of receiving written notification of the decision. Such appeal shall be made in writing to the planning director and shall be considered by the planning commission at its next regularly scheduled meeting.

(f) Front Yard Building Setbacks on Existing Lots of Record. An individual lot of record may be developed with revised minimum front yard setback requirements, as determined by the planning director, subject to the following requirements:

(1) The proposed development of said property does not conflict with or, alternatively, promotes the policies and objectives as stated in the adopted comprehensive metropolitan plan or an adopted neighborhood plan;
(2) The proposed development is intended to complement the existing character and architecture of the surrounding properties in the neighborhood;

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

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

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

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

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

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

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

(Ord. 19921 § 140, 9-23-14.)

Cross References: Planning department, TMC 2.30.090; board of zoning appeals, Chapter 2.45 TMC.

18.230.040 Permitted encroachments in required yards.

Under the terms of this division, a required yard shall be open, unoccupied, and unobstructed from grade to the sky. The following are permitted encroachments in required yards:

(a) Accessory Building. Accessory buildings may be located in any yard except the front yard, provided they shall comply with the requirements of Chapter 18.210 TMC.

(b) Architectural Features. Eaves, cornices, marquees, awnings, canopies, belt courses, sills, buttresses or other similar features which extend beyond the wall of a building may encroach into any required yard by not more than 30 inches.

(c) Canopy, Gas Pump Island. Unenclosed canopies over gas pump islands may encroach into any required yard, provided the supports shall be no closer than 10 feet to the right-of-way line and do not conflict with the sight distance triangle as established by the city or county.

(d) Chimneys, Bay Windows and Balconies. Chimneys, bay windows and balconies may encroach into any yard not more than 30 inches, provided such features do not occupy, in the aggregate, more than one-third of the length of the building wall on which they are located.

(e) Fences, Hedges and Walls. Fences, hedges and walls may be located in any yard, subject to the requirements of TMC 18.210.040.

(f) Fire Escapes and Unenclosed Stairways. Fire escapes and unenclosed stairways exceeding a height of six feet may encroach into any yard, provided they shall not extend into a side yard more than three feet or into a rear yard more than five feet. Fire escapes and unenclosed stairways that are six feet or less in height are subject to subsection (i) of this section.
(g) Dispensing Equipment and Devices. Fuel pump and air dispensing devices located in districts where allowed shall be exempt from the front yard requirement, but, on a corner lot all such dispensing equipment and devices shall be subject to the sight distance triangle as established by the city or county.

(h) Off-Street Parking and Driveway Access. Except as otherwise provided in Chapters 18.235 and 18.240 TMC, open off-street parking and driveway access may be located in any yard.

(i) Uncovered Horizontal Structures. Uncovered horizontal structures such as porches, decks, stoops, and stair landings may encroach into required yards as follows:

1. Uncovered horizontal structures of a height of six inches or less may encroach entirely into required yards but shall maintain a minimum distance of 12.5 feet from street rights-of-way.

2. Uncovered horizontal structures of a height greater than six inches and no greater than 30 inches may encroach into required yards but shall maintain a minimum three-foot setback from side and rear property lines and a minimum setback of 12.5 feet from street rights-of-way.

3. Uncovered horizontal structures of a height greater than 30 inches may encroach not more than 10 feet into the required front or rear yards but shall maintain a minimum distance of 12.5 feet from street rights-of-way.

4. The height of a porch, deck, patio, stoop, stair landing or similar structure is measured from the deck or walking surface to surrounding grade.

(j) Signs. Signs may be located in any yard except as provided in Chapter 18.20 TMC. (Ord. 20062 § 36, 4-18-17.)

18.230.050 Exceptions to height limitations.

The following structures or parts thereof shall be exempt from the height limitations set forth in the zones indicated; provided, that an increase in height shall not conflict with the provisions of the airport hazard zones of Forbes Field and Philip Billard Airport as set by the Federal Aviation Administration.

(a) In all districts:

1. Chimneys or flues.

2. Church spires.

3. Cupolas, domes, skylights and other similar roof protrusions not used for the purpose of obtaining habitable floor space.

4. Farm structures.

5. Parapet or firewalls extending not more than three feet above the limiting height of the building.

6. Poles, towers, television and amateur radio antenna support systems and similar apparatus, flagpoles, erected for noncommercial purposes shall not exceed 62 feet in height. Poles, towers, etc., shall be a minimum distance of 80 percent of that structure’s height from public right-of-way and from adjacent property belonging to other than the owner of the structure being erected, unless anchored to a permanent building at a point above the ground at a distance of at least 20 percent of the height of the structure being erected.

7. Roof structures, including elevator bulkheads, stairways, ventilating fans, cooling towers and similar necessary mechanical and electrical appurtenances required to operate and maintain the building.

(b) In the C and I districts:

1. Grain elevators.

2. Communication tower except as otherwise provided in this division.
18.230.060 Restrictions on access.
The use regulations of a district shall also include and apply to the access to be provided in conjunction with such uses. No part of any lot located in a more restrictive district shall be used for vehicular access to a more intensive use. (Code 1995 § 48-27.05.)
Chapter 18.235
LANDSCAPE REQUIREMENTS

Sections:
18.235.010 Purpose.
18.235.020 Definitions.
18.235.030 Applicability.
18.235.040 Exceptions.
18.235.050 Landscape plans.
18.235.060 Landscape requirements.
18.235.070 Existing trees.
18.235.080 Irrigation system credits.
18.235.090 Stormwater best management practice credits.
18.235.100 Enforcement.
18.235.110 General information.
18.235.120 Size and quality requirements.
18.235.130 Recommended species.

18.235.010 Purpose.
The purpose of this chapter is to enhance, protect, and promote the aesthetic, ecological, and economic environment in the city of Topeka through landscaping associated with new construction. Landscaping achieves the following goals:

(a) Preserves and enhances Topeka’s urban forest;

(b) Promotes the reestablishment of vegetation in urban areas for health and urban wildlife reasons;

(c) Establishes and enhances a visual character which recognizes aesthetics and safety issues;

(d) Promotes the compatibility between land uses by reducing the visual, noise, and lighting impacts of specific development on users of the site and abutting properties;

(e) Unifies development, and enhances and defines public and private places;

(f) Promotes the use and retention of existing vegetation;

(g) Aids in energy conservation by providing shade from the sun and shelter from the wind;

(h) Mitigates the loss of natural resources; and

(i) Reduces soil erosion, and the volume and rate of discharge of stormwater runoff. (Ord. 17846 § 1, 6-11-02. Code 1995 § 48-38.00.)

18.235.020 Definitions.
The following words, terms and phrases, when used, shall have the meaning ascribed to them herein, except when the context clearly requires otherwise.

“City forester” refers to the city of Topeka forester or designated authority.

“D.B.H.” means diameter at breast height. D.B.H. is used for trees with a diameter greater than 12 inches and is measured four and one-half feet above the ground.

“Developed area” means all land area disturbed during the construction of structures, parking facilities, landscaped areas, and similar improvements.
“Developer” means the legal or beneficial owner of a lot or parcel or any land proposed for development and/or inclusion in a development, including the owner of an option, contract to purchase, or lease.

“Development” means the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure or parking facility, or their environs.

“Diameter caliper” means the size of a tree measured through the tree trunk. For trees less than four inches in diameter, it is measured six inches from the ground. For trees between four inches and 12 inches in diameter, it is measured 12 inches from the ground.

“Groundcover” means an evergreen, deciduous planting or ornamental grass, growing generally to less than 15 inches in height and generally spreads more in width than height. Turf grass is specifically excluded.

“Irrigation system” means a permanent underground piping and sprinkler head system designed using industry standard methods to provide uniform irrigation coverage over a landscaped area.

“Landscaped area” means any area planted with groundcover, trees, shrubs, or other plant material that meets the provisions contained herein.

“Mono-culture” means a single type of species of planting.

“Mulch” means a natural planting material such as pine straw or tree bark used to control weed growth, reduce soil erosion and reduce water loss.

“Parallel planting peninsula” means a planting island that extends out into the parking area, and is bounded on at least one side by the outer edge of the asphalt or building.

“Parking lot” means any off-street, unenclosed ground level facility used for the purpose of temporary storage of motor vehicles. Included within this definition are unenclosed carports associated with any or all development governed by this chapter. Enclosed parking facilities, such as single or multistory garages or parking facilities constructed within the confines of a larger building or structure, or parking facilities associated with residential development, are not included within this definition.

“Parking lot island” means a planting island contained completely within the confines of a parking facility.

“Parking lot planting” means a planting required due to the construction of noncovered surface parking.

“Recommended tree” means any one of the trees listed in “recommended species” of this chapter (TMC 18.235.130). These trees are well suited for the soils and climate of Topeka, Kansas.

“Shrub” means an evergreen or deciduous planting no less than 15 inches in height.

“Significant tree” means any tree with a diameter caliper of six inches or greater. (Ord. 18255 § 1, 6-1-04; Ord. 17846 § 2, 6-11-02. Code 1995 § 48-38.01.)

Cross References: Definitions generally, TMC 1.10.020.

18.235.030 Applicability.
All requirements set forth in this chapter are applicable as follows:

(a) Any construction within the O&I-1, O&I-2, O&I-3, C-1, C-2, C-3, C-4, M-S, I-1, I-2, X-1, X-2, X-3, U-1, and D-2, and all planned unit development districts for the above listed use groups; parking lots in the D-1 zoning district. Multifamily dwelling developments (buildings composed of four or more dwelling units), churches or other religious or institutional uses in any zoning district and all developments constructed under the provision of a conditional use permit, in any zoning district, are also subject to this chapter.

(b) An alteration to an existing structure which increases or decreases the amount of gross floor area of such structure by more than 50 percent or an alteration to a parking lot which increases or decreases the gross area of the
parking lot by more than 50 percent shall be required to comply with all landscaping provisions contained in this chapter.

(c) The addition to a building or parking lot where the addition is adjacent to a residential use or a residential zone and a parking lot buffer is required in accordance with buffer requirements in TMC 18.235.060.

(d) The provisions of this chapter shall apply to all legal nonconforming uses as established and defined in TMC 18.50.040. (Ord. 20062 § 37, 4-18-17.)

18.235.040 Exceptions.
(a) Nothing contained herein shall affect in any way the rights of, or exercise by, any public utility of its present and future acquired rights to clear trees and other growth from lands used by the public utility. The utility shall cooperate and coordinate with the city of Topeka forester when clearing or pruning in the right-of-way.

(b) Nothing contained herein shall reduce required lines of sight and traffic visibility standards adopted by the city of Topeka.

(c) All pervious surface areas of public and private parks, playgrounds, playing fields, and other outdoor recreation facilities shall be excluded from the calculation of base points as required by this chapter. (Ord. 17846 § 4, 6-11-02. Code 1995 § 48-38.03.)

18.235.050 Landscape plans.
(a) Requirements Generally. Landscape plans shall be submitted at the time of application for a building permit, and also at the time of application for planned unit developments and conditional use permits. All landscaping plans shall include the following information:

(1) North point and scale.

(2) The dimensions drawn to scale of the developed area.

(3) Topographic information and final grading adequate to identify and properly specify planting for areas needing slope protection.

(4) The location, size, and surface of materials for all structures and parking areas.

(5) The location, size, and type of all utilities and structures with notation, where appropriate, as to any safety hazards to avoid during installation of landscaping.

(6) The location, size, type, and quantity of all proposed landscaping materials, along with common and botanical names of all plant species. The size, grading, and condition shall be specified according to American Nursery and Landscape Association standards.

(7) The location, size, and common name of all existing plant materials to be retained on the site. Procedures for preserving existing trees during construction shall be submitted and followed accordingly.

(8) Sizes of plant material shall be drawn to scale and shown at 60 percent to 70 percent of mature size, and shall be specified on the plan by a common name or appropriate key.

(9) Location of watering sources shall be specified if an irrigation system is not provided.

(10) The location of all trees, 12-inch D.B.H. proposed for removal.

(11) All screening required by this chapter.

(12) Landscape plans shall be submitted on a separate drawing sheet(s) of a standard size (preferable 24 inches by 36 inches) and drawn to a standard scale.
(13) Landscape plans shall demonstrate that all planting requirements have been met using the point system format illustrated in Template 1.

(14) If the developed area is required to buffer, the landscape plan shall depict the buffer area.

(15) Plants outside of the construction area need not be shown on the landscape plan.

(16) Alternate plans which meet the spirit and intent of this chapter may be submitted to the planning director for approval.

(17) Landscape plans shall be drawn by an architect, landscape architect, engineer, or other professional in the landscape or horticultural fields.

(18) Significant trees located within public right-of-way which abuts the developed area shall be shown on the landscape plan.

(b) Certificate of Landscape Plan Approval and Appeal. If the planning director or designee determines following review of the landscape plan that the plan meets the provisions of this chapter then the planning director or designee shall issue a landscape plan certificate of approval.

A developer who is aggrieved by the administration of this chapter may file an appeal with the metro board of zoning appeals in accordance with the provisions of Chapter 2.45 TMC, Board of Zoning Appeals.

Template 1.

Square footage of developed area: _______________________

Base points required: ____________ (See Table 1)

Parking lot points required: ____________ (1.5 points per parking space)

Total points required: _______________

Existing tree credits claimed: _______________

Irrigation credits claimed: _______________

Total points obtained: _______________

Residential buffer yard required? _____________ yes _____________ no

Parking lot buffer required? _____________ yes _____________ no

(Ord. 18255 § 3, 6-1-04; Ord. 17846 § 5, 6-11-02. Code 1995 § 48-38.04.)

Cross References: Planning department, TMC 2.30.090; board of zoning appeals, Chapter 2.45 TMC.

18.235.060 Landscape requirements.
(a) Performance Objectives. All required landscape plans shall emphasize plantings along visible street frontages and required buffer yards, as specified by this chapter to the greatest extent possible.

(b) Planting Requirements/Point System. The developer may use any combination of plantings to obtain the necessary number of points required for the developed area. Different developed areas will lend themselves to different types of plantings. This chapter encourages creativity and diversity in landscaping. In no case shall a mono-culture of plantings be allowed. A variation of plantings, at least three different species, is required.

Each landscape plan must equal or exceed a minimum number of base points in order to obtain approval. The number of points required depends on the size of the developed area (see Table 1). In order to obtain points, the
plantings must be placed on the developed property and not on the public right-of-way, without the approval of the planning director in consultation with the public works department.

**Table 1. Number of Points Required for the Site**

<table>
<thead>
<tr>
<th>Square Footage of the Developed Area</th>
<th>Number of Points Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 – 10,000</td>
<td>33 (+1.5 per parking space)</td>
</tr>
<tr>
<td>Greater than 10,000</td>
<td>33 points plus one point for each additional 300 square feet of developed area (+1.5 per parking space)</td>
</tr>
</tbody>
</table>

All designated outdoor storage, loading, or display areas, including, but not limited to, car lots, lumber yards, warehouses, home improvement centers, and loading docks, will require an additional one point per 600 square feet.

When only a portion of a large lot is developed (e.g., only one acre of a 10-acre lot), only the developed area shall be considered when determining the number of points required.

**Table 2. Point Values for Various Plantings**

<table>
<thead>
<tr>
<th>Type of Plant Material</th>
<th>Minimum Size</th>
<th>Point Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Large tree</td>
<td>2.0 inches – 2.5 inches caliper</td>
<td>11 per tree</td>
</tr>
<tr>
<td>Medium tree</td>
<td>1.25 inches – 1.5 inches caliper</td>
<td>8 per tree</td>
</tr>
<tr>
<td>Understory tree</td>
<td>Single trunk: 1.25 inches – 1.5 inches caliper</td>
<td>5 per tree</td>
</tr>
<tr>
<td></td>
<td>Multiple trunk: 6 feet – 8 feet in height</td>
<td>5 per tree</td>
</tr>
<tr>
<td>Coniferous tree</td>
<td>4 feet – 5 feet initial height at planting</td>
<td>8 per tree</td>
</tr>
<tr>
<td>Shrub</td>
<td>2 gallon (established) minimum</td>
<td>1 per shrub</td>
</tr>
<tr>
<td>Ornamental grasses</td>
<td>2 gallon (established) minimum</td>
<td>1 per plant</td>
</tr>
<tr>
<td>Groundcover</td>
<td>Per square foot of landscaped area. Sufficient quantity of plants to cover the entire landscape area within 3 growing seasons.</td>
<td>0.25 per square foot</td>
</tr>
<tr>
<td>Landscape berm</td>
<td>30 inches minimum height with a sufficient quantity of trees, shrubs or plants to equal 1 point per 10 square feet.</td>
<td>0.5 per 3 lineal feet</td>
</tr>
<tr>
<td>Turf berm</td>
<td>30 inches minimum height. 3-foot minimum length, not to exceed 10% of total point requirements.</td>
<td>0.25 per 3 lineal feet</td>
</tr>
</tbody>
</table>

(c) Parking Lot Requirements. All street-level parking lots shall be landscaped in accordance with the following requirements:
(1) In addition to the number of base points required, one and one-half additional points are required for each parking space proposed. These additional points may be achieved by planting parking lot trees and/or parking lot shrubs. For example, a 10,000-square-foot developed area with 10 parking spaces requires 33 base points plus one and one-half points per parking space. The total point requirement for this developed area is 48 (33 base points plus 15 parking lot points).

(2) On parking lots with less than 24 parking spaces, parking lot trees/shrubs may be spaced around the perimeter of the lot as desired to provide a uniform and attractive design.

(3) On lots with more than 24 parking spaces, landscaping shall be provided on parking lot islands and/or parking lot peninsulas within the confines of the developed parking lot at a ratio of one landscaped island or peninsula per 24 parking spaces. These plantings shall be located to minimize and break the expanse of asphalt and concrete. Each parking lot island or peninsula shall be equivalent in size to one parking space.

(d) Buffers and Buffer Zones. A developed area may be required to buffer certain portions of the development as provided for herein. If a developed area is required to buffer, the more stringent buffer requirements contained herein shall apply. Accumulation of minimum required landscaping points shall not reduce the requirements for any landscaped buffer as specified herein.

(1) Residential Zone Buffer. On any commercial, industrial, institutional, PUD, conditional use permit, or multifamily development (three or more units), adjacent to a residential zoning district, a landscaped buffer along the property line(s) of the developing property is required. The buffer shall run the entire length of the abutting lot line(s). The type of buffer may consist of any combination of the following:

(i) A solid opaque fence not less that six feet in height, and a six-foot-wide buffer of landscaped plantings located on the outside of the fence, not to exceed six-foot spacing between plants.

(ii) A landscaped buffer no less than six feet in width, planted with a series of evergreen plantings which will grow to at least six feet in height and spaced in a manner to provide an impervious visual barrier, not to exceed six-foot spacing between plants.

(iii) A landscaped berm at least 30 inches in height continuing the entire length of the abutting property line. A landscape credit for a landscaped berm may be claimed (per Table 1) in order to meet the screening requirements for the developing property. Such berm must be planted with trees, shrubs and/or plants in order to satisfy buffer requirements. A berm planted exclusively in turf grass is not considered by itself sufficient to satisfy buffer requirements as required by this chapter.

(iv) Natural, undisturbed forest at least 20 feet in width that provides a nearly impervious visual barrier due to the dense nature of the plants and/or trees. If this option is chosen, the planning director shall determine whether the barrier is satisfactory through a site inspection prior to plan approval. Protective measures shall be provided during construction to ensure the area is protected from damage due to construction.

(2) Parking Lot Buffer. All parking lots shall be buffered with landscaping as follows:

(i) An area not less than four feet in width shall be located between a parking lot and an adjacent property line of a nonresidential zoning district. Such buffering shall not be required where an equivalent buffer exists on the adjoining property.

(ii) A landscaped setback not less than 20 feet shall be located between all parking lots and any public street right-of-way. Landscaped setbacks shall only be required for lots platted after the adoption of this chapter.

(e) Landscape for Industrial Uses. For industrial uses in I districts, unimproved areas and outdoor storage areas will not be applied toward the generation of required points provided the purpose and performance objectives of this chapter, including the creation of landscape buffers and proper screening of parking and storage areas, are met. (Ord. 20062 § 38, 4-18-17.)
Cross References: Planning department, TMC 2.30.090; public works department, TMC 2.30.110.

18.235.070 Existing trees.
(a) Credits for Existing Trees. In order to encourage the preservation of existing trees, credits up to 50 percent of required base points may be given in the event existing trees are preserved.

For each existing significant tree with a diameter caliper between six inches and 12 inches that is preserved on the landscape plan, a credit of 15 base points will be applied. For each existing significant tree with a D.B.H. between 12 inches and 24 inches, a credit of 20 base points will be applied. For each existing significant tree with a D.B.H. over 24 inches, a credit of 25 base points will be applied. Any significant tree that dies during construction, or because of construction, must be replaced with a tree or trees of a similar species, or a species approved by the city forester, to equal or exceed the point value of the lost tree.

(b) Additional Points Required for Removal of Existing Significant Trees. Any existing significant trees removed from the site shall require additional base points above those calculated for the square footage of the developed area. For trees removed between six inches and 12 inches diameter caliper, an additional 15 base points shall be required. For trees removed between 12 inches and 24 inches D.B.H., an additional 20 base points shall be required. For any trees removed that are larger than 25 inches D.B.H., an additional 25 base points shall be required. If the planning director, in consultation with the city forester, determines that removal of any aforementioned significant trees will not be detrimental to the overall appearance of the development, some or all of these additional point requirements may be waived.

(c) Trees for which a developer wishes to receive credit must be within the developed area, and incorporated into an overall landscape design. (Ord. 18255 § 5, 6-1-04; Ord. 17846 § 7, 6-11-02. Code 1995 § 48-38.06.)

Cross References: Planning department, TMC 2.30.090; city forester, Chapter 12.65 TMC.

18.235.080 Irrigation system credits.
In order to sustain the benefits of landscaped areas as required by this chapter, credits may be authorized if the developer provides an industry standard irrigation system. Credits may be authorized as follows:

(a) A maximum of 20 percent of the total irrigated area may be deducted from the calculation of base points if the developer installs an industry standard, permanent, underground irrigation system. Such deduction may be authorized only from the square footage of the area covered by the irrigation system.

(b) If an underground irrigation system is claimed for credit against the base point formula, installation and operation plans of the irrigation system must be submitted to the planning director for approval.

(c) Credits authorized for irrigation systems shall not reduce the requirements for residential zone buffers or parking lot buffers as established by this chapter. (Ord. 18255 § 6, 6-1-04; Ord. 17846 § 8, 6-11-02. Code 1995 § 48-38.07.)

Cross References: Planning department, TMC 2.30.090.

18.235.090 Stormwater best management practice credits.
Credits may be authorized up to 20 percent when stormwater best management practices are incorporated into the landscape plan, subject to the approval of the water pollution control division, city of Topeka. Such practices shall adhere to recognized principles of stormwater drainage engineering and consist of but are not limited to:

(a) Bioretention systems.

(b) Open vegetated channels.

(c) Filter strip.

(d) Dry and wet swales.

(e) Detention systems.

(f) Retention/wetland systems.
(g) Stream buffers.

A point value of credit for stormwater best management practices shall be established by separate resolution of the city of Topeka. (Ord. 18255 § 7, 6-1-04; Ord. 17846 § 9, 6-11-02. Code 1995 § 48-38.08.)

18.235.100 Enforcement.

Enforcement of these regulations shall be subject to the authority granted to the city of Topeka zoning administrator as established in TMC 18.50.120.

The owner is responsible for all maintenance and upkeep of planted materials trees in perpetuity within his/her development. Failure by the developer and/or owner to comply with the applicable provisions of the article on landscape requirements shall cause the developer and/or owner to be ineligible for any additional building permits. No additional building permits shall issue until the developer and/or owner has complied with this chapter or made arrangements satisfactory to the planning director for compliance.

After all plantings are completed, the developer will schedule an inspection of the plantings with the planning department and landscaping installer. If all plantings are in good condition and properly meet the requirements of the landscape plan as required by this chapter, the planning department will issue a landscape certificate of completion to the developer and building official. No certificate of occupancy shall be issued if the landscape certificate of completion has not been issued. Notwithstanding the foregoing, if building construction is completed outside of the growing season, a temporary certificate of occupancy may be issued with the condition attached that the landscape certificate of completion must be issued prior to the end of the next growing season. Failure to obtain the landscape certificate of completion by the end of that growing season shall be sufficient grounds for revocation of the conditional certificate of occupancy.

If plantings are subsequently determined by the planning director to be damaged, in poor condition, diseased, or dead, the planning director may issue notice to the real property owner of record requiring maintenance and/or the replacement of plantings in order to bring the developed area into compliance with the approved landscape plan. If the required maintenance or replacement is not accomplished within one growing season which is considered to begin March 1st and end November 15th, the planning director on behalf of the city shall cause the required maintenance or replacement of plantings to be accomplished and cost thereof shall be assessed against the real property as a service assessment. (Ord. 18255 § 8, 6-1-04; Ord. 17846 § 10, 6-11-02. Code 1995 § 48-38.09.)

Cross References: Planning department, TMC 2.30.090.

18.235.110 General information.

(a) Trees Located Within the Public Right-of-Way.

(1) The removal of significant trees within the public right-of-way is prohibited without written permission of the city forester.

(2) Any significant tree located within a public right-of-way which abuts the developed area shall be shown on the landscape plan. Significant trees within the right-of-way which abut the developed area may be used as existing tree credits with the approval of the planning director.

(3) The developer must notify the city of Topeka forester immediately if any significant tree located within a public right-of-way is damaged during construction of the development project. Upon inspection, the city forester may require that the damaged tree be removed and replaced by the developer. The replacement tree shall be a similar species with a minimum caliper of two and one-half inches. Care and maintenance of the replacement tree shall be the responsibility of the developer or property owner for a period of three years. (Ord. 17846 § 11, 6-11-02. Code 1995 § 48-38.10.)

Cross References: Planning department, TMC 2.30.090; city forester, Chapter 12.65 TMC.

18.235.120 Size and quality requirements.

(a) Any large tree planted to meet minimum requirements of this chapter shall have at least a two-inch to two-and-one-half-inch diameter caliper. Any medium tree, understory tree, or coniferous tree planted to meet minimum requirements of this chapter shall have a diameter caliper of one and one-quarter inches to one and
one-half inches, except that multistemmed understory trees shall be between six and eight feet in height. Deviations from the recommended tree list may be approved through a written request to the city forester.

(b) All trees planted to meet the minimum requirements of this chapter shall be in a healthy condition at the time of planting.

(c) Shrubs planted to meet the minimum requirements of this chapter shall be a minimum of an established two-gallon container.

(d) Grass shall be planted in such a manner as to completely cover all exposed soil after one full growing season.

(e) No bare ground shall be left exposed. Grass or other groundcover or mulch, such as pine straw or tree bark, shall cover all bare ground.

(f) Irrigation is not required but is recommended.

(g) Any planting that dies shall be replaced within one full growing season. (Ord. 18255 § 9, 6-1-04; Ord. 17846 § 12, 6-11-02. Code 1995 § 48-38.11.)

Cross References: City forester, Chapter 12.65 TMC.

18.235.130 Recommended species.
The planning department with the advice of the city forester shall maintain a list of recommended trees, shrubs, perennials, ornamental grasses, and groundcover for fulfillment of the provisions of this chapter. Generally, these trees, shrubs, perennials, ornamental grasses, and groundcover are suitable for the city of Topeka’s environment. The city forester shall determine the suitability of all species and cultivars thereof. Substitutions or additions to the list of recommended species shall only be made with the approval of the city forester. Additionally, the city forester shall determine the point values for plantings not listed. (Ord. 18255 § 10, 6-1-04; Ord. 17846 § 13, 6-11-02. Code 1995 § 48-38.12.)

Cross References: Planning department, TMC 2.30.090; city forester, Chapter 12.65 TMC.
Chapter 18.240

OFF-STREET PARKING REQUIREMENTS

Sections:
18.240.010 Scope and application.
18.240.020 Off-street parking requirements.
18.240.030 Required number of off-street parking spaces.
18.240.040 Approval of off-street parking facilities.

18.240.010 Scope and application.
In any zoning district, for all structures built and all uses established after February 25, 1992, off-street parking shall be provided in accordance with the following regulations:

(a) Scope of Regulations.

(1) New Construction and New Uses. For all buildings and structures erected and all uses of land established after February 25, 1992, accessory off-street parking facilities shall be provided in accordance with the provisions contained herein.

(2) Expansion of a Building or Use. When the intensity of use of any building, structure, or premises shall be increased, additional parking facilities shall be provided as follows:

(i) Whenever a building, structure or use existing prior to February 25, 1992, is enlarged to the extent of less than 50 percent in floor area, the addition or enlargement shall comply with the parking requirements set forth herein.

(ii) Whenever a building, structure or use existing prior to February 25, 1992, is enlarged by one or more additions, the sum total of which increases the floor area to the extent of 50 percent or more, the uses contained within the original building or structure and all enlargements shall thereafter comply with the parking requirements set forth herein.

(iii) Whenever an existing single-family dwelling with more than 950 square feet in floor area has less than two parking spaces, it shall be permitted to expand by not more than 25 percent in floor area without having to comply with the off-street parking requirements set forth herein.

(3) Change of Use. Whenever a use existing prior to February 25, 1992, shall be changed to a new use, parking facilities shall be provided as required for such new use.

(4) Exempt District. Notwithstanding any other provision of this chapter, no parking facilities shall be required for any building or use permitted in the D-1 or D-3 districts.

(b) Existing Parking Facilities. Accessory off-street parking facilities in existence on February 25, 1992, and located on the same zoning lot as the building or use served shall not hereafter be reduced below or, if already less than, shall not be further reduced below the requirements for a similar new building or use.

(c) Permissive Parking Facilities. Nothing in this chapter shall be deemed to prevent the establishment of additional off-street parking facilities to serve any existing building or use; provided, that all regulations herein governing the location, design, and operation of such facilities are satisfied.

(d) Damage or Destruction. Whenever a building or use existing prior to February 25, 1992, and for which the required number of parking spaces is not provided, is damaged or destroyed by fire, tornado or other natural causes to the extent of 50 percent or more of its fair market value, the building, structure or use shall only be rebuilt or restored in compliance with this chapter. (Ord. 20062 § 39, 4-18-17.)
18.240.020 Off-street parking requirements.

(a) General Requirements. The following requirements shall govern in the design, location and number of off-street parking and stacking spaces:

1. Computation. When determination of the number of off-street parking and stacking spaces results in a requirement of a fractional space, the fraction of one-half or less may be disregarded, and a fraction in excess of one-half shall be counted as one space.

2. Utilization. Off-street parking and stacking facilities provided for the uses hereinafter listed shall be reserved exclusively for the parking of bicycles and motor vehicles, in operating condition, of patrons, occupants, visitors or employees of such uses.

3. Computing Off-Street Parking. In computing the floor area to determine the requirement for off-street parking, such computations for a structure shall exclude:

   (i) The exterior wall width of the structure;
   (ii) Elevator shafts;
   (iii) Common courts or lobby areas;
   (iv) Mechanical equipment rooms;
   (v) Stairways;
   (vi) Restrooms;
   (vii) Basements, except those portions not used exclusively for service to the structure;
   (viii) Balconies;
   (ix) Incidental storage areas including but not limited to janitorial rooms, supply rooms, etc.

The building official shall determine the net floor area of the structure and shall require off-street parking as specified for the use set forth in the applicable district regulations.

4. Shared Parking Provisions. In the case of mixed uses, the off-street parking and stacking spaces required shall equal the sum of the requirements of the various uses computed separately, provided all regulations governing the location of accessory off-street parking and stacking spaces in relation to the uses served are adhered to.

(b) Specific Requirements.

1. Open and Enclosed Parking. Accessory off-street parking and stacking spaces may be open to the sky or enclosed within a garage.

2. Surfacing. All off-street parking and stacking spaces, aisles and drives shall be surfaced in accordance with the standards and specifications of the city or county.

3. Location. Off-street parking and stacking spaces, aisles and drives shall be located as follows:

   (i) General.

      (A) Bicycle parking, off-street parking and stacking spaces, aisles and drives shall be located on the same zoning lot as the use served.
Topeka Municipal Code  
Chapter 18.240 OFF-STREET PARKING REQUIREMENTS  

(B) Protective curbs shall be required to be installed three feet from public sidewalks to protect pedestrians a minimum of two feet from adjacent property lines, and at other places on the parking lot as may be required by the code enforcement director or the city engineer to protect the adjacent property.

(C) Aisles and drives shall not be considered in determining whether off-street parking and stacking requirements have been met except in the instance of single-family dwellings and duplexes.

(ii) Bicycle Parking. Bicycle parking shall be located in designated areas which minimize pedestrian and vehicle conflict. Bicycle parking shall be located within 120 feet of a main building entrance in an area that is visible and well-lighted. Well-lighted means a brightness level of at least one footcandle. Where multiple buildings exist, bicycle parking shall be distributed in a manner that serves all of the buildings in areas that are visible and well-lighted.

(4) Design. Except for single-family dwellings and duplexes, all bicycle parking, off-street parking, and stacking spaces, aisles and drives shall comply with the following prescribed standards:

(i) Area. Vehicular parking and stacking spaces shall comply with the minimum dimensions illustrated in Figure 1.

(ii) Access.

(A) Vehicular. Each vehicular parking space shall open directly upon an aisle of such width and design as illustrated in Figure 1. The greatest aisle width shown in Figure 1 shall be provided when combining different parking space configurations on the same aisle. All off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement; and all such points of access must be approved by the public works department. Aisles designed for two-way traffic shall have a minimum width of 24 feet.

(B) Bicycle. Each bicycle parking space shall comply with the minimum dimensions as illustrated in Figure 2.

(iii) Exiting a Parking Facility. No off-street parking facility shall be designed in such a manner that when exiting a parking facility it would require backing into a public street.

(iv) Curbing. Protective curbing shall be installed a minimum of three feet from a public sidewalk and two feet from adjacent property lines.

(v) Markings. The parking spaces in all off-street parking areas shall be visibly delineated on the surface by painted or marked stripes.

(vi) Bicycle Rack Design. Examples of approved bicycle racks are illustrated in Figure 3. Bicycle parking racks shall meet all of the following requirements:

(A) Located on paved, impervious, or approved pervious surfaces and securely anchored to the ground;

(B) Support the bicycle in at least two places;

(C) Enable the frame and at least one wheel to be secured; and

(D) Installed according to the manufacturer’s specifications.

(vii) Public Right-of-Way. Bicycle racks may be installed on public rights-of-way where there are no setbacks and the public works director has determined that interference with pedestrian traffic is minimal.

(5) Screening. All open, off-street parking facilities containing eight or more parking spaces shall be effectively screened on each side adjoining residential property (including single-family, duplex and multiple-family) or institutional property with a continuous, view-reducing wood fence, masonry wall, compact evergreen hedge or
other landscape screening material which, when planted, will constitute an immediate view-reducing barrier. Such view-reducing screen shall be at least four feet but not more than eight feet in height. The requirement for screening may be waived with written approval from the adjacent property owner.

(6) Lighting. Any lighting used to illuminate off-street parking facilities shall be directed away from residential properties and public streets in such a way as not to create a nuisance. However, in no case shall such lighting exceed three footcandles measured at the lot line.

(7) Drainage. All stormwater runoff shall be collected, transported and disposed of in a manner as approved by the city engineer.

(8) Accessible Parking. Where a use is required to provide accessibility for persons with disabilities, the required parking spaces shall be located and designed in accordance with standards as set by the Americans with Disabilities Act (ADA).

(9) Bicycle Parking. New off-street parking constructed after June 1, 2014, shall include additional parking for bicycles. The additional parking area shall be equivalent to five percent of the number of vehicular parking spaces required in TMC 18.240.030, with a minimum of two. Parking facilities that are expanded after June 1, 2014, shall include additional parking for bicycles in the expanded area that is equal to five percent of the number of vehicular parking spaces required in TMC 18.240.030 in the expanded area, with a minimum of two.

(10) Modification of Parking Requirements.

   (i) Reduction of Parking Spaces. Where it can be demonstrated by the property owner that a specific use has such characteristics that the number of parking or stacking spaces required is too restrictive, the planning director may, upon request, grant up to a 25 percent reduction in the number of required spaces. Such request shall be filed with the planning director on forms as may be provided. Should a reduction greater than 25 percent be requested, the applicant may request a variance from the board of zoning appeals in accordance with the procedures set forth in Chapter 2.45 TMC. Where a reduction of 25 percent or less is requested, the applicant shall be required to reserve an area of land on the site of the use served equal in size to the area of land needed to provide the spaces for which a reduction is granted. Such land reserved shall be suitable for development of a parking facility and conform with the parking requirements.

   (ii) Bicycle Parking Substitution. In addition to the bicycle parking required in subsection (b)(9) of this section, up to 10 percent of the number of vehicular parking spaces required in TMC 18.240.030 may be substituted with bicycle parking.

(11) Condition of Off-Street Parking Facility. Any parking facility which does not meet the standards of this division and which shall create a nuisance to the public from any cause shall meet the requirements as recommended by the city or county traffic engineer, city or county engineer, planning director and city or county building official, pertaining to screening, surfacing or entrances or exits.
FIGURE 1

PARKING CONFIGURATIONS and DIMENSIONS

PARALLEL PARKING

30° PARKING

45° PARKING

60° PARKING

90° PARKING

FIGURE 2
FIGURE 3
(Ord. 19904 § 2, 5-13-14.)

Cross References: Planning department, TMC 2.30.090; public works department, TMC 2.30.110; board of zoning appeals, Chapter 2.45 TMC; building code enforcement division, Chapter 2.50 TMC; traffic engineer, TMC 10.10.010.
18.240.030 Required number of off-street parking spaces.
In all districts, except the C-5 district, there shall be provided prior to the occupation of a building or commencement of a principal use a minimum number of off-street parking and stacking spaces as set forth herein except as otherwise provided for in TMC 18.240.040(b).

<table>
<thead>
<tr>
<th>Principal Use</th>
<th>Number of Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Residential uses.</td>
<td></td>
</tr>
</tbody>
</table>
| (1) Single- and two-family dwellings. | 1 per dwelling unit having not more than 950 square feet of floor area  
2 per dwelling unit having more than 950 square feet of floor area |
| (2) Multiple-family dwelling and apartment hotels. | 2 per dwelling unit for first 20 units, and 1.5 per dwelling unit after the first 20 units for dwelling units not more than 800 square feet of floor area  
2 per dwelling unit having more than 800 square feet of floor area |
<p>| (3) Multiple-family dwelling, elderly housing. | 1 per every 2 dwelling units |
| (4) Multiple-family dwelling, high-rise. | 1.5 per dwelling unit for first 20 dwelling units and 1 per dwelling unit thereafter |
| (5) Bed and breakfast inn. | 1 per sleeping room |
| (6) Hotels and motels. | 1 per sleeping room plus additional space for restaurant, convention centers and other facilities as may be open to public |
| (7) Congregate living and dormitory type dwellings. | 1 per sleeping room |
| (8) Fraternity/sorority house. | 1 per 300 square feet of floor area |
| (9) Developmentally disabled group home. | 1 per each 2 sleeping rooms |
| (b) Community facilities and institutional uses. | |
| (1) Public and private educational facilities. | |
| (i) Elementary and secondary. | 2.5 per classroom |
| (ii) Senior high. | 10 per classroom |
| (2) Religious assembly. | 1 per every 4 seats in auditorium or largest room |
| (3) Cultural facility. | 1 per 300 square feet of floor area |
| (4) Community center. | 1 per 300 square feet of floor area |
| (5) Reception, conference and assembly facility. | 1 per 150 square feet of floor area or 1/3 of the occupant load, whichever is less |
| (6) Day care center, type II. | 1 per every 10 persons the facility is licensed to serve, but not less than 5 spaces. To provide for the safe and convenient loading and unloading of persons as well as minimize traffic congestion, a paved unobstructed pickup space with adequate stacking area (as determined by the city or county building official) shall be provided at the building entrance or stacking space to accommodate 5 vehicles |
| (7) Residential care facility, types II and III. | 1 per every 3 roomers, but not less than 2 spaces |
| (8) Medical care facility, type II. | 1 per every 3 beds |
| (9) Community living facility, type I. | 1 per every 2 roomers |
| (10) Community living facility, type II. | 1 per every staff member determined by the maximum |</p>
<table>
<thead>
<tr>
<th>Principal Use</th>
<th>Number of Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>(11) Crisis center, type I.</td>
<td>1 per 300 square feet of floor area</td>
</tr>
<tr>
<td>(12) Crisis center, type II.</td>
<td>1 per 200 square feet of floor area</td>
</tr>
<tr>
<td>(13) Hospital or medical center.</td>
<td>1.75 per hospital bed</td>
</tr>
<tr>
<td>(14) Private membership association, club, lodge or fraternal organization.</td>
<td>1 per 300 square feet of floor area</td>
</tr>
<tr>
<td>(15) Business or vocational school, technical college.</td>
<td>1 per 200 square feet of floor area</td>
</tr>
<tr>
<td>(16) College or university.</td>
<td>1 per 2.63 students enrolled</td>
</tr>
<tr>
<td>(c) Professional offices.</td>
<td></td>
</tr>
<tr>
<td>(1) Medical and related offices and clinics, chiropractic, dental, optometrist, osteopath, pediatrician, etc.</td>
<td>1 per 300 square feet of floor area</td>
</tr>
<tr>
<td>(2) Professional and governmental offices: accounting, architectural, engineering, governmental, insurance sales, law, real estate, sales and brokerage, etc.</td>
<td>1 per 400 square feet of floor area</td>
</tr>
<tr>
<td>(3) Financial institution.</td>
<td>1 per 200 square feet of floor area, plus 3 stacking spaces for each external teller or customer service window</td>
</tr>
<tr>
<td>(4) Veterinarian.</td>
<td>1 per 400 square feet of floor area</td>
</tr>
<tr>
<td>(d) Commercial uses.</td>
<td></td>
</tr>
<tr>
<td>(1) Business and retail establishments (other than listed).</td>
<td>1 per 200 square feet of floor area</td>
</tr>
<tr>
<td>(2) Restaurants:</td>
<td></td>
</tr>
<tr>
<td>(i) Family dining type, where all food consumed within an enclosed structure.</td>
<td>1 per 150 square feet of floor area or 1/3 the occupant load, whichever is less</td>
</tr>
<tr>
<td>(ii) Carry-out and delivery only, where no food consumed on the premises.</td>
<td>1 per each employee based upon maximum shift, plus 5 stacking spaces per drive-in window. Such stacking spaces shall not be designed to impede pedestrian or vehicular circulation on the site or on any abutting street</td>
</tr>
<tr>
<td>(iii) Drive-in type, where food may be consumed on the premises, outside a completely enclosed building, or served directly to customers in parked vehicles.</td>
<td>1 per 35 square feet of floor area, plus 5 stacking spaces per drive-in window. Such stacking spaces shall not be designed to impede pedestrian or vehicular circulation on the site or on any abutting street</td>
</tr>
<tr>
<td>(iv) Fast food, an establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready-to-consume state for</td>
<td>1 per 85 square feet of floor area or 1/3 the occupant load, whichever is less, plus 5 stacking spaces per drive-in window. Such stacking spaces shall not be designed to impede pedestrian or vehicular circulation on the site or on any abutting street</td>
</tr>
<tr>
<td>Principal Use</td>
<td>Number of Spaces</td>
</tr>
<tr>
<td>--------------</td>
<td>------------------</td>
</tr>
<tr>
<td>(3) Automotive service station, types I and II.</td>
<td>1 per 4 gas pumps, but not fewer than 4 spaces. In no instance shall a required parking space or its maneuvering area conflict with vehicles being fueled or awaiting fuel consumption either within the restaurant building or off premises</td>
</tr>
<tr>
<td>(4) Funeral home or mortuary.</td>
<td>1 per every 3 seats in the main seating area</td>
</tr>
<tr>
<td>(5) Theater, adult/nonadult.</td>
<td>1 per each 2.5 seats</td>
</tr>
<tr>
<td>(6) Automotive or vehicle car wash.</td>
<td>1 per each 2 washing stalls plus 2 stacking spaces per washing stall</td>
</tr>
<tr>
<td>(7) Shopping centers.</td>
<td>4.55 per 1,000 square feet of gross floor area</td>
</tr>
<tr>
<td>(c) Recreation, entertainment and amusement.</td>
<td></td>
</tr>
<tr>
<td>(1) Commercial recreational facility (unless otherwise listed).</td>
<td>1 per 150 square feet of floor area</td>
</tr>
<tr>
<td>(2) Courts, racquetball, handball, squash and tennis (when operated as an independent use).</td>
<td>4 per each court, or 1 per 3 spectator seats, whichever is greater</td>
</tr>
<tr>
<td>(3) Amusement indoor establishments.</td>
<td>1 per 100 square feet of floor area</td>
</tr>
<tr>
<td>(4) Bowling alley.</td>
<td>5 per alley, plus additional space for any other associated use (e.g., bar, restaurant, etc.) open to the public</td>
</tr>
<tr>
<td>(5) Amusement park.</td>
<td>1 per 200 square feet of floor area plus 1 per 200 square feet of land area used for outdoor recreational areas</td>
</tr>
<tr>
<td>(6) Auditorium, fairgrounds, stadiums and grandstands.</td>
<td>1 per every 4 seats</td>
</tr>
<tr>
<td>(7) Athletic field.</td>
<td>15 spaces for every diamond; 20 spaces for every soccer or athletic field, or 1 space for every 4 seats, whichever is greater</td>
</tr>
<tr>
<td>(8) Golf courses.</td>
<td>4 per each green, plus additional space for any other associated uses (e.g., tavern, restaurant, etc.) open to the public</td>
</tr>
<tr>
<td>(9) Golf driving range.</td>
<td>1.5 per every tee, if provided, or 1.5 per each 20 feet of range width along the tees</td>
</tr>
<tr>
<td>(10) Miniature golf course.</td>
<td>2 per hole</td>
</tr>
<tr>
<td>(11) Outdoor range, archery, rifle, trap or skeet.</td>
<td>2 per target area or 1 per 5 seats, whichever is greater</td>
</tr>
<tr>
<td>(f) Industrial uses.</td>
<td></td>
</tr>
<tr>
<td>(1) Industrial establishments (other than listed).</td>
<td>1 per 1,000 square feet of floor area</td>
</tr>
<tr>
<td>(2) Research and testing laboratory.</td>
<td>1 per 600 square feet of floor area</td>
</tr>
<tr>
<td>(3) Warehousing.</td>
<td>1 per 1,000 square feet of floor area to a maximum of 5 spaces for establishments up to 25,000 square feet of floor area. For warehouses over 25,000 square feet, 5 spaces plus 1 for each additional 5,000 square feet above 25,000 square feet of floor area</td>
</tr>
<tr>
<td>(4) Manufacturing or establishments engaged in production, processing, packing and crating, cleaning, servicing, or repair of materials, goods or products.</td>
<td>1 per 600 square feet of floor area up to 25,000 square feet of floor area; and 1 per 1,000 square feet of floor area above 25,000 square feet of floor area</td>
</tr>
</tbody>
</table>
| (g) Other uses. For uses not listed, parking spaces shall be provided on the same basis as required for the most similar listed use as determined by the appropriate city or county.
Principal Use
building official.

Number of Spaces


**18.240.040 Approval of off-street parking facilities.**

The design of all off-street parking facilities shall be subject to the approval of the building official prior to issuance of a building and/or parking lot permit, or for any certificate of occupancy where no building permit is required. Before approving any off-street parking plan, the official shall find the spaces, aisles and drives provided are usable as designed and meet the requirements as set forth herein.

(a) Submission of Site Plan. Any application for a parking lot and/or building permit, or for any certificate of occupancy where no building permit is required, shall include therewith a site plan drawn to scale and fully dimensioned. Said plan shall show the full extent of the area to be used for off-street parking including angle and dimension of vehicular parking and stacking spaces, aisles and drives; type of surfacing; radius of curb return; width of curb opening; identify protective curbing; direction of traffic flow; drainage pattern and method of collection; sidewalks, bicycle parking, and type and height of screening and parking area trees. Bicycle racks may be installed on public rights-of-way where there are no setbacks and the public works director has determined that interference with pedestrian traffic is minimal.

(b) Temporary Permit. Prior to issuance of a certificate of occupancy, all parking and stacking spaces, aisles and drives shall be properly constructed and surfaced; except that the building official may issue a temporary certificate of occupancy in those instances where the building official finds that the surfacing cannot reasonably be completed due to adverse weather conditions or settling of land on the site after demolition or filling. A temporary certificate of occupancy shall be effective only to a date specified.

(c) Enforcement. If the applicant fails to construct the parking facility in conformity with the requirements of this chapter or other prescribed requirements, the governing body may order the removal or replacement of the nonconforming parking facility or portion thereof. The cost of removal or replacement and any necessary reconstruction shall be levied as a special assessment against the property.

(d) Public right-of-way shall not be utilized for internal traffic circulation or stacking for drive-up window facilities and similar such car-service features.

(e) All facilities proposing “drive-in” and/or “carry-out” service features shall be reviewed and considered by the traffic engineer or designee in respect to: ingress/egress to public right-of-way; the impact upon streetside parking; adequacy of on-site vehicle storage, parking and traffic patterns; and pedestrian safety. The traffic engineer or designee shall not approve the proposal if the public safety and welfare are negatively impacted. (Ord. 19904 § 3, 5-13-14.)

**Cross References:** City council – mayor, Chapter 2.15 TMC; public works department, TMC 2.30.110; traffic engineer, TMC 10.10.010.
Chapter 18.245

AMENDMENTS

Sections:
18.245.010 Amendments initiated.
18.245.020 Procedure.
18.245.030 Restriction on filing.
18.245.040 Certificate of ownership.
18.245.050 Legal protest.
18.245.060 Building and development permit issuance.
18.245.070 Filing fees.
18.245.080 Repealed.

Cross References: City council – mayor, Chapter 2.15 TMC; planning commission, Chapter 2.65 TMC.

18.245.010 Amendments initiated.
The governing body may, from time to time, supplement, change or generally revise the boundaries or regulations contained in this division by amendment. A proposal for such amendment may be initiated by the governing body or the planning commission. Further, a proposal to amend the district zoning map may also be initiated upon application of the owner of property affected. (Code 1995 § 48-33.00.)

18.245.020 Procedure.
Amendments to this division may be made to either the specific provisions or text of this division, or to the district map. Any amendment shall be adopted by the governing body by ordinance (applicable to the jurisdiction of the city of Topeka, Kansas) and resolution (applicable to the jurisdiction of unincorporated Shawnee County, Kansas); and said documents shall be published in the official newspaper as required by law.

(a) The procedure for amending the textual provisions of this division shall be in accordance with state statutes and specifically provide for the order set forth below:

(1) All proposed amendments shall be referred to the planning commission for a public hearing and recommendation.

(2) The proposed amendment shall be published setting forth the existing provision and the purpose and extent of the proposed amendment, in the official newspaper at least 20 days prior to the date of the public hearing when the matter will be considered. Such notice shall fix the time and place for such hearing.

(3) The hearing may be adjourned from time to time and at the conclusion of the same, a majority of the members of the entire planning commission shall be required to recommend approval or denial of the amendment to the governing body. An individual motion to approve or to deny which receives less than a majority vote of the members of the planning commission shall be deemed a failed motion and no further action by the planning commission is required. In such instances, the matter shall not be transmitted to the governing body for consideration.

(4) Upon receipt of the recommendation and written summary of the hearing, the governing body either may:

   (i) Approve such recommendations by the adoption of the same by ordinance in a city or resolution in a county;

   (ii) Override the planning commission’s recommendations by a two-thirds majority vote of the membership of the governing body;

   (iii) May return the same to the planning commission for further consideration, together with a statement specifying the basis for the governing body’s failure to approve or disapprove.
(5) If the governing body returns the planning commission’s recommendations, the planning commission, after considering the same, may resubmit its original recommendations giving the reasons therefor or submit new and amended recommendations. Upon the receipt of such recommendations, the governing body, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendations by the respective ordinance or resolution, or the governing body need take no further action thereon.

(6) If the planning commission fails to deliver its recommendations to the governing body following the planning commission’s next regular meeting after receipt of the governing body’s report, the governing body shall consider such course of inaction on the part of the planning commission as a resubmission of the original recommendations and proceed accordingly.

(b) The procedure for amending the district map shall be in accordance with state statutes and specifically provide for the order set forth below:

(1) All proposed amendments to the district map shall be referred to the planning commission as initiated by the governing body or the commission; or upon a property owner by filing the request with the planning agency.

(2) The planning director shall have the authority and responsibility to establish the processing schedule and administrative procedures to consider the request, as well as determine required basic information and data relative to the proposal in respect to processing of any proposed amendment or conditional use permits.

(3) Any proposed district map amendment initiated by a property owner of the property affected shall be processed as follows:

(i) Prior to filing an application, the applicant is encouraged to request a preapplication conference with the planning agency staff. The purpose of the conference is to provide the owner an opportunity to explain the general development concept and site conditions, and for the planning staff to explain this division, and regulations, standards, policies, alternatives and constraints applicable to the proposal and site, as well as the comprehensive plan or other adopted plans, programs, or development policies.

(ii) At the time of the preapplication conference, the owner shall provide the following general information:

(A) A legal description and area of subject property.

(B) The present or existing use of the site.

(C) The use of adjacent properties.

(D) Relationship to supporting public or community facilities including utility services.

(E) A statement as to the schedule or timeframe for intended use and development.

(iii) The owner shall file an official application for an amendment, which shall consist of:

(A) Filing fee.

(B) Official application and justification.

(C) Supporting information, including the following:

1. The location and relationship of the property to the surrounding area.

2. Legal description of the property.

3. The proposed district.
4. The circulation or transportation network serving the property.

5. Surface drainage and limitations.

6. Sewer, water, and other utility availability and capacity limitations.

7. Other unique or special site conditions.

8. All public easements of record.

9. Traffic analysis impact study, if deemed necessary by the planning director.

10. The planning director may require the subject property to be platted or replatted simultaneously with consideration of a zoning amendment on the subject property.

(D) Petitioners of the planned unit development district shall submit for review processing and adoption, the plan of development in accordance with provisions set forth in the PUD district.

(E) Proof that all real property taxes including any special assessments are paid to date and are current for the subject property. In the event real property taxes, including any special assessments, are delinquent, the application for amendment shall not be scheduled for public hearing until such time as the taxes, including any special assessments, are paid or satisfactory escrow arrangements for the payment of such taxes or special assessments have been made and presented to the city attorney’s office and/or Shawnee County counselor’s office for approval.

(iv) The proposed amendment shall be published in the official newspaper at least 20 days prior to the public hearing.

(v) In addition to such publication notice, written notice of such proposed amendment shall be mailed at least 20 days before the hearing to all owners of record of lands located within at least 200 feet of the area proposed to be altered for regulations of the city and to all owners of record of lands located within at least 1,000 feet of the area proposed to be altered for regulations of the county. The notice shall fix the time and place of the public hearing to consider a proposed rezoning, and of an opportunity granted to interested parties to be heard. All notices shall include a statement that a complete legal description is available for public inspection and shall indicate where such information is available. When the notice has been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action taken by the planning commission or the governing body.

(vi) If the city proposes a zoning amendment to property located adjacent to the city’s limits, the area of notification of the city’s action shall be extended to at least 1,000 feet in the unincorporated area. Notice of the county’s action shall extend 200 feet in those areas where the notification area extends within the corporate limits of a city.

(vii) Notice requirements as set forth in this chapter are sufficient to permit the planning commission to recommend amendments to zoning regulations which affect only a portion of the land described in the notice or which give all or any part of the land described a zoning classification of lesser change than that set forth in the notice. A recommendation of a zoning classification of lesser change than that set forth in the notice shall not be valid without republication and, where necessary, remailing, unless the planning commission has previously established a table or publication available to the public which designates what zoning classifications are lesser changes authorized within the published zoning classifications.

(viii) The planning staff shall examine the application with respect to the comprehensive plan, policies and other development requirements, existing infrastructure and capacities with respect to essential public improvements, and shall make a report to the planning commission.

(ix) The planning commission shall hold a public hearing and act in a quasijudicial capacity to hear testimony; weigh the facts and conditions; and make findings and conclusions with respect to:
(A) The character of the neighborhood.

(B) The zoning and use of properties nearby.

(C) The suitability of the subject property for the uses of which it has been restricted.

(D) The extent to which removal of the restrictions will detrimentally affect nearby properties.

(E) The length of time the subject property has remained vacant (or unused) as zoned.

(F) The relative gain to the public health, safety and welfare by the destruction of the value of affected property as compared to the hardship imposed upon the individual landowner.

(G) Recommendation of professional staff.

(H) Conformance to adopted or recognized comprehensive plan.

(x) The planning commission members shall publicly disclose any ex parte contacts prior to receiving testimony at the time of the public hearing.

(xi) For action on an amendment, a quorum of the planning commission is more than one-half of all the members. A majority of the members of the planning commission present and voting at the hearing shall be required to recommend approval or denial of the amendment to the governing body. If the planning commission fails to make a recommendation on a rezoning request, the planning commission shall be deemed to have made a recommendation of disapproval. The adoption of an amendment to the district map shall conform to all provisions pertaining to legal protest as set forth elsewhere in this division.

(xii) Upon receipt of a recommendation of approval or disapproval of such proposed amendment and the reasons therefor the governing body may:

(A) Adopt such recommendation by ordinance in a city or by resolution in a county;

(B) Override the planning commission’s recommendation by a two-thirds majority vote of the membership of the governing body; or

(C) Return such recommendation to the planning commission with a statement specifying the basis for the governing body’s failure to approve or disapprove.

(xiii) If the governing body returns the planning commission’s recommendation, the planning commission, after considering the same, may resubmit its original recommendation giving the reason therefor or submit a new and amended recommendation. Upon the receipt of such recommendation, the governing body, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendation by the respective ordinance or resolution, or it need take no further action thereon.

(xiv) If the planning commission fails to deliver it’s recommendation to the governing body following the planning commission’s next regular meeting after receipt of the governing body’s report, the governing body shall consider such course of inaction on the part of the planning commission as a resubmission of the original recommendation and proceed accordingly.

(xv) All such actions by the governing body shall be based upon findings, conclusions, with respect to the factors contained in subsection (b)(3)(ix) of this section and the same shall be entered into the official record.

(xvi) All proposed amendments to the district map which the governing body approves, shall be adopted by an ordinance (city of Topeka) or resolution (Shawnee County) to complete the amendment to the district map. The proposed rezoning shall become effective upon publication of the respective adopting ordinance or resolution.
(xvii) If such amendment affects the boundaries of any zone or district, the respective ordinance or resolution shall describe the boundaries as amended, or if a provision is made for the fixing of the same upon an official map which has been incorporated by reference, the amending ordinance or resolution shall define the change or the boundary as amended, shall order the official map to be changed to reflect such amendment, shall amend the section of the ordinance or resolution incorporating the same and shall reincorporate such map as amended.

(xviii) Development permits may then be issued in accordance with the appropriate district regulations as well as in compliance with other ordinances, resolutions, regulations, and policies of the subject jurisdiction. Except for the planned unit development district, site development plans and construction plans shall be required only in conjunction with an application of a construction permit.

(c)(1) Whenever five or more property owners of record owning 10 or more contiguous or noncontiguous lots, tracts, or parcels of the same zoning classification initiate a rezoning of their property from a less restrictive to a more restrictive zoning classification by the submission of a petition bearing the signatures of such owners to the governing body, then such petition shall be referred to the planning commission and staff for study, consideration, hearing, recommendation and report back. Such amendments to the district map under this provision shall require notice by publication in the official newspaper 20 days prior to the date of hearing and shall be considered at a public hearing by the planning commission. Provided further, written notice to any property owners shall not be required and the proposal shall not be subject to a protest petition provision. A filing fee under this provision shall not be required.

(2) Whenever a governing body initiates a rezoning from a less restrictive to a more restrictive zoning classification of 10 or more contiguous or noncontiguous lots, tracts or parcels of the same zoning classification having five or more owners of record, such amendments to the district map under this provision shall require notice by publication in the official newspaper 20 days prior to the date of hearing and shall be considered at a public hearing by the planning commission. Provided further, written notice shall only be required to be mailed to the owners of record of the properties to be rezoned and only such owners shall be eligible to file a protest petition. A filing fee under this provision shall not be required. (Ord. 18085 § 2, 9-9-03; Ord. 16982 § 1, 7-23-96; Ord. 16754 § 28, 9-13-94. Code 1995 § 48-33.01.)

Cross References: City attorney, TMC 2.30.070; planning department, TMC 2.30.090.

18.245.030 Restriction on filing.
Whenever the governing body has denied a proposed amendment to the district map, or whenever the planning commission has conducted a public hearing and made a recommendation on a request to amend zoning and which a request is subsequently withdrawn by the applicant prior to governing body consideration, a one-year resubmittal limitation from the date of the original petition filing of the application shall apply, except when the planning commission, after due consideration, grants permission to resubmit within the specified time. (Code 1995 § 48-33.02.)

18.245.040 Certificate of ownership.
The certificate of ownership compiled by a land title insurance company provided for the purposes of notification to the affected property owners, when prepared and filed not more than 60 days prior to filing an application for rezoning, shall be valid throughout the rezoning process. (Code 1995 § 48-33.03.)

18.245.050 Legal protest.
(a) Approval Requirements. Regardless of whether or not the planning commission approves or disapproves a proposed zoning amendment, if a protest against such amendment is filed in the office of the city clerk or county clerk as applicable, within 14 days after the date of the conclusion of the public hearing pursuant to the publication notice, signed by the owners of record of 20 percent or more of any real property proposed to be rezoned or by the owners of 20 percent or more of the total area required to be notified by this act of the proposed rezoning of a specific property, excluding streets and public ways, the ordinance or resolution adopting such amendment shall not be passed except by at least a three-fourths vote of all of the members of the governing body.

(b) Protest Petition. A protest petition shall be submitted on the form provided by the planning agency and shall be considered to be valid when the following information is completed thereon:
(1) Case identification and location.

(2) Signature of all owner(s) of record.

(3) Legal description of the property owned by the protest petitioner.

(4) Notary public hand and seal.

(c) Withdrawal of Protest. In the event a petition protesting a change of zoning is filed and the petitioner desires to withdraw the petition, the petitioner shall file a written statement with either the city clerk or county clerk as was originally filed by the petitioner, prior to the close of business hours of the concluding date to file protest petitions as provided by state statutes applicable to the relevant jurisdiction set forth above.

(d) Amendment or Revision of Rezoning Application. In the event there is an amendment or revision to the proposed rezoning application with respect to the boundary or zoning classification following the conclusion of the public hearing by the planning commission, resulting from either consideration by the applicant or the governing body, the matter shall be referred back to the planning commission for reconsideration. Prior to reconsideration, publication notice, mailing of notice and a new public hearing shall be held in the like manner of the original application.

In the event that a legal protest of 20 percent has been filed, said protest shall apply regardless of any proposed revisions or amendments to the petition in respect to classification and/or property boundary.

(e) Action by the Governing Body. Whenever a legal protest of 20 percent or more has been filed, the governing body shall not take any action on any proposed change of zoning when any member(s) of the governing body is not present.

(f) No Further Consideration or Subsequent Action. Whenever the governing body has taken a final and conclusive action to amend the district map, henceforth no further consideration or subsequent action shall be taken that will override or overturn the previous action taken; unless and until a new or amended application shall have been filed and the rezoning process shall have been complied with as provided for above. (Code 1995 § 48-33.04.)

Cross References: City clerk, TMC 2.30.010; planning department, TMC 2.30.090.

18.245.060 Building and development permit issuance.

No building permit shall be issued nor shall any use be established or increased in intensity, nor shall there be any requested alterations to or construction upon a site in any of the districts for the erection or alteration of a structure or building until a site plan has been submitted and approved for a use as permitted in the applicable district and appropriate development permits including building and zoning permits issued. Said site plan and development permits shall not be approved nor issued which are not in accordance with applicable provisions of the following regulatory measures:

(a) Floodplain zoning regulations as established by the governing body.

(b) Airport hazard regulations as established by the governing body.

(c) Protective measures of the Kansas Historic Preservation Act, K.S.A. 75-2715 through 75-2725 as amended.

(d) Permit requirements relating to excavation or construction within 1,000 feet landward to riverward of the centerline of any portion of a flood control works located within the jurisdiction.

(e) Consideration of applicable changes in zoning, in height or setback restrictions and the granting of variances or exceptions within the state zoning area by the Capitol Area Plaza Authority pursuant to the provisions of K.S.A. 75-3619 et seq.

(f) Plat of subdivision regulations and subject plat of subdivision except as set forth below:
(1) Land utilized for agricultural uses as defined by this division shall not be required to be a subdivided lot of record.

(2) Land on which the principal structure is that of an existing detached single-family dwelling building may be exempted from being a subdivided lot of record by determination of the applicable director of public works of the jurisdiction, all in respect to the issuance of certain permits when the director finds the following conditions exist:

(i) The requested permit is for an accessory structure or as an addition or alteration to an existing dwelling as determined to be minor in nature by said director of public works.

(ii) Adequate utility and drainage easements exist; adequate street right-of-way exists; and the property is not involved with the future alignment or extension of a public street.

(iii) There are no existing or anticipated drainage problems related to the site or the development.

(iv) The site is serviced by adequate public utilities and services; and the proposed development conforms to the dimensional regulations of the zoning district.

(3) Land on which existing or proposed development is to be devoted to such usage that the requirement to plat is impractical and would not result in the betterment to the public interest; and when it is determined by both the planning agency director and the director of public works of the jurisdiction considering the permit that a waiver of the plat of subdivision requirement will not adversely affect the subject property nor nearby properties, and they find that all of the following conditions exist:

(i) Adequate utility and drainage easements exist; adequate street right-of-way exists; and the property is not involved with the future alignment or extension of a public street.

(ii) There are no existing or anticipated drainage problems related to the site or the development.

(iii) The site is serviced by adequate public utilities and services; and the proposed development conforms to the dimensional regulations of the zoning district.

(iv) That there are special circumstances or conditions affecting the property.

(v) That the waiver is necessary for the reasonable and compatible development of the subject property.

(vi) That the granting of the waiver will not be detrimental to the public interest or other properties in the vicinity and will effect substantial justice and promote the general welfare.

(g) Current adopted Shawnee County wastewater management plan, or variances as may be granted by the applicable governing body as provided by said plan. (Code 1995 § 48-33.05.)

Cross References: Planning department, TMC 2.30.090; public works department, TMC 2.30.110.

18.245.070 Filing fees.
(a) All applications for amendments to the district map, conditional use permits, home occupation permits and appeals to the board of zoning appeals shall be accompanied by the appropriate filing fee as adopted by resolution of the governing body. Copies of the current resolution establishing such fees shall be on file in the offices of the planning department and city clerk.

(b) In the event an application for amendment to the district map or conditional use permit is withdrawn prior to submission to the planning commission or governing body, the applicant may recover the filing fee less the expenses incurred and the cost of the planning staff time expended in reviewing the application. (Ord. 19557 § 1, 5-3-11.)

18.245.080 Status of filed petitions.
Repealed by Ord. 19557. (Code 1995 § 48-33.07.)
Chapter 18.250

COMMUNICATION TOWERS

Sections:
18.250.010 Statement of purpose.
18.250.020 Regulations.

18.250.010 Statement of purpose.
The purpose of these regulations is to establish reasonable restrictions for the siting and screening of communication towers and their related equipment in order to accommodate the growth of wireless communication systems while protecting the public against any adverse impacts on the community’s aesthetic resources and the public welfare. To balance the growth of wireless communication systems while protecting the public health, safety and welfare, these regulations establish minimum standards for construction and facility siting to minimize adverse visual effects of towers through careful design, siting, lighting and screening, avoid potential damage to adjacent properties from tower failure through engineering and appropriate siting of tower structures, encourage the joint use of any new communication tower to reduce the number of such towers needed in the future, and require the removal of abandoned towers. (Ord. 17138 § 1, 7-1-97. Code 1995 § 48-26.16.)

18.250.020 Regulations.
(a) Each application for a conditional use permit for a communication antenna or communication tower or where the same is permitted as a provisional use and where the location of the proposed communication antenna or communication tower is within the incorporated boundaries of the city, shall be accompanied by a development plan which shall include the following information:

(1) Site Development Plan. A site plan or plans drawn to scale of one inch equals 30 feet or larger and identifying the site boundary; tower(s); guy wire anchors; existing and proposed structures; vehicular parking and access; existing vegetation and proposed landscaping; and uses, structures, and land use designations on the site and abutting parcels.

(2) A report from a registered professional engineer which describes the tower’s design standards and structural capacity, including the number and type of antennas it can accommodate.

(3) A study comparing all potential host sites within an approximate one-half-mile radius of the subject site. Potential sites shall include existing structures and towers in excess of 100 feet and properties where towers are permitted under existing regulations or by conditional use permit. The study shall include a description of the surrounding sites, a discussion of the ability or inability of the site/tower to host a communications facility and the reasons why the site/tower was excluded from consideration. The planning director, the planning commission or the city council may require the review of additional sites pending review of the initial study. The applicant shall demonstrate to the city’s satisfaction that the alternative site or tower is not available due to one or more of the following reasons:

(i) Unwillingness of the owner to entertain a communications facility proposal.

(ii) Topographic limitations of the site.

(iii) Adjacent impediments that would obstruct adequate communication tower transmission.

(iv) Physical site constraints that would preclude the construction of a communication tower.

(v) Technical limitation of the system.

(vi) The planned equipment would exceed the structural capacity of existing and approved towers and facilities, considering existing and planned use for those facilities.
(vii) The planned equipment would cause frequency interference with other existing or planned equipment, which cannot be reasonably prevented.

(viii) Existing or approved towers or facilities do not have space on which proposed equipment can be placed so it can function effectively and reasonably.

(ix) The applicant demonstrates that there are other limiting factors that render the use of existing towers and structures unsuitable.

(4) A photo simulation of the proposed facility from the perspective of affected residential properties and public rights-of-way as may be required by the planning director.

(5) An explanation of the need for the facility to maintain the integrity of the communication system. A map showing the service area of the proposed tower shall be made available to the staff, the planning commission and/or the city council upon request.

(6) A signed statement from the applicant indicating their intention to share space on the tower with other providers subject to reasonable, acceptable terms and the total anticipated number of providers the communication tower can support.

(7) A copy of the lease between the applicant and the landowner. The lease shall contain the following provisions:

(i) The landowner and the applicant shall have the ability to enter into leases with other carriers for co-location.

(ii) The landowner shall be responsible for the removal of the communication tower or facility in the event the lessee fails to remove it upon abandonment as required by these regulations.

(b) An initial request for a conditional use permit shall be limited to five years. At the time of renewal the applicant shall demonstrate to the satisfaction of the planning director that a good-faith effort has been made to cooperate with other providers to establish co-location at the tower site. “Good-faith effort” shall include, but is not limited to, timely response to co-location inquiries from other providers and sharing of technical information to evaluate the feasibility of establishing co-location. Failure to demonstrate that a good-faith effort has been made may result in the denial of the request for a renewal. Renewal of a conditional use permit is not required as set forth herein upon a finding by the planning director that (1) the communication tower has the capacity to support collocation of additional providers and/or collocation of additional providers has occurred during the preceding five years, and (2) that the tower and site continues to be in conformity with the development plan approved for the original conditional use permit.

(c) Height. The maximum height which may be approved for a communications tower is 320 feet. A lightning rod shall not be included within the height limitations. All new towers in excess of 250 feet shall be designed to accommodate at least three additional providers. The location of additional antenna on a legally existing tower shall not require additional approval from the planning commission or city council. The height limitation for towers may be waived as recommended by the planning commission and approved by the city council.

(d) Tower Design. All communication towers shall be designed and engineering sealed by a registered professional engineer and conform to the design standards of the Electronic Industry Association’s EIA/TIA-222-E, as amended. All communication towers of 150 feet or less shall be of a monopole design unless otherwise recommended by the planning commission and approved by the city council. Communication towers under 150 feet may be lattice or guyed tower construction, provided the tower is designed to accommodate one or more providers. Communication towers in excess of 150 feet may be a self-supporting lattice tower or guyed tower.

(e) Setbacks. Towers and accessory buildings shall meet the yard requirements of the zoning district in which they are located unless adjacent to residentially zoned property wherein the setback shall be not less than one-half the height of the tower. In the event the adjacent residentially zoned property is unplatted and not developed or used as residential property then the setback may be reduced at the request of the applicant for cause shown with the written...
authorization of the planning director. The setback requirement may be waived by the planning commission, subject to approval by the city council, if documentation from a registered professional engineer is submitted certifying that in the event of a tower failure or collapse, the fall zone of the tower will be contained within the proposed setback area. All guy wire anchors shall be no closer than 20 feet from any lot line wherein the adjacent property is zoned for residential use.

(f) Separation Requirements. All communication towers, except those designed as an architecturally compatible element in terms of the material, design and height to the existing or proposed use of the property, shall comply with the following separation requirements:

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(g) Separation Deviations. The planning commission may recommend to the city council which shall have the authority to grant a deviation from the separation standards. In support of a deviation request from the separation requirements, the applicant shall submit a technical study acceptable to the city which confirms that there are not other suitable sites available within the separation requirements. The planning commission may also recommend to the city council that a deviation be granted to allow two or more communication towers within a 200-foot radius be clustered for the purpose of lessening the overall visual impacts of such towers on the community.

(h) Towers on Structures. The location of towers and antennas on existing buildings and other structures is encouraged as an alternative to placement on the ground and may be upon buildings and other structures within any zoning district where such is a lawful use, subject to the following:

1. The height of the tower or antenna does not extend more than 20 feet above the height of the structure.

2. The setback of the tower from a building roof edge shall be at least 10 feet.

The location of communication towers or communication antenna on existing structures pursuant to this subsection shall not require a conditional use permit or other approval from the planning commission or city council; provided, structural information is provided to the planning department which indicates the structure is physically capable of supporting the communication tower or communication antenna.

(i) Parking Areas and Drives. All parking areas and drives associated with the communication tower shall comply with applicable city design criteria except that the planning commission may recommend that the city council waive the requirements for curbing and drainage facilities when they are not needed for drainage purposes.

(j) Equipment Storage. Mobile or immobile equipment not used in direct support of a tower facility shall not be stored or parked on the site of the communication tower unless repairs to the tower are being made.

(k) Accessory Uses. Accessory uses shall include only such buildings and facilities necessary for transmission functions and satellite ground stations associated with them, but shall not include broadcast studios, offices, vehicle storage area, nor other similar uses not necessary for the transmission function. All accessory building shall be constructed of building materials consistent with the primary use of the site and shall be subject to site plan approval. Where there is not primary use other than the tower, the building materials for the accessory building shall be subject to the review and approval of the planning commission and/or city council.

(l) Lighting. Communication towers shall not be lighted except to ensure public safety as required by the Federal Aviation Administration (FAA). Security lighting around the base of a tower may be provided if the lighting is shielded so that no light is directed towards adjacent properties or rights-of-way. Any lighting required by the FAA shall consist of a white flashing light during the daytime and a red flashing light during the nighttime.
(m) Screening. The base of the tower shall be screened from view with a solid screening fence a minimum of six feet in height. The materials of the fence, including security wire, shall be specified in the development plan and subject to the review and approval of the planning commission and the city council. The planning commission and the city council may waive the required screening where the design of the accessory building is architecturally compatible to the primary use of the property.

(n) Aesthetics and Advertising. All towers and accessory facilities shall be sited, designed, screened and landscaped to have the least practical adverse visual effect on the environment. Appropriate landscaping shall be provided to buffer the facility from adjacent residential areas and public streets. Existing plant material shall be preserved to the extent possible. No portion of the communication tower, antenna, or perimeter fence, shall be used for commercial advertising, provided, a sign not exceeding four square feet shall be posted on the tower, or the exterior fence around the base of the tower, noting the name and telephone number of the tower owner and operator.

(o) Removal of Abandoned Antennas and Towers. Any antenna or tower that is not operated for a period of 12 continuous months or which was operated under a conditional use permit which has expired and not renewed shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of a receipt of notice from the planning director notifying the owner of such required abandonment. If such antenna or tower is not removed within said 90 days, the city council may cause the removal of such antenna or tower at the owner’s expense. If there are two or more users of a single tower, then this provision shall not become effective until all users have ceased using the tower for a period of 12 continuous months.

(p) Application of Regulations to Existing Communication Towers, Communication Antenna or Accessory Facilities. For purposes of determining fair market value pursuant with the provisions of TMC 18.220.030, it shall be based upon the combined value of the communication tower(s), communication antenna(s) and on-site principal building(s) to which accessory.

(q) Platting Requirements. Nothing in this chapter shall be construed to require the platting or replatting of separate lots for the location of towers that may be unrelated to another principal use located on such lot. (Ord. 17138 § 3, 7-1-97. Code 1995 § 48-26.17.)

Cross References: City council – mayor, Chapter 2.15 TMC; planning department, TMC 2.30.090; planning commission, Chapter 2.65 TMC.
Chapter 18.255

HISTORIC PRESERVATION

Sections:
18.255.010 Declaration of policy.
18.255.020 Definitions.
18.255.030 Local historic landmark – Local historic district designation.
18.255.040 Historic landmark or local historic district designation criteria.
18.255.050 Repealed.
18.255.060 Local historic landmark or local historic district nomination process.
18.255.070 Local historic landmark or district denomination process.
18.255.080 Repealed.
18.255.090 Design review guidelines.
18.255.100 Repealed.
18.255.110 Certificate of appropriateness review – Minor and major projects – No demolition.
18.255.120 Certificate of appropriateness review – Demolition – Historic landmark and contributing feature.
18.255.130 Repealed.
18.255.140 Repealed.
18.255.150 Penalty.
18.255.160 Concurrent use of Topeka landmarks commission by the county commission.
18.255.170 Continuation of existing designation.
18.255.180 Severability.
18.255.190 Saving clause.

Cross References: Planning department, TMC 2.30.090; landmarks commission, Chapter 2.60 TMC.


18.255.010 Declaration of policy.
The city council finds and declares as a matter of public policy that the identification, designation, protection, enhancement, preservation and use of historic assets is a public necessity and is required in the interest of the culture, prosperity, education and welfare of the public. Preservation of historic assets will:

(a) Protect, enhance and perpetuate historic, distinctive and important elements of the city’s cultural, social, economic, political, archaeological and architectural history;

(b) Safeguard the city’s historic and cultural heritage as embodied and reflected in such historic assets;

(c) Stabilize and improve property values in such locations of historic assets and thus strengthen the economy of the city;

(d) Promote and encourage restoration, rehabilitation, and maintenance of historic properties, neighborhoods and districts and thus combat blight and decay;

(e) Foster civic pride in the beauty and noble accomplishments of the past;

(f) Protect and enhance the city and its attractions to tourists and visitors and provide support and stimulus to business and industry; and

(g) Promote the use and adaptive reuse of historic assets for the culture, education, enjoyment and economic welfare of the city’s citizens and visitors. (Ord. 18420 § 1, 4-19-05; Ord. 17292 § 1, 7-28-98. Code 1995 § 80-1.)

18.255.020 Definitions.
As used in this chapter, the following words, terms and phrases shall have the meanings set out below:
“Appurtenances and environmental setting” includes, but is not limited to, walkways and driveways (whether paved or not), fences, gateways, open space and waterways. Interiors of structures are included only for local historic landmarks upon consent of the owner.

“Certificate of appropriateness” is the approval of plans for the alteration, construction, removal or demolition of historic landmarks or contributing features.

“Contributing feature” is a significant building, site, structure, or object which adds to the architectural qualities, historic association, or archaeological values of a local historic district because (1) the item was present during the district’s period of significance and (2) possesses significant historic character or is capable of yielding important information about the period of significance.

“Demolition” shall mean any and all activity that requires a demolition permit.

“Design review criteria” are standards identified in the Secretary of the Interior’s Standards for the Treatment of Historic Properties.

“Design review guidelines” are standards used in addition to the design review criteria for issuing a certificate of appropriateness for individual projects or projects located within local historic districts.

“Historic asset” is a site, land area, building, structure or object, which may also include appurtenances and environmental setting, which may have historical, cultural, aesthetic, architectural and/or archaeological significance but has not been designated as a local historic landmark.

“Historic integrity” is the authenticity of a property’s historic identity, evidenced by the survival of physical characteristics that existed during the property’s prehistoric or historic period. It is a composite of original and historic characteristics, construction, elements, qualities, design, architectural features, distinctive style, craftsmanship, composition, color, texture, and other visual characteristics.

“Local historic district” encompasses a group of historic assets, consisting of three or more buildings, structures or objects which are significant as a cohesive unit and contribute to the historical, architectural, archaeological or cultural values of the city, county, state, or nation which is so designated by the city council. The district may also include appurtenances and environmental setting with written consent from the owner(s) of record.

“Local historic landmark” is a historic asset that has been designated, with the written consent of the owner(s) of record, as having historical, architectural, archaeological, or cultural importance or value which the city council determines shall be protected, enhanced and preserved in the interest of the culture, prosperity, education and welfare of the public. “Local historic landmark” may also include the interior of a structure, appurtenances and environmental setting with written consent from the owner(s) of record. “Local historic landmark” includes all state and nationally registered structures, provided the owner(s) of record consents in writing to the inclusion.

“Mothballing” means controlling the long-term deterioration of a building while it is unoccupied as well as finding methods to protect it from sudden loss by fire or vandalism. Mothballing includes, but is not limited to, securing the building from unwanted entry, providing adequate ventilation to the interior, shutting down or modifying existing utilities, surveillance monitoring and periodic maintenance to minimize deterioration.

“Overlay zoning” means any zoning that functions in addition to the existing land use zoning, as in the case of local historic landmark or local historic district zoning.

“Period of significance” is the span of time in which a local historic landmark or local historic district attained the significance for which it is designated.

“Permit” means authorization whether by administrative action or actions by the city council and includes a building, demolition, moving, zoning, sign, fence, parking lot, roofing, sidewalk, siding, or swimming pool permit.

“Preservation plan” means a document developed, adopted and implemented by the Topeka landmarks commission that identifies trends affecting and impacting historic assets and provides guidance for their preservation. The
preservation plan will include a list of all local historic landmarks and local historic districts within Topeka. The preservation plan will be a component of the comprehensive plan for the city.

“Preservation program” means the program administered by the Topeka landmarks commission implementing the historic preservation ordinance, the historic preservation plan, and all activities relating to the furtherance of historic preservation in Topeka.

“Preservation staff” means personnel assigned to provide staff services for the Topeka landmarks commission.

Project Classification. For the purpose of the certificate of appropriateness review procedure, proposed work involving a local historic landmark or property within a local historic district shall be classified as major or minor.

(1) “Major projects” include:

(i) Any undertaking requiring a certificate of appropriateness for a local historic landmark or structure within a local historic district; or

(ii) Any demolition permit or moving permit for any structure listed as a local historic landmark or contributing feature.

(2) Minor Project. Any undertaking requiring a certificate of appropriateness for a local historic landmark or property within a local historic district that proposes repairing or restoring an existing exterior element, or replacing an element or material with identical material and design to that which is existing. A list of minor projects, which can be reviewed and approved by preservation staff, shall be adopted by the Topeka landmarks commission.

“Uniform Code for Building Conservation” means a national code adopted by the city that provides for more flexible code review for older and historic properties. (Ord. 19901 § 3, 5-6-14.)

Cross References: Definitions generally, TMC 1.10.020.

18.255.030 Local historic landmark – Local historic district designation.
The governing body may designate local historic landmarks or local historic districts by adopting historic overlay zoning. An official register of all historic designations in the city shall be created and maintained by the planning department. (Ord. 19901 § 4, 5-6-14.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.255.040 Historic landmark or local historic district designation criteria.
(a) Local Historic Landmark. The governing body may designate an historic asset as a local historic landmark if the following requirements are met:

(1) The asset is at least 50 years old; and

(2) The asset possesses integrity of location, design, setting, materials and workmanship.

(3) In addition to subsections (a)(1) and (a)(2) of this section, at least one of the following requirements shall be met:

(i) Is associated with events that have made a significant contribution to the broad pattern of history of the city, county, state or nation;

(ii) Is associated with a significant person or group of persons in the history of the city, county, state or nation;

(iii) Embodies distinctive characteristics of a type, period, or method of construction; represents the work of a master builder/architect; possesses high artistic values; or represents a distinguishable entity whose components may lack individual distinction; or
(iv) Yields or is likely to yield information important in prehistory or history.

(b) Local Historic District. The governing body may designate an area as a local historic district if at least 75 percent of the structures within the district boundaries are of architectural, historical, or cultural importance or value and are classified as contributing features. (Ord. 19901 § 5, 5-6-14.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.255.050 Historic district designation criteria.
Repealed by Ord. 19901. (Ord. 18420 § 6, 4-19-05; Ord. 17292 § 6, 7-28-98. Code 1995 § 80-6.)

18.255.060 Local historic landmark or local historic district nomination process.
(a) Nomination. Any owner of an historic asset may nominate such asset as a local historic landmark. Any person may nominate an area within the city as a local historic district in accordance with this section. The applicant shall supply the following information on a form provided by the planning department:

1. A description of the specific historic asset nominated as an historic landmark or a list of specific historic assets located within the proposed district boundaries and a description of the particular importance or value of each historic asset, such description to include the following:

   (i) A brief property history, including approximate date of construction, and dates of major alterations, if known;

   (ii) Builder and/or architect, if known;

   (iii) Architectural style;

   (iv) Primary building materials;

   (v) Current owner(s) of record; and

   (vi) Legal description of each property;

2. A map showing the boundaries of the proposed local historic landmark or local historic district and the location of each asset of importance or value identified by a number or letter designation;

3. Sufficient photographs of each historic asset proposed as a local historic landmark or listed within the proposed local historic district;

4. Written consent to the nomination by all of the owners of record of the proposed local historic landmark. In the event of a contract sale, both the owner of record and the party or parties holding an equitable interest in the property must consent to the nomination; and

5. For a local historic district, the owners of record of at least 60 percent of the properties within the proposed district shall submit written consents to the nomination. In the event of a contract sale of real property, both the owner of record and party or parties holding an equitable interest in the property must consent to the nomination.

6. For a local historic district, proposed design review guidelines pursuant to TMC 18.255.090.

(b) Increasing Boundaries – Local Historic District. Applications to increase the boundaries of a local historic district may be considered if one or more of the following conditions are met:

1. An additional historic asset which relates and is contiguous to the local historic district is requested for inclusion by its property owner; or

2. Two or more historic assets or local historic landmarks would be included in the expanded local historic district and at least 60 percent of the owners of record of properties within the proposed expansion area submit written consents.
(c) Citizen Participation. Applicants shall comply with the citizen participation process adopted by the planning director and posted on the city’s website. The planning director shall provide a map of the notification area which shall be a 500-foot radius.

(d) Consideration by Topeka Landmarks Commission. Upon determination by the planning director that the application is sufficient, the director shall submit the application to the Topeka landmarks commission.

(e) Notification. Upon determination by the planning director that the application is sufficient, the director shall submit the application to the Topeka landmarks commission. The Topeka landmarks commission shall consider the application at a meeting; provided, that notice shall be mailed at least 20 days prior to the meeting to the owner(s) of record of any parcel upon which a proposed local historic landmark is situated or which is part of a proposed or expanded local historic district.

(f) Meeting – Landmarks Commission. The Topeka landmarks commission may solicit expert testimony regarding the historic and architectural importance of the historic asset(s) under consideration for designation. All interested persons may provide written comments and/or appear in person or by representative. The commission shall make a recommendation to the planning commission whether to adopt historic overlay zoning.

(g) Historic Overlay Zoning. The governing body, upon the recommendation of the planning commission, shall consider whether to adopt historic overlay zoning in accordance with state law and Chapter 18.245 TMC governing rezoning. (Ord. 19901 § 7, 5-6-14.)

Cross References: City council – mayor, Chapter 2.15 TMC; planning commission, Chapter 2.65 TMC.

18.255.070 Local historic landmark or district denomination process.
(a) Applications to denominate a local historic landmark or local historic district and/or reduce the district’s perimeter may be made when one or more of the following conditions have been met:

1. A local historic landmark or building, structure, site, or object within a district has no historic, architectural, archaeological, cultural importance or value to the viability of the historic district; or

2. The owners of record of at least 75 percent of the properties within the local historic district provide written consent to the denomination of the local historic district.

(b) The applicant shall comply with the citizen participation process adopted by the planning director and posted on the city’s website. The planning director shall provide a map of the notification area which shall be a 500-foot radius.

(c) Upon receipt of such application, the Topeka landmarks commission shall consider the application at a meeting; provided, that notice shall be mailed at least 20 days prior to the meeting to the owner(s) of record of any parcel upon which the local historic landmark is situated or which is part of the local historic district. All interested persons may provide written comments and/or appear in person or by representative. The commission shall make a recommendation to the planning commission whether to remove historic overlay zoning.

(d) Historic Overlay Zoning. The governing body, upon recommendation of the planning commission, shall consider whether to remove historic overlay zoning in accordance with state law and the ordinances governing rezoning. (Ord. 19901 § 8, 5-6-14.)

Cross References: City council – mayor, Chapter 2.15 TMC; planning commission, Chapter 2.65 TMC.

18.255.080 Procedure for designation of historic landmark and historic district.
Repealed by Ord. 19901. (Ord. 18420 § 10, 4-19-05; Ord. 17292 § 10, 7-28-98. Code 1995 § 80-10.)

18.255.090 Design review guidelines.
(a) Design review guidelines for each local historic district shall address the following:

1. Acceptable materials for any construction, additions, remodeling or rehabilitation activities to the exterior of the structures;
(2) Appropriate architectural character, scale, and detail for any construction, additions, remodeling or rehabilitation activities;

(3) Acceptable appurtenances to the structures;

(4) Acceptable textures and ornamentation to the exterior of the structures;

(5) Acceptable accessories on structures;

(6) Such other building regulations which would have impact on the buildings;

(7) Acceptable standards for changes to noncontributing resources within the district; and

(8) Acceptable signage.

(b) The Topeka landmarks commission shall make available the proposed design review guidelines to each owner of record in a proposed local historic district prior to consideration by the commission. (Ord. 19901 § 10, 5-6-14.)

18.255.100 Historic district designation administrative requirements. 
Repealed by Ord. 19901. (Ord. 18420 § 12, 4-19-05; Ord. 17292 § 12, 7-28-98. Code 1995 § 80-12.)

18.255.110 Certificate of appropriateness review – Minor and major projects – No demolition. 
(a) No local historic landmark, contributing feature, or a portion of either, shall be altered, removed, or moved unless a certificate of appropriateness is approved in accordance with this section. No certificate is required for maintenance and repair not requiring a permit or not restricted by design review guidelines. If an application proposes that a local historic landmark be removed or moved to a new site, the proposal shall be treated as an application for denomination or a nomination, as appropriate. If an application proposes that a contributing feature be removed or moved to a new site, the proposal may be treated as an application for denomination or a nomination, as appropriate.

(b) Preservation staff shall review the application and determine whether the project is a major or minor project, as defined in TMC 18.255.020.

(c) If the project is determined to be minor, preservation staff may approve or deny the application, based on the Secretary of the Interior’s Standards for the Treatment of Historic Properties and any approved design review guidelines, within 30 days of receipt of a complete application. If the application is denied, the applicant may request a review by the planning director within five business days from the date of denial. If the planning director affirms the denial, based on the Secretary of the Interior’s Standards for the Treatment of Historic Properties and any approved design review guidelines, the applicant may request a review by the Topeka landmarks commission which will determine, based on the Secretary of the Interior’s Standards for the Treatment of Historic Properties and any approved design review guidelines, whether to affirm, reject, or modify the planning director’s decision.

(d) If the project is determined to be major but does not involve demolition of a local historic landmark or contributing feature in a local historic district, the following procedure shall apply:

(1) The Topeka landmarks commission shall consider each application at a meeting; provided, that notice shall be mailed at least 20 days prior to the meeting to the owner(s) of record of the local historic landmark that is the subject of the application and the owners of record of properties located within any local historic district where the local historic landmark or contributing feature is located.

(2) All interested persons may provide written comments and/or appear in person or by representative.

(3) The Topeka landmarks commission may request additional information, approve, approve with conditions, or deny the certificate based upon the Secretary of the Interior’s Standards for the Treatment of Historic Properties and approved design review guidelines.
(4) The owner of the local historic landmark or a property owner within the local historic district may appeal the commission’s decision to the city council by submitting a notice of appeal to the planning director within 10 calendar days of the decision.

(5) The council shall affirm the commission’s decision if there is sufficient evidence to support the decision.
(Ord. 19901 § 12, 5-6-14.)

**Cross References:** City council – mayor, Chapter 2.15 TMC.

### 18.255.120 Certificate of appropriateness review – Demolition – Historic landmark and contributing feature.

(a) No local historic landmark, contributing feature, or portion of either shall be demolished unless a certificate of appropriateness is approved by the city council. Additionally, no permit to demolish a local historic landmark, contributing feature, or portion of either shall be issued prior to approval of a certificate of appropriateness.

(b) Citizen Participation. The applicant shall comply with the citizen participation process adopted by the planning director and posted on the city’s website. The planning director shall provide a map of the notification area which shall be a 500-foot radius.

(c) Notification. The Topeka landmarks commission shall consider each application at a meeting; provided, that notice shall be mailed at least 20 days prior to the meeting to the owner(s) of record of the local historic landmark that is the subject of the application and the owners of record of properties located within any local historic district where the local historic landmark or contributing feature is located.

(d) Meeting – Landmarks Commission. All interested persons may provide written comments and/or appear in person or by representative. The commission shall make its determination based upon the Secretary of the Interior’s Standards for the Treatment of Historic Properties.

(e) After review and recommendation by the Topeka landmarks commission, the city council may approve or deny the certificate of appropriateness based on the following factors:

1. Whether feasible alternatives to demolition exist, including mothballing the structure;
2. The state of repair of the structure;
3. The cost of restoration or repair;
4. Hardship to the applicant if the certificate is denied;
5. Economic consequences to affected property owners; and
6. The interest in preserving historical values.

(f) Notwithstanding subsection (e) of this section, if the Topeka landmarks commission determines that the demolition will destroy historic property included in the National Register of Historic Places or the State Register of Historic Places, demolition shall not proceed until the governing body makes any determination required by K.S.A. 75-2724 and amendments thereto.

(g) If a demolition is approved by the council, the planning commission shall make a recommendation to the governing body whether to remove historic overlay zoning in accordance with state law and the ordinances governing rezoning. (Ord. 19901 § 13, 5-6-14.)

**Cross References:** City council – mayor, Chapter 2.15 TMC; planning commission, Chapter 2.65 TMC.

### 18.255.130 Review of demolition buildings and moving permits historic resources.
*Repealed by Ord. 19901.* (Ord. 18420 § 15, 4-19-05; Ord. 17292 § 15, 7-28-98. Code 1995 § 80-15.)

### 18.255.140 Historic landmark and historic district demolition by neglect.
*Repealed by Ord. 19901.* (Ord. 18420 § 16, 4-19-05; Ord. 17292 § 16, 7-28-98. Code 1995 § 80-16.)
18.255.150 Penalty.
It is unlawful to construct, reconstruct, structurally alter, remodel, renovate, restore, demolish, deface, move or maintain any historic landmark or asset within a historic district in violation of the provisions of this chapter. In addition to other remedies, the city may institute any appropriate action or proceedings to prevent such unlawful construction, restoration, demolition, moving or maintenance to restrain, correct or abate such violation. (Ord. 18420 § 17, 4-19-05; Ord. 17292 § 17, 7-28-98. Code 1995 § 80-17.)

18.255.160 Concurrent use of Topeka landmarks commission by the county commission.
(a) The county commission, at its sole option, may seek the advice and assistance of the Topeka landmarks commission on designating and preserving historic assets and historic districts located in Shawnee County.

(b) In the event the county commission seeks the advice and assistance of the Topeka landmarks commission, it shall receive such county staff support as directed and supplied by the county administration.

(c) The Topeka landmarks commission may be used by the county commission to recommend designation of local historic landmarks or districts located in the county.

(d) The county commission may rely upon the Topeka landmarks commission for assistance in establishing historic preservation guidelines.

(e) The county commission may seek the recommendation of the Topeka landmarks commission on the demolition or issuance of a moving permit for a local historic landmark located in the county. (Ord. 19901 § 16, 5-6-14.)

18.255.170 Continuation of existing designation.
Nothing contained in this section shall eliminate, change, or otherwise affect the existing designation of a local historic landmark or local historic district in the city of Topeka or Shawnee County which was originally made by the Topeka-Shawnee County landmarks commission. Any such designation shall remain in force and effect. (Ord. 19901 § 17, 5-6-14.)

18.255.180 Severability.
If any part or parts of this chapter shall be held unconstitutional, invalid, or otherwise unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this chapter. (Ord. 18420 § 20, 4-19-05. Code 1995 § 80-20.)

18.255.190 Saving clause.
If this chapter or any part thereof shall be held or determined to be unconstitutional, illegal, ultra vires or void, the same shall not be held or construed to change or annul any provisions of this chapter which may be legal or lawful; and in the event this chapter or any part thereof shall be held unconstitutional, illegal, ultra vires or void, the same shall not affect any action theretofore taken by the Topeka landmarks commission as theretofore established and constituted. (Ord. 18420 § 21, 4-19-05. Code 1995 § 80-21.)
Chapter 18.260

SITE PLANS REGULATIONS

Sections:
18.260.010 General provisions.
18.260.020 Intent – Purpose.
18.260.030 Applicability.
18.260.040 Procedures for site plan review – Applications.
18.260.050 Contents of site plan.

Editor's Note: Ord. No. 17913, §§ 1 – 6, adopted Nov. 5, 2002, a joint Shawnee County resolution and city of Topeka ordinance, provided for the inclusion of site plan regulations to the Topeka comprehensive zoning regulations. Inasmuch as the provisions of said ordinance were not specifically amendatory of the zoning regulations they have been included as TMC 18.260.010 – 18.260.060, at the editor’s discretion.

18.260.010 General provisions.
Site plan review shall be required, and an approved site plan is required before building permits or certificates of occupancy may be issued. The following regulations shall apply generally to all uses contained within the comprehensive zoning regulations which require site plan review. (Ord. 17913 § 1, 11-5-02. Code 1995 § 48-39.01.)

18.260.020 Intent – Purpose.
(a) Intent. The intent of these site plan regulations is to promote orderly growth and development in the city of Topeka and unincorporated Shawnee County; to ensure that development is done in a manner harmonious with surrounding properties, consistent with the general public welfare and with the policies in the comprehensive metropolitan plan; and the requirements of the comprehensive zoning regulations.

The site plan should address the following community goals: reduction in crime; promotion of architectural compatibility; neighborhood stabilization; blight prevention; conservation of historic and landmark properties; encourage economic development and conservation of value of property; secure safety from fire and other dangers; avoid undue concentration of population; improve the appearance of the metropolitan area; facilitate the provisions of transportation, water, sewers, schools, parks and open space, and other community and public improvements.

(b) Purpose. The purpose of these site plan regulations is to provide for a review of individual project site plans addressing:

   (1) The project’s compatibility with its environment and with other land uses and buildings in the surrounding area, including historic structures and landmarks and the character of proposed open space and landscape improvements.

   (2) The project’s proposed traffic circulation and parking system to provide for the convenient and safe internal and external movement of vehicles and pedestrians.

   (3) The character and type of the project’s proposed community facilities where required.

   (4) The location and adequacy of the project’s provision for drainage and utilities.

   (5) The appropriate design and effective use of construction in order to reduce incidence of crime, and an improvement in the quality of life. (Ord. 17913 § 2, 11-5-02. Code 1995 § 48-39.02.)

18.260.030 Applicability.
A site plan approved in accordance with the provisions of this chapter shall be required prior to the issuance of a building permit in the following instances:
(a) New Construction. For any new construction of a principal structure which requires a building permit in any zoning district except single-family, two-family, and triplex units which are expressly exempted or for any new construction of a principal structure for institutional use in any district.

(b) Building Alteration. For any building alteration over 15,000 square feet, any alteration increasing the gross floor area of a building or buildings by 50 percent or more, any alteration increasing the height of a building by one story or more, or any alteration that results in a significant change to vehicular circulation or in the net reduction of off-street parking by 20 percent or more.

(c) Site Alteration. For any new parking or outdoor storage area, or any alteration increasing the area of a parking or outdoor storage area by 50 percent or more.

(d) Accessory Uses and Structures. Site plan review shall be required for accessory uses and accessory structures greater than 400 square feet, or when one or more structures result in the net reduction of off-street parking or a significant change to vehicular circulation. Accessory uses and/or structures may be reviewed in conjunction with the review of principal structures when such accessory structures are shown on the site plan.

(e) General Provisions. A site plan is required whenever a specific reference is made to these regulations in any other part of the code of the city of Topeka. (Ord. 20062 § 40, 4-18-17.)

18.260.040 Procedures for site plan review – Applications.
(a) Plans Required. The applicant shall submit 10 copies of legible and complete site plans. The review period for a site plan shall be no greater than 21 calendar days from the date of submission. Deadlines set by the planning department shall not be altered, reduced or varied except under unusual circumstances. If a decision regarding the site plan is not rendered by the planning director within the 21-day review period, the site plan shall be deemed approved. Revised site plans shall be received from the applicant within 14 calendar days of receiving review comments or the site plan shall be considered withdrawn. Based upon the extent of revisions, a longer period may be granted by the planning director for the submission of revised plans.

(b) Fees. Every site plan submitted for review shall be accompanied by a filing fee as established in the comprehensive zoning regulations. If a site plan is withdrawn or denied, the review fee is not refundable.

(c) Review and Appeals. After the site plan, related materials, and fees have been submitted, they shall be reviewed by the planning department which shall coordinate the review with other affected city/county departments and divisions for conformity to these regulations and other applicable regulations. Based upon the recommendations of the reviewing agencies, the planning director may approve a site plan, and if approved, shall state the conditions of such approval, if any. If the site plan is disapproved, the reasons therefor shall be communicated in writing to the applicant. The planning director’s approval or disapproval of a site plan may be appealed to the zoning and platting committee. The appeal shall be filed with the planning department within 10 calendar days of such action. Such appeal will be considered at the next regularly scheduled meeting of the committee.

(d) Revised Plans. If approved, the applicant shall make the necessary revisions, if any, and submit a final set of 10 site plans.

(e) Building Permits. A copy of the approved site plan shall be retained in the records of the planning department and all regulatory and occupancy permits shall conform to the provisions of said site plans.

(f) Amendments. Amendments or modifications to approved site plans shall be submitted to the planning department. Such amendments shall be required only when the amendment substantially changes the character and impact of the originally approved site plan. Such modifications shall be submitted in accordance with the procedures and requirements of these regulations and shall be distributed to the appropriate department for review.

(g) Time Limitation. An approved site plan shall become void unless a regulatory permit has been issued or use of the land has commenced within one year from the date of approval of this site plan. Upon request, revalidation of the site plan may be granted for an additional six months if all factors of the original site plan review are the same; provided, however, a written request for revalidation must be received by the planning director prior to expiration of the original one-year period.
(h) Penalties for Noncompliance. A stop work order shall be issued if any of the improvements required by the approved site plan are not constructed or installed during the development of the project. Certificates of occupancy will not be issued until the development is in full compliance with the approved site plan. A temporary certificate of occupancy may be issued where due to weather conditions required improvements cannot be constructed or installed. A temporary certificate of occupancy shall be issued for a period not to exceed six months.

(i) Presubmittal Meeting. Before filing an application for approval of a site plan, the developer is encouraged to confer with the planning department. Such action does not require formal application fees, or filing of a site plan or landscape plan, and is not to be construed as an application for formal approval. (Ord. 17913 § 4, 11-5-02. Code 1995 § 48-39.04.)

**Cross References:** Planning department, TMC 2.30.090.

18.260.050 Contents of site plan.

(a) A site plan shall:

1. Be prepared by an architect, engineer, landscape architect, or other qualified professional at a scale appropriate to the magnitude of the project which will permit notation of all required data. A signature block of the person preparing the site plan shall be included along with the person’s address and phone number;

2. Contain a project title centered across the top of the plan sheet;

3. Be prepared on plan sheets measuring at least 24-inch by 36-inch in size;

4. Be arranged so that the top of the plan represents north, or if otherwise oriented, is clearly and distinctly marked along with the date of preparation and a vicinity map identifying the location of the subject property;

5. Be accompanied by an electronic submittal of the site plan;

6. Show boundaries and dimensions graphically, and contain a written legal description of the property; and show a written and graphic scale;

7. Show the present and proposed topography of the area by contour lines at an interval of not more than two feet; and spot elevations of completed improvements;

8. Show the location, type and size of existing utilities, culverts, and easements or adjacent to the site;

9. Show, by use of directional arrow, the proposed flow of storm drainage from the site including drainage/retention ponds. Provide the supplemental stormwater information as required by city/county regulations, and provide on the site plan a site summary table which indicates: the area and percentage of the site proposed for development as buildings; development as a paved surface, undeveloped and planted with grass, ground cover, or other similar vegetative surface;

10. Show the location and setback of existing and proposed structures indicating the number of stories, gross floor area, and location of all entrances to all structures. If the site is to be razed, the existing structures may be omitted;

11. Show the location and dimension of existing and proposed curb cuts, curb radii, access aisles, off-street parking (including signage and parking spaces designated for the disabled), loading zones and walkways (including wheelchair ramps);

12. Indicate the location, heights, and material for screening walls and fences;

13. List the type of surfacing and base course proposed for all parking, loading, and walkway areas;

14. Identify names and dimensions of all existing and proposed streets, including rights-of-way extending through or adjacent to the site;
(15) Show the location and size, and provide a landscape schedule for all perimeter and interior landscaping including grass, ground cover, trees and shrubs;

(16) Identify location, type, height, square footage and illumination of existing and proposed signage;

(17) Show and dimension the required number of off-street parking spaces, aisles, medians, and drives;

(18) Show the proposed type, location, height, directions, and intensity of illumination of proposed exterior lighting;

(19) Show the location, size and method of screening of trash storage areas;

(20) Identify any restrictions as shown on a recorded plat of subdivision;

(21) Identify boundary of the 100-year floodplain and base flood elevation;

(22) Identify location, type, and area of on-site sewage disposal systems;

(23) Identify location, dimension, and size of proposed recreation areas, open spaces, and other required amenities and improvements;

(24) Include a drainage report as required by the applicable department of public works;

(25) Architectural elevations, including a description of the exterior types of building materials and finishes;

(26) Include a stormwater management plan if required by Chapter 13.35 TMC; and

(27) Other information, as may be required by the planning director, in order to ensure the intent and purpose of this chapter are met.

(b) The planning director may waive any of the above-listed requirements if the requirements are determined to be unnecessary due to the scope and nature of the proposed development. (Ord. 19626 § 3, 8-23-11.)

Cross References: Planning department, TMC 2.30.090; public works department, TMC 2.30.110.

In considering and acting upon site plans, the planning director shall take into consideration the public health, safety, and welfare, the comfort and convenience of the public in general and the immediate neighborhood in particular. The following guidelines shall be considered in the evaluation of site plans:

(a) General Plan Conformity. The planning director shall review all site plans in accordance with the adopted comprehensive metropolitan plan and/or neighborhood plans for conformity with the adopted plans’ objectives, policies, and/or design guidelines.

(b) Circulation – Driveways, Sidewalks, Off-Street Parking, Loading, Curbs and Gutters. The planning director shall review all site plans for access and circulation features to provide mobility for people and goods to reach the site and circulate through it in a safe and efficient manner. All modes of transportation (pedestrian and automobile) must be considered in the site plan review.

(c) Landscaping and Buffers. All site plans shall provide for the landscaping and buffering of all building sites and parking areas. Review of landscaping and buffering is intended to protect and promote the public health, safety, and general welfare by preventing soil erosion; providing shade; protecting from excessive noise, glare, and heat; conserving natural resources of air and water; enhancing the overall appearance of development sites; and facilitating a convenient, attractive, and harmonious streetscape and community. All site plans shall comply with adopted landscape ordinances.

(d) Lighting. All site plans shall provide adequate lighting so as to assure safety and security. Lighting installations shall not have an adverse impact on traffic safety or on the surrounding area. Light sources shall be shielded, and there shall be no spillover onto adjacent properties.
(e) Public Health and Safety. Applicable emergency service agencies shall review all site plans to determine adequacy of access and other aspects of public safety, including crime prevention through environmental design (CPTED) concepts such as natural surveillance, natural access control, and territorial reinforcement.

(f) Signs. The site plan shall conform to adopted sign ordinances and address the following considerations:

(1) Traffic Signals. No sign shall be maintained at any location which obstructs, impairs, obscures, interferes with the view of, or is confused with, any traffic control sign or device regardless of whether or not it meets other size, location, and setback requirements of adopted sign codes. Nor shall any sign interfere with, mislead or confuse traffic flow. A sign’s position, size, shape, content, color and illumination shall be considered when making such a determination.

(2) Sight Distance Triangles. No sign or any part of a sign other than a supporting pole or brace no greater than 18 inches in width or diameter shall be located lower than nine feet from grade within the area of any sight distance triangle.

(3) Landscaping. Signs proposed to be located within a landscaped area shall be located so as not to be obstructed from full-growth of landscaping. All sign base landscaping shall be of the nature and quality so as not to obstruct a motorist’s view of other vehicles moving within a parking lot or entering and exiting a driveway.

(4) Site Comprehension. Signs shall be designed and located to strengthen overall site comprehension through the use of comprehensive sign packages, where applicable, and the location of signs to clearly define points of access.

(g) Utilities. Ground mounted transformers and air conditioning units shall be screened if visible from the street or when adjacent to a structure on adjoining lot(s). All such units shall be located behind the front yard and side street yard setback lines.

(h) Floodway. Any development within floodways as identified on flood insurance rate maps (FIRM) shall comply with applicable city and county standards. General development guidelines include: anchorage to prevent flotation, construction with materials resistant to flood damage, floodproofing all utility and sanitary facilities, and designed so as to not increase surface elevation of the 100-year flood.

(i) Aviation. Any development located within prescribed aviation zones shall comply with applicable city ordinances and county standards. General development guidelines include the evaluation of height, dust, and lighting.

(j) Stormwater Drainage and Stream Buffers. Measures taken for erosion, pollutant, and sedimentation control shall conform to applicable city standards for stormwater management and stream buffers as required in TMC Titles 13 and 17. A stormwater management plan, if required by Chapter 13.35 TMC, shall be submitted, reviewed, and approved concurrently with the site plan.

(k) Trash and Recycling Containers. Trash containers, trash compactors, and recycling containers shall be screened from public view on a minimum of three sides. Screening may include landscaping, walls or fences of design and construction compatible with the principal building, or a combination of walls, fences, and landscaping. If possible, given the constraints of the site and buildings, areas for trash and recycling containers shall be oriented toward the interior of the site and not be located in building setbacks. Trash and recycling walls and fences exceeding seven feet in height shall not be located in required front yard building setbacks and in side yard setbacks adjacent to a street. The screening requirements of this section shall not apply to containers for clothing donations or publicly accessible recycling containers. (Ord. 20062 § 41, 4-18-17.)

Cross References: Planning department, TMC 2.30.090.
Chapter 18.265

WIND ENERGY

Sections:
18.265.010 Statement of purpose.
18.265.020 Definitions.
18.265.030 Standards.
18.265.040 Permit requirements.

18.265.010 Statement of purpose.
The purpose of these regulations is to allow the effective and efficient use of wind energy systems in nonresidential areas to reduce the on-site consumption of utility supplied electricity, and to establish reasonable restrictions for the general placement of wind energy systems, otherwise known as wind turbines, and their related equipment in order to accommodate the growth of personal and commercial electric power generating systems, while protecting against adverse noise, aesthetic and safety impacts and protecting the general public welfare. To balance the technological advances in off-grid energy production while protecting the public health, safety and welfare, these regulations establish minimum standards for construction and placement of facilities to minimize adverse impacts through careful design and placement of wind energy systems to avoid potential damage to adjacent properties. (Ord. 19598 § 1, 6-28-11.)

18.265.020 Definitions.
“Administrator” means the city of Topeka planning director or designee.

“Owner” shall mean the individual or entity that intends to own and operate the wind energy system in accordance with this chapter.

“Rotor diameter” means the cross-sectional dimension of the circle swept by the rotating blades.

“Total height” means the vertical distance from ground level or point of attachment to a building to the tip of a wind generator blade when the tip is at its highest point.

“Tower” means the structure that supports a wind generator.

“Wind energy system” means equipment that converts and then stores or transfers energy from the wind into usable forms of energy. This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane wire, inverter, batteries or other component used in the system.

“Wind generator” means blades and associated mechanical and electrical conversion components mounted on top of the tower. (Ord. 19598 § 2, 6-28-11.)

Cross References: Definitions generally, TMC 1.10.020.

18.265.030 Standards.
(a) Allowable Districts for Wind Energy Systems. Wind energy systems are allowed in all nonresidential districts and in residential districts with nonresidential uses. There is no minimum acreage requirement.

(b) Setback.

(1) Setback standards are as follows:

(i) One hundred percent of tower height.

(ii) One hundred percent of any combination of setback and dedicated irrevocable fall zone easement onto an adjacent property.

(2) Additional Setback Regulations.
(i) No wind energy system shall be placed within any required zoning setback within any zoning district.

(ii) No horizontal axis wind turbine (HAWT) tower shall be placed on any property such that any portion of the rotor diameter extends into or over a public right-of-way, or dedicated access easement.

(3) Exceptions to Setback Requirements. All wind systems specifically designed to be mounted to a permanent building must comply with all manufacturer specifications; provided, that any portion of a tower above the point at which it is anchored does not exceed the distance to the nearest adjacent property line. All mounting and electrical specifications must be provided to the development services division at the time of application for a building permit to install or erect a wind energy system.

(c) Maximum Tower Height.

(1) Maximum tower height shall be as follows:

<table>
<thead>
<tr>
<th></th>
<th>Maximum Tower Height</th>
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<tbody>
<tr>
<td>Less than one acre</td>
<td>62 feet</td>
</tr>
<tr>
<td>1 – 3 acres</td>
<td>100 feet</td>
</tr>
<tr>
<td>More than 3 acres</td>
<td>175 feet</td>
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</tbody>
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(2) Exceptions.

(i) The maximum height of all wind energy systems mounted on a permanent building will be determined in association with the approval of a conditional use permit within C-5 Commercial and D-1, D-2, D-3 Downtown Districts.

(ii) The maximum height of all wind energy systems will be determined in association with the approval of a conditional use permit within the I-1 and I-2 districts, as well as PUD districts with permitted uses designated I-1 or I-2.

(d) Rotor Diameter. Maximum rotor diameter shall not exceed manufacturer recommendations for wattage and tower specifications.

(e) Towers. All wind energy systems shall be mounted on mono-pole towers or attached to a permanent building. No lattice or guyed wire towers shall be permitted except in districts zoned industrial and PUD districts with permitted uses designated I-1 or I-2.

(f) Access.

(1) All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

(2) The tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of eight feet above the ground.

(g) Electrical Wires. All electrical wires associated with wind energy systems shall be located underground with the following exceptions:

(1) All wires necessary to connect the wind generator to the tower wiring.

(2) All wires necessary to connect the tower wiring to the disconnect junction box.

(3) All wires necessary to connect the grounding wires.

(h) Color and Finish. The generator and tower shall be a nonreflective and neutral color.
(i) Decibel levels for the system shall not exceed 55 decibels (dBA) measured at any property line, except during short-term events such as utility outages and severe windstorms.

(j) Compliance with All Applicable Codes. A wind energy system including tower shall comply with all applicable building and property codes currently in force in the city.

(k) Utility Notification and Interconnection. All wind energy systems that connect to the facilities of an electrical utility company shall comply with all applicable local, state and federal regulations governing such connections. The applicant or property owner must supply the development services division with written consent from the applicable electric utility company to connect to the grid at the time of application for a building permit.

(l) Signage.
   1. Brand names shall not be visible from any public right-of-way or place.
   2. No advertising shall be placed on the wind generator or tower.

(m) Wind generators or towers shall not be artificially lighted, except as may be required by federal or state law.

(n) Removal of Abandoned Wind Energy Systems. Any wind energy system that is not operated for a period of 12 continuous months or which was operated under a conditional use permit which has expired and has not been renewed shall be considered abandoned, and the owner of such wind energy system shall remove the same within 90 days of a receipt of notice from the planning director notifying the owner of such required renewal. If such wind energy system is not removed within said 90 days, the city council may cause the removal of such wind energy system at the owner’s expense. If there are two or more users of a wind energy system, then this provision shall not become effective until all users have ceased using the system for a period of 12 continuous months. (Ord. 19598 § 3, 6-28-11.)

Cross References: City council – mayor, Chapter 2.15 TMC; planning department, TMC 2.30.090.

18.265.040 Permit requirements.

(a) Building Permit. A building permit shall be required for the installation of any wind energy system.

(b) Documents. The building permit application shall be accompanied by a site plan which includes the following:
   1. Property lines and physical dimensions of the property.
   2. Location, dimensions and types of existing major structures on the property.
   3. Location of the proposed wind system tower.
   4. The right-of-way of any public road or alley that is contiguous with the property as well as any platted setback.
   5. Any overhead utility lines and location of nearest utility pole.
   6. The location(s) at which any electrical and telephone utilities are connected to the principal structures on the property.
   7. Wind system specifications, including manufacturer and model, rotor diameter, tower height and tower type.
   8. Tower foundation blueprints or drawings.
   9. Tower blueprint or drawing.
   10. Any easements that may be located on the property.
   11. Color of the wind generator and tower. (Ord. 19598 § 4, 6-28-11.)
Chapter 18.270
NEIGHBORHOOD CONSERVATION DISTRICTS

Sections:
18.270.010 Purpose.
18.270.020 Designation.
18.270.030 Criteria for designation.
18.270.040 Boundaries.
18.270.050 Design standards.
18.270.060 Procedure.
18.270.070 Dissolution.
18.270.080 Administration.
18.270.090 Penalty.
18.270.100 Severability.

18.270.010 Purpose.
The governing body recognizes that there are several unique and distinctive older residential neighborhoods which contribute significantly to the overall character and identity of the city, and are worthy of preservation, appropriate maintenance, and protection. As a matter of public policy, the city, in partnership with its distinctive neighborhood organizations, aims to preserve, protect, enhance, and sustain the value of these residential neighborhoods through the establishment of neighborhood conservation districts (NCD). The purpose of an NCD is to promote compatible new construction, alterations, and demolitions within the district’s built environment in order to strengthen and build upon those desirable physical features already existing. (Ord. 19815 § 1, 5-7-13.)

18.270.020 Designation.
The governing body may designate certain residential neighborhoods, or portions thereof, as neighborhood conservation districts. Neighborhood conservation districts shall be overlays to existing zoning districts. Property within an NCD must also be designated as being within one of the existing zoning district classifications. Such property shall comply with all applicable use restrictions unless further restricted by the NCD. Separate ordinances shall designate each NCD which shall be distinguished as separate zoning districts. Ordinances designating each NCD shall identify the designated district boundaries, and specify the individual purposes and design standards for that district. Where any conflict exists between zoning districts, the provisions of the NCD shall control. (Ord. 19815 § 2, 5-7-13.)

Cross References: City council – mayor, Chapter 2.15 TMC.

18.270.030 Criteria for designation.
(a) Each NCD shall meet all of the following criteria:

(1) The area must contain at least one block face, and be primarily residential;

(2) A minimum of 75 percent of the area must be presently developed;

(3) The area must possess a unique and distinctive physical character/form that predominates from the time of its original or earliest development;

(4) The area must have a distinctive atmosphere or character that can be effectively protected by preserving or enhancing its architectural or physical attributes;

(5) The area must be predominately platted for a minimum of 40 years prior to the adoption of the district.

(b) In determining whether to establish an NCD, the planning commission and governing body shall also consider the following factors:

(1) Conformity with the city’s comprehensive plan and planning policies;
(2) Zoning and use of nearby property;

(3) Physical character of the area; and

(4) The extent to which designation of the NCD will either improve or detrimentally affect nearby properties.

(c) Any designated historic landmark overlay district, or any district listed on the Register of Historic Kansas Places, or the National Register of Historic Places, or their environs, shall be deemed to satisfy the criteria in subsection (a) of this section. (Ord. 19815 § 3, 5-7-13.)

Cross References: City council – mayor, Chapter 2.15 TMC; planning commission, Chapter 2.65 TMC.

18.270.040 Boundary.
The boundaries of each NCD shall be drawn so as to include all platted lots petitioned for inclusion in the district, and shall apply to all buildings, structures, sites, objects or land areas within these established boundaries. (Ord. 19815 § 4, 5-7-13.)

18.270.050 Design standards.
(a) An ordinance establishing an NCD shall incorporate by reference the design standards applicable to the district.

(b) Design standards shall apply at a minimum to any new construction, alteration, or demolition of structures but shall not apply to those activities which constitute ordinary repair and maintenance, including using the same material and design.

(c) Design standards for each NCD shall include at least five of the following elements governing the physical characteristics and features of property within the proposed district:

(1) Primary buildings.
(2) Accessory buildings.
(3) Building height.
(4) Building size/massing.
(5) Building architectural style and details.
(6) Building setbacks.
(7) Building orientation and site planning.
(8) Lot size.
(9) Lot coverage.
(10) Off-street parking requirements.
(11) Roof line and pitch.
(12) Paving, impervious, or hardscape coverage.
(13) Window openings.
(14) Fences and walls.
(15) Driveways, curb cuts, alleys, and sidewalks.
(16) Tree preservation.
(17) Private and public utility structures.

(18) Public art. (Ord. 19815 § 5, 5-7-13.)

18.270.060 Procedure.
(a) Application. Upon approval by a neighborhood improvement association or other neighborhood association demonstrating broad representation and membership, the governing body or planning commission may initiate an application for establishment of an NCD. Alternatively, owners of at least 51 percent of the property within the proposed district may initiate an application. The application shall be submitted to the planning director who shall determine whether the application meets the requirements of this section.

(1) Statement of the neighborhood’s goals and an explanation of how design overlay district designation will meet these goals.

(2) A sample inventory of the neighborhood’s unique characteristics including architectural styles, building materials, distinct or significant details unique to the overall neighborhood character, color photographs documenting these characteristics, any demonstrable vulnerability to deterioration, dates of construction, types of land uses, and property address to be included within the proposed NCD.

(3) A map showing the proposed NCD boundaries, and an explanation of why the boundaries are appropriate.

(4) A list of the names and mailing addresses of all property owners in the proposed district as of the date of application.

(5) A list of all neighborhood associations, homeowners’ associations, or other organizations representing the interests of property owners in the proposed district. Each list shall include the officers’ names, mailing addresses, email addresses, and telephone numbers.

(6) A draft of specific design standards for the proposed NCD detailing how the standards relate to the inventory characteristics.

(7) Evidence that all property owners within the proposed district have been notified, in writing, of at least two public information meetings concerning creation of the NCD that have been conducted within six months prior to the date of the application. Notifications shall be mailed to the property owners of record. Written minutes of each meeting summarizing the testimony of attendees shall be submitted with the application.

(8) Any additional information that the planning director determines is necessary.

(9) Any city-adopted neighborhood plan that contains the criteria set forth in this subsection (a) shall be deemed to meet the requirements of this section.

(b) Planning Commission. Upon a determination that the application meets the requirements of this section, the planning director shall submit the application, including the design standards, to the planning commission for its consideration and recommendation to the governing body.

(c) Notification/Public Hearing. The planning commission shall conduct a public hearing. Notice of the hearing shall be published at least once in the official city newspaper at least 20 days prior to the hearing. Such notice shall fix the time and place for the hearing and shall describe the NCD in general terms, including the proposed boundaries. In addition to the publication notice, written notice shall be mailed at least 20 days before the hearing to all owners of record within the proposed district. All notices shall contain a statement that the application is available for inspection, including the proposed design standards. When the notice has been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action taken by the planning commission or governing body.

(d) Planning Commission Recommendation. A majority of the members of the planning commission present and voting at the hearing may take any of the following actions: (1) recommend approval of the proposed district, including a zoning overlay to the existing zoning district; (2) recommend approval with amendments to the proposed district; (3) request additional information from the planning department or the applicant; or (4) disapprove the
application. If the planning commission fails to make any recommendation, such failure shall be deemed a recommendation of disapproval.

(e) Governing Body. The governing body may take any of the following actions: (1) adopt the recommendation by ordinance; (2) amend or reject the recommendation by a two-thirds majority vote of the membership of the governing body; or (3) return the recommendation to the planning commission with a statement specifying the basis for the governing body’s failure to approve or disapprove.

(f) Return of Recommendation to Planning Commission. If the governing body returns the recommendation, the planning commission, after considering the same, may resubmit its original recommendation giving the reasons therefor or submit a new or amended recommendation.

(g) Reconsideration by the Governing Body. Upon the receipt of the recommendation in subsection (f) of this section, the governing body, by a simple majority vote, may adopt the recommendation or amend and adopt the recommendation. If the planning commission fails to deliver its recommendation to the governing body following the planning commission’s next regular meeting after receipt of the governing body’s report, the governing body shall consider such course of action as a resubmission of the original recommendation and proceed accordingly.

(h) Changes to Design Standards. Minor changes to the design standards of an NCD may be approved at the discretion of the planning director if the following requirements are satisfied: (1) the change is intended to clarify an adopted design standard by including specific text or graphics to better illustrate the standard; and (2) the change does not add another element identified in TMC 18.270.050(c). Any change to the standards that are not minor as determined by the planning director shall require a new application and compliance with this section. (Ord. 19815 § 6, 5-7-13.)

Cross References: City council – mayor, Chapter 2.15 TMC; planning department, TMC 2.30.090; planning commission, Chapter 2.65 TMC.

18.270.070 Dissolution.

(a) The governing body, upon recommendation of the planning commission, may initiate the dissolution of an NCD and remove the overlay zoning. Alternatively, owners of at least 51 percent of the property within the proposed district may request the dissolution of such district.

(b) The planning commission shall conduct a public hearing. Notice of the hearing shall be published at least once in the official city newspaper at least 20 days prior to the hearing. Such notice shall fix the time and place for the hearing. In addition to the publication notice, written notice shall be mailed at least 20 days before the hearing to all owners of record within the district. When the notice has been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action taken by the planning commission or governing body.

(c) A majority of the members of the planning commission present and voting may take any of the following actions: (1) recommend dissolution of the district, including removal of the zoning overlay to the existing zoning district; (2) request additional information from the planning department; or (3) deny the dissolution. If the planning commission fails to make any recommendation, such failure shall be deemed a recommendation that the district not be dissolved.

(d) The governing body may take any of the following actions: (1) adopt the recommendation by ordinance; (2) amend or reject the recommendation by a two-thirds majority vote of the membership of the governing body; or (3) return the recommendation to the planning commission with a statement specifying the basis for the governing body’s failure to approve or disapprove.

(e) Return of Recommendation to Planning Commission. If the governing body returns the recommendation, the planning commission, after considering the same, may resubmit its original recommendation giving the reasons therefor or submit a new or amended recommendation.

(f) Reconsideration by the Governing Body. Upon the receipt of the recommendation in subsection (e) of this section, the governing body, by a simple majority vote, may adopt the recommendation or amend and adopt the recommendation. If the planning commission fails to deliver its recommendation to the governing body following
the planning commission’s next regular meeting after receipt of the governing body’s report, the governing body shall consider such course of action as a resubmission of the original recommendation and proceed accordingly. (Ord. 19815 § 7, 5-7-13.)

Cross References: City council – mayor, Chapter 2.15 TMC; planning department, TMC 2.30.090; planning commission, Chapter 2.65 TMC.

18.270.080 Administration.
(a) All new construction or alterations within the NCD shall comply with adopted design standards for that district. No building permit shall be issued within an NCD without the submission and approval of design plans and the issuance of a zoning compliance permit by the planning department.

(b) The planning director shall establish such administrative rules and regulations as necessary to govern the procedure, submission requirements, and contents necessary to determine compliance with the design standards of an NCD. The planning director, or designee, shall review the design plans to determine compliance with the design standards adopted for the district.

(c) If the planning director determines that the work and/or design plans are in conformance with the design standards adopted for the district, the planning director shall issue a zoning compliance permit and the department of development services may issue a building permit, consistent with all other requisite ordinances and requirements.

(d) If the planning director determines that the design plans are not in conformance with the design standards adopted for the district, the planning department shall not approve the plans, and, furthermore, shall identify the specific design standards violated.

(e) The applicant may appeal the planning director’s determination to the board of zoning appeals as provided in Chapter 2.45 TMC. (Ord. 19815 § 8, 5-7-13.)

Cross References: Planning department, TMC 2.30.090; public works department, TMC 2.30.110.

18.270.090 Penalty.
It is unlawful to construct, reconstruct, structurally alter, demolish, deface, or move any buildings, structures, sites, objects or land areas within an established NCD unless such action complies with the design standards for the district. (Ord. 19815 § 9, 5-7-13.)

18.270.100 Severability.
If any part or parts of this chapter shall be held unconstitutional, invalid, or otherwise unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this chapter. (Ord. 19815 § 10, 5-7-13.)