AN ORDINANCE introduced by Mayor James A. McClinton relating to correctional placement residences, amending City of Topeka Code Chapter 48, Article XXXV and §§ 48-9.02(c), 48-10.02(c), 48-11.02(a), 48-11.02(c), 48-12.02(c), 48-13.02(c), 48-14.02(c), 48-17.02(a), 48-17.02(c), 48-18.02(a), 48-18.02(c), 48-20.00, 48-20.02(a), 48-20.02(b), 48-20.02(c), 48-21.02(a), 48-21.02(c), 48-23.a.04(2), 48-23.02(c), 48-23.02(d), 48-26.00(g), 48-26.00(n), 48-26.00(u), and 48-26.00(v) and specifically repealing said original sections.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. Topeka City Code Chapter 48, Article XXXV, Definitions, Community living facility, type I, is hereby amended to read as follows:

Community living facility, type I: 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 correctional placement residence or facility.

Section 2. Topeka City Code Chapter 48, Article XXXV, Definitions, Community living facility, type II, is hereby amended to read as follows:

Community living facility, type II: 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 correctional placement residence or facility.

Section 3. Topeka City Code Chapter 48, Article XXXV, Definitions, Correctional facility, is hereby amended to read as follows:

Correctional facility: 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.

Section 4. Topeka City Code Chapter 48, Article XXXV, Definitions, Correctional placement residence, is hereby amended to read as follows:

Correctional placement residence or facility: 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
facilities operated by community corrections; or (6) require court ordered guidance
services for alcohol or chemical dependence. 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.

Section 5. Topeka City Code Chapter 48, Article XXXV, Definitions,
Community placement residence general, is hereby amended to read as follows:

Correctional placement residence or facility general: A facility occupied by more
than 15 individuals, including staff members who may reside there.

Section 6. Topeka City Code Chapter 48, Article XXXV, Definitions,
Community placement residence limited, is hereby amended to read as follows:

Correctional placement residence or facility limited: A facility occupied by three
to 15 individuals, including staff members who may reside there.

Section 7. Topeka City Code Chapter 48, Article XXXV, Definitions, Lot,
building, is hereby amended to read as follows:

Lot, building: Land occupied or to be occupied by a building and its accessory
buildings, or by a dwelling group and its accessory buildings, together with such open
spaces as are required under the provisions of this ordinance, having not less than the
minimum area and width required by this ordinance chapter for a lot in the district in
which such land is situated, and having its principal frontage on a street or on such
other means of access as may be determined in accordance with the provisions of the
law to be adequate as a condition of the issuance of a building permit for a building on
such land.

Section 8. Topeka City Code Chapter 48, Article XXXV, Definitions, Lot width,
is hereby amended to read as follows:

Lot width: The distance between the side lot lines, measured along the setback
line as established by this ordinance chapter, or if no setback line is established, the
distance between the side lot lines measured along the street line.

Section 9. Topeka City Code Chapter 48, Article XXXV, Definitions, Planning
commission, is hereby amended to read as follows:

Planning commission: The Topeka-Shawnee County Metropolitan Planning
Commission.

Section 10. Topeka City Code Chapter 48, Article XXXV, Definitions,
Residential-design manufactured home, is hereby amended to read as follows:

Residential-design manufactured home: A manufactured home, as defined
elsewhere in this section article, on a permanent foundation which has: (a) minimum
dimensions of 22 body feet in width, (b) a pitched roof and (c) siding and roofing
materials which are customarily used on site-built homes.
Section 11. Topeka City Code § 48-9.02(c), Use regulations, Use permitted by conditional use permit, is hereby amended to read as follows:

(c) Uses permitted by conditional use permit: The following uses may be granted a conditional use permit by the governing body provided by article XXV:

1. Community center.
2. Cultural facility.
3. Food service facility in which food and beverage is offered or prepared for sale or for service with or without charge on the premises and clearly incidental and subordinate to a principal use.
4. Vehicle surface parking lot in association with a principal use.
5. Private or public utility structures facilitating the transmission, distribution, and/or collection systems, including substations, distribution stations, pump stations, reservoirs, towers, transmissions equipment buildings and similar such uses.
6. Public use facility.
7. Reception, conference and assembly facility subject to the requirements of article XXVI.
8. Recreation facility in which the principal use is of an outdoor and unenclosed nature and which may include accessory and support facilities as an incidental and ancillary use. Permitted uses shall include the following activities and similar activities of like intensity:

   a. Swimming.
b. Tennis.

(9) Residential care facility, type III.
(10) Medical care facility, type II.
(11) Retail sales of a nature clearly incidental and subordinate to and customary in connection with, a principal use.
(12) Bed and breakfast inn.
(13) Communication towers, telecommunication equipment and accessory facilities other than those provided for elsewhere in this chapter as exempt as set forth by definition; and subject to the requirements of article XXVI.
(14) Common open space.
(15) Correctional placement residence or facility limited, subject to the requirements of article XXVI.
(16) Group residence general, subject to the requirements of article XXVI.

Section 12. Topeka City Code § 48-10.02(c), Use regulations, Uses permitted by conditional use permit, is hereby amended to read as follows:

(c) Uses permitted by conditional use permit: The following uses may be granted a conditional use permit by the governing body provided by article XXV:

(1) Apartment hotel.
(2) Bed and breakfast inn.
(3) Community center.
(4) Cultural facility.
(5) Medical care facility, type II.

(6) Food service facility in which food and beverage is offered or prepared for sale or for service with or without charge on the premises and clearly incidental and subordinate to a principal use.

(7) Vehicle surface parking lot and/or multilevel parking structure as specified by the application in association with a principal use.

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

(9) Public use facility.

(10) Reception, conference and assembly facility subject to the requirements of article XXVI.

(11) Recreation facility in which the principal use is of an outdoor and unenclosed nature and which may include accessory and support facilities as an incidental and ancillary use. Permitted uses shall include the following activities and similar activities of like intensity:

a. Swimming.

b. Tennis.

(12) Community living facility, type I.

(13) Retail sales of a nature clearly incidental and subordinate to and customary in connection with, a principal use.
(14) Communication towers, telecommunication equipment and accessory facilities other than those provided for elsewhere in this chapter as exempt as set forth by definition; and subject to the requirements of article XXVI.

(15) Common open space.

(16) Correctional placement residence or facility general, subject to the requirements of article XXVI.

(17) Correctional placement residence or facility limited, subject to the requirements of article XXVI.

(18) Group residence general.

Section 13. Topeka City Code § 48-11.02(a), Use regulations, Permitted uses, is hereby amended to read as follows:

(a) **Permitted uses:**

(1) Apartment hotel.

(2) Multiple-family dwelling building.

(3) Boarding and lodging house.

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

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

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

(7) Public or private elementary and secondary schools.

(8) Residential care facility, type III.

(9) Medical care facility, type I.

(10) Accessory uses in conjunction with a multiple-family building containing a minimum of fifty (50) dwelling units or a minimum of fifty (50) permanent residential occupants:

a. Barbershop.

b. Beauty shop.

c. Laundry--dry cleaning pick-up station.

d. Travel-tour agency.

e. Restaurant.

f. Gift shop.

g. Such accessory uses shall comply with the following:
1. Limited to the ground floor.
2. No separate outside entrances.
3. No external advertising of any type.
4. Established for the primary convenience of the occupants therein.

   (11) Sorority or fraternity house.
   (12) Group residence general, subject to the requirements of article XXVI.
   (13) Group residence limited, subject to the requirements of article XXVI.

Section 14. Topeka City Code § 48-11.02(c), Use regulations, Uses permitted by conditional use permit, is hereby amended to read as follows:

   (c) Uses permitted by conditional use permit: The following uses may be granted a conditional use permit by the governing body provided by article XXV:

   (1) Bed and breakfast inn.
   (2) Community center.
   (3) Cultural facility.
   (4) Medical care facility, type II.
   (5) Food service facility in which food and beverage is offered or prepared for sale or for service with or without charge on the premises and clearly incidental and subordinate to a principal use.
   (6) Vehicle surface parking lot and/or multilevel parking structure as
specified in the application in association with a principal use.

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

(8) Public use facility.

(9) Reception, conference and assembly facility subject to the requirements of article XXVI.

(10) Recreation field, court, track, or range in which the principal use is of an outdoor and unenclosed nature and which may include accessory and support facilities as an incidental and ancillary use. Permitted uses shall include the following activities and similar activities of like intensity:

a. Swimming.

b. Tennis.

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

(12) Community living facility, type I.

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

(14) Common open space.

(15) Correctional placement residence or facility general, subject to the
requirements of article XXVI.

(16) Correctional placement residence or facility limited, subject to the requirements of article XXVI.

Section 15. Topeka City Code § 48-12.02(c), Use regulations, Uses permitted by conditional use permit, is hereby amended to read as follows:

(c) Uses permitted by conditional use permit: The following uses may be granted a conditional use permit by the governing body provided by article XXV:

(1) Bed and breakfast inn.

(2) Portrait or artist studio subject to the requirements of article XXVI.

(3) Public use facility.

(4) Small animal hospital or veterinary clinic for small domestic animals subject to the requirements of article XXVI.

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

(6) Food service facility in which food and beverage is offered or prepared for sale or for service with or without charge on the premises and clearly incidental and subordinate to a principal use.

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

(8) Community center.
(9) Reception, conference and assembly facility subject to requirements of article XXVI.

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

(11) Medical care facility, type II.

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

(13) Group residence limited, subject to the requirements of article XXVI.

(14) Correctional placement residence or facility limited, subject to the requirements of article XXVI.

Section 16. Topeka City Code § 48-13.02(c), Use regulations, Uses permitted by conditional use permit, is hereby amended to read as follows:

(c) Uses permitted by conditional use permit: The following uses may be granted a conditional use permit by the governing body provided by article XXV:

(1) Bed and breakfast inn.

(2) Hospital.

(3) Public use facility.

(4) Crematorium.

(5) Heliport.

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

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

(8) Food service facility in which food and beverage is offered or prepared for sale or for service with or without charge on the premises and clearly incidental and subordinate to a principal use.

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

(10) Community center.

(11) Reception, conference and assembly facility subject to requirements of article XXVI.

(12) Vehicle surface parking lot and/or multilevel parking structure as specified in the application in association with a principal use.

(13) Community living facility, type II.

(14) Communication towers, telecommunication equipment and accessory facilities other than those provided for elsewhere in this chapter as exempt as set forth by definition; and subject to the requirements of article XXVI.

(15) Correctional placement residence or facility limited, subject to the requirements of article XXVI.

(16) Group residence general, subject to article XXVI. Correctional placement residence or facility general.

(17) Group residence limited, subject to article XXVI. Group residence
general, subject to the requirements of article XXVI.

(18) Group residence limited, subject to the requirements of article XXVI.

Section 17. Topeka City Code § 48-14.02(c), Use regulations, Uses permitted by conditional use permit, is hereby amended to read as follows:

(c) Uses permitted by conditional use permit: The following uses may be granted a conditional use permit by the governing body provided by article XXV:

(1) Bed and breakfast inn.

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

(3) Food service facility in which food and beverage is offered or prepared for sale or for service with or without charge on the premises and clearly incidental and subordinate to a principal use.

(4) Heliport.

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

(6) Public use facility.

(7) Restaurant.

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

(9) Communication towers, telecommunication equipment and
accessory facilities other than those provided for elsewhere in this chapter as exempt as set forth by definition; and subject to the requirements of article XXVI.

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

(11) Correctional placement residence or facility limited, subject to the requirements of article XXVI.

(12) Correctional placement residence or facility general, subject to the requirements of article XXVI.

Section 18. Topeka City Code § 48-17.02(a), Use regulations, Permitted uses, is hereby amended to read as follows:

(a) *Permitted uses:*

(1) Permitted uses in the "C-2" commercial district; and store, shop, or facility for the conduct of a retail business or service similar in use and nature to the types of uses listed herein and specifically excepting those types of activities provided for in less restricted districts.

(2) Commercial recreational facilities which are used primarily for physical exercise, recreation, and/or health maintenance including fitness centers, spas, suntanning salons, skating rinks, swimming pools, gymnasiums, game courts, golf courses, golf driving ranges, pitch and putt, miniature golf courses and similar activities, including locker and training areas.

(3) Home improvement and building supply centers except as provided elsewhere within this district, all product display, inventory, processing, and
servicing shall be within completely enclosed buildings.

(4) Motor vehicle sales area and service facility in conjunction thereto, including the sale or lease of new or used automobiles and light trucks with a gross vehicle weight of twelve thousand (12,000) pounds or less. Not permitted within this district are sale areas and service facilities relating to recreational vehicles, trucks with a gross vehicle weight greater than twelve thousand (12,000) pounds, agricultural and heavy equipment vehicles, and watercraft.

(5) Billboards and panel posters not exceeding three hundred (300) square feet per single face area and which do not exceed a height of fifty-five (55) feet above grade.

(6) Recreational vehicle short-term campgrounds.

(7) Vehicle surface parking lot and/or multilevel parking structure.

(8) Correctional placement residence or facility limited.

Section 19. Topeka City Code § 48-17.02(c), Use regulations, Uses permitted by conditional use permit, is hereby amended to read as follows:

(c) Uses permitted by conditional use permit: The following uses may be granted a conditional use permit by the governing body provided by article XXV:

(1) Amusement indoor establishments, including dance, pool, and billiard halls; archery ranges, shooting galleries, pinball, electronic and video games arcade; taverns and similar establishments licensed by the city to sell and dispense cereal malt beverages for drink on premises.
(2) Automotive service station, type III, subject to the requirements of article XXVI.

(3) Public use facility.

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

(5) Communication towers, telecommunication equipment and accessory facilities other than those provided for elsewhere in this chapter as exempt as set forth by definition; and subject to the requirements of article XXVI.

(6) Correctional placement residence or facility general, subject to the requirements of article XXVI.

Section 20. Topeka City Code § 48-18.02(a), Use regulations, Permitted uses, is hereby amended to read as follows:

(a) Permitted uses:

(1) Permitted uses in the "C-3" commercial district; and store, shop or facility for the conduct of a retail business or service similar in use and nature to the types of uses listed herein and specifically excepting those types of activities provided for in less restricted districts.

(2) Agricultural machinery and equipment sales area and service facility.

(3) Amusement indoor establishments, including dance, pool, and
billiard halls; archery ranges, shooting galleries, pinball, electronic and video
games arcade; taverns and similar establishments licensed by the city to sell and
dispense cereal malt beverages for drink on premises.

(4) Animal hospitals, either large or small, veterinary clinics and
enclosed kennels.

(5) Auction house.

(6) Automotive service station type[s] I, II and III.

(7) Bakery, commercial which may include wholesale distribution
facilities.

(8) Boat and boating equipment sales area and service; bait shop.

(9) Building, construction, and mechanical contractor office, showroom,
shop and sales area, including plumbing, heating and air conditioning, electrical,
mechanical and sheet metal work, provided that on the premises there is no
unenclosed storage of material, machinery, vehicles, or equipment; and no
storage of any vehicle, machinery, or equipment with a net weight exceeding
three (3) tons.

(10) Commercial and industrial products, photography studios, portrait
photographing being clearly accessory to the photographing of products.

(11) Commercial laundry, dry cleaning and dyeing facility.

(12) Flea market and swap meet.

(13) Grave monuments and marker sales area, display and engraving.

(14) Home improvement and building supply/material establishments,
including sales and display areas, storage and yards. Outdoor display and
storage yards shall be paved, hard surface and dust-free.

(15) Lawn/garden centers including the display and sales of landscape
materials, lawn and garden equipment, and supplies; and holiday/seasonal
ornaments and decorating sales and service. Outdoor storage and supply
yards shall be paved, hard surface and dust-free.

(16) Manufactured housing and accessory structure sales and display
area.

(17) Motor vehicle sales area and service facility, including the sale or
lease of new or used automobiles, trucks, recreational vehicles, agricultural and
heavy equipment.

(18) Newspaper and magazine distribution agencies.

(19) Publishing establishments.

(20) Rental establishments for domestic and general equipment, lease
area and display. Outdoor display, storage, loading and parking areas shall be
paved; hard surface, and dust free.

(21) Repair, restoration of vehicles, machinery and equipment.

(22) Taxidermists.

(23) Theater; non-adult drive-in.

(24) Vehicle repair, restoration and towing service, not including
automotive wrecking or long-term disabled vehicle outdoor storage.

(25) Correctional-placement-residence-limited.
Section 21. Topeka City Code § 48-18.02(c), Use regulations, Uses permitted by conditional use permit, is hereby amended to read as follows:

(c) Uses permitted by conditional use permit: The following uses may be granted a conditional use permit provided by article XXV:

1. Amusement parks, including: permanent carnival, kiddie parks and similar outdoor amusement facilities.

2. Commercial radio, TV, broadcasting or receiving towers.

3. Fairgrounds.

4. Public use facility.

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

6. Race track.

7. Sports stadiums and arenas.

8. Relocation, remodeling or rebuilding of legal non-conforming billboards presently located within the "C-4" Commercial District subject to the requirements of article XXVI.

9. Correctional placement residence or facility, subject to the requirements of article XXVI.

Section 22. Topeka City Code § 48-20.00, Purpose; intent, is hereby amended to read as follows:
Purpose; intent.

This district is established to provide for a wide range of uses except for residential dwellings and other 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 onsite caretakers or watchmen or correctional placement residence or facility limited or general.

Section 23. Topeka City Code § 48-20.02(a), Use regulations, Permitted uses, is hereby amended to read as follows:

(a) Permitted uses:

(1) Permitted uses in the "C-4" commercial district, except residential dwellings. Living facilities include single-wide manufactured housing for a caretaker or watchman. The only residential dwellings permitted in this district are for onsite caretakers or watchmen or correctional placement residence or facility limited or general only shall be permitted.

(2) Bottling works.

(3) Building materials sales and storage.

(4) Construction equipment storage.

(5) Dairy products processing.

(6) Demolition landfill.

(7) Express and shipment facilities.

(8) Laboratories--research and testing.
Manufacturers' supply and wholesale trade establishments.
Manufacture, processing storage and/or warehousing of any product, equipment, or material; except any activities involving the following:

a. Acetylene, gas manufacture or storage.
b. Acid; alcohol; ammonia, bleaching powder, chlorine, cement, lime, gypsum, plaster of Paris, disinfectant, dyestuff, glue, fertilizer, size, gelatin, oilcloth, linoleum, oiled rubber goods, paint, oil, shellac, turpentine, varnish, paper, pulp, shoe polish, soap (other than liquid), tallow grease, lard, refining of animal fat, tar distillation, tar roofing, waterproofing products, vinegar and yeast manufacture.
c. Arsenal; high explosives (other than armory).
d. Asphalt; cement or other paving materials manufacture or central mixing plant.
e. Vehicular wrecking or dismantling for salvage purposes.
f. Blast furnace, coke oven, boiler works, forge plant, ore reduction, smelting of tin, copper, zinc or iron ores, iron, steel, brass or copper foundry or fabrication plant.
g. Brick, tile, pottery or terracotta manufacture (other than the manufacture of handcraft products only).
h. Creosote manufacture or treatment.
i. Distillation of bones, coal or wood.
j. Explosives or fireworks manufacture or storage.
k. Fat rendering.

l. Garbage, offal or dead animals reduction or disposal.

m. Junk, iron or rags or paper storage or bailing except as provided elsewhere in these regulations.

n. Petroleum or its products, refining or wholesale storage.

o. Planing mills; rock crusher; rolling mill.

p. Rubber or gutta-percha manufacture or treatment.

q. Stockyard or slaughter of animals or fowls.

r. Stone mill.

s. Tanning, curing or storage of raw hides or skins.

t. Wool pulling or scouring.

u. And in general, those uses which may be obnoxious or offensive by reason of emission of odor, dust, smoke, gas or noise.

(11) Railroad facilities.

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

(13) Warehousing, storage, and distribution facilities, including wholesaling.

(14) Welding, tinsmithing and machine shop.

(15) Television, radio, and microwave transmission towers;
telecommunication equipment; and accessory facilities other than those provided for elsewhere in this chapter as accessory to a permitted use or exempt as set forth by definition.

(16) Billboards and panel posters not exceeding six hundred seventy-two (672) square feet per single face area. Billboards and panel posters which exceed three hundred (300) square feet shall not exceed a height of thirty-five (35) feet above grade.

Section 24. Topeka City Code § 48-20.02(b), Use regulations, Provisional uses, is hereby amended to read as follows:

(b) Provisional uses:

(1) Theater; adult motion picture subject to the requirements of article XXVI.

(2) Recycling depot subject to the requirements of article XXVI.

(3) Communication towers, telecommunication equipment and accessory facilities other than those provided for elsewhere in this chapter as exempt as set forth by definition; and subject to the requirements of article XXVI.

Section 25. Topeka City Code § 48-20.02(c), Use regulations, Uses permitted by conditional use permit, is hereby amended to read as follows:

(c) Uses permitted by conditional use permit: The following uses may be granted a conditional use permit by the governing body as provided by article XXV:

(1) Airport and landing field.

(2) Amusement parks, including: permanent carnivals, kiddie parks and
similar outdoor amusement facilities.

(3) Commercial radio, TV, broadcasting or receiving towers.

(4) Fairgrounds.

(5) Public use facility.

(6) Racetrack.

(7) Sports stadiums and arenas.

(8) Day care facility, type II, subject to the provision requirements of article XXVI.

(9) Correctional placement residence or facility general, subject to the requirements of article XXVI.

Section 26. Topeka City Code § 48-21.02(a), Use regulations, Permitted uses, is hereby amended to read as follows:

(a) Permitted uses:

(1) Permitted uses in the "I-1" light industrial district and any other lawful use not in conflict with any other applicable resolution or ordinance, except residential dwellings, and those provisional or conditional uses set forth by this article. Living facilities for an on-site caretaker or guard only shall be permitted. Residential dwellings are not permitted in this district except for onsite caretakers or watchman or correctional placement residence or facility limited or general.

Section 27. Topeka City Code § 48-21.02(c), Use regulations, uses permitted by conditional use permit, is hereby amended to read as follows:

(c) Uses permitted by conditional use permit: The following uses may be
granted a conditional use permit by the governing body provided by article XXV:

(1) Extraction, processing, storage, and sale of raw materials, including sand, rock, stone, gravel and other materials derived by quarry operations.

(2) Sanitary landfill and/or refuse processing and disposal.

(3) Correctional placement residence or facility general, subject to the requirements of article XXVI.

Section 28. Topeka City Code § 48-23a.04(2), Same, X-2 mixed use district, Uses permitted by conditional use permit, is hereby amended to read as follows:

2. Uses permitted by conditional use permit. The following uses may be granted a conditional use permit by the governing body as provided by article XXV.

a. Multi-family dwellings, more than four units.

b. Group homes.

c. Boarding and lodging houses.

d. Crisis centers.

e. Churches, places of worship or assembly.

f. Conference/convention center.

g. Public use facilities.

h. Residential care facility, type I.

i. Residential care facility, type II.

j. Amusement parks.

k. Automobile service station, type III.

l. Bars and taverns.
m. Bed and breakfast establishments.

n. Farmer's markets.

o. Hotel, motel.


q. Pet shops/small animal clinics.

r. Unenclosed, outdoor equipment/product storage.

s. Correctional placement residence or facility limited, subject to article XXVI.

Section 29. Topeka City Code § 48-23.02(c), Use regulations, Provisional uses, is hereby amended to read as follows:

(c) Provisional uses:

(1) Day care facility, type II subject to the requirements of article XXVI.

(2) Vehicle surface parking lot in association with a principal use subject to the requirements of article XXVI, Additional Regulations.

(3) Correctional-placement-residence-general.

(4) Correctional-placement-residence-limited.

Section 30. Topeka City Code § 48-23.02(d), Use regulations, Uses permitted by conditional use permit, is hereby amended to read as follows:

(d) Uses permitted by conditional use permit: The following uses may be granted a conditional use permit by the governing body provided by article XXV:

(1) Bed and breakfast home subject to the requirements of article XXVI.
(2) Bed and breakfast inn subject to the requirements of article XXVI.

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

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

(5) Community living facility, type II.

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

(7) Public use facility.

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

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

(10) Correctional placement residence or facility general, subject to the requirements of article XXVI.

(11) Correctional placement residence or facility limited, subject to the requirements of article XXVI.

Section 31. Topeka City Code § 48-26.00(g), Use and requirements, Demolition landfill, is hereby amended to read as follows:
(g) **Demolition landfill:**

(1) In addition to the standard application components required of an applicant to petition for a conditional use permit (fee, certificate of ownership for notification purposes and completed application form), a petition for a conditional use permit shall be accompanied by documentation that a demolition landfill permit has been issued by the Topeka-Shawnee County health appropriate agency or subsequent review agency as may be designated by the governing body. At the time of application to the appropriate agency for said demolition landfill permit, the applicant shall provide and submit plans, information and data as established by the governing body and agency. Further, the petitioner for a conditional use permit shall submit documentation of the issuance of any other licenses or permits required by the state department of health and environment.

**Section 32.** Topeka City Code § 48-26.00(n), Use and requirements, Relocation, remodeling or rebuilding of legal non-conforming billboards, is hereby amended to read as follows:

(n) **Relocation, remodeling or rebuilding of legal non-conforming billboards:**

No application for a Conditional Use Permit to relocate, remodel, or rebuild an existing legal non-conforming billboard shall be approved unless the Governing Body, after review of the recommendation by the Zoning and Platting Committee, shall determine that the proposed billboard is appropriate in the location proposed based upon its consideration of the general standards set forth below.

(1) General Standards. No application for a Conditional Use Permit to
relocate, remodel, or rebuild a legal non-conforming billboard shall be recommended or granted unless the application is determined to be in compliance with the following general standards:

a. Paragraph (n) shall apply only to existing legal non-conforming 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.

b. 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.

c. The proposed relocated sign shall not be larger than the existing billboard proposed to be removed, but not to exceed seven hundred fifty (750) square feet including extensions; nor shall such relocated sign have more than two (2) sign faces.

d. No billboard to be relocated shall be erected upon the roof of any building or attached to any building.

e. No billboard to be relocated shall be setback less than twenty (20) feet from any public right-of-way line.

f. No billboard to be relocated shall be less than either one thousand three hundred twenty (1,320) feet from any other such sign on
the same street or closer than a four hundred (400) foot radius on different streets.

g. No billboard to be relocated shall be less than two hundred (200) feet from any underpass, overpass or bridge structure.

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

i. 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.

j. 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.

Section 33. Topeka City Code § 48-26.00(u), Use and requirements, Automobile rental establishments, is hereby amended to read as follows:

(u) Automobile rental establishments:

(1) No automobile sales and/or long-term lease of vehicles exceeding
six months shall be permitted.

(2) No on-site vehicle maintenance or mechanical service shall be permitted except to clean and prepare a vehicle for rental.

(3) No gasoline service shall be provided on-site.

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

(5) The inventory of rental vehicles shall not displace the required number of off-street parking spaces to be provided.

(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 (6) feet.

(7) Rental vehicles shall not exceed a gross vehicle weight of twelve thousand (12,000) pounds.

Section 34. Topeka City Code § 48-26.00(v), Use and requirements, Group residence general, group residence limited, correctional placement residence general; correctional placement residence limited, is hereby amended to read as follows:

(v) Group residence general, group residence limited, correctional placement residence or facility general; correctional placement residence or facility limited: In considering an application for a conditional use permit for a correctional placement residence or facility general; a correctional placement residence or facility limited; 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.

(12) The recommendation of professional staff.

Section 35. That original City of Topeka Code Chapter 48, Article XXXV and §§
48-9.02(c), 48-10.02(c), 48-11.02(a), 48-11.02(c), 48-12.02(c), 48-13.02(c), 48-14.02(c),
48-17.02(a), 48-17.02(c), 48-18.02(a), 48-18.02(c), 48-20.00, 48-20.02(a), 48-20.02(b),
48-20.02(c), 48-21.02(a), 48-21.02(c), 48-23a.04(2), 48-23.02(c), 48-23.02(d), 48-
26.00(g), 48-26.00(n), 48-26.00(u), and 48-26.00(v) are hereby specifically repealed.

Section 36. This Ordinance shall take effect and be in force from and after its
passage, approval and publication in the official City newspaper.

PASSED AND APPROVED by the Council of the City of Topeka — JUN 15 2004

ATTEST:

Iris E. Walker, City Clerk

APPROVED AS TO FORM AND LEGALITY
DATE 5/23/04 BY BBC
TO BE CODIFIED X
NOT TO BE CODIFIED