AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending Article XXXV and Article XVI, § 48-16.02 of the Topeka City Code, and specifically repealing said original section 48-16.02.

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

Section 1. Topeka City Code Article XXXV, DEFINITIONS is hereby amended by the addition of the following section:

**DEFINITIONS-SUPPLEMENTAL**

For the purpose of this chapter the following terms shall be used in addition to those terms contained in definitions.

**Vehicle, motor bicycle.** A device a person may ride upon which may be propelled by either human power or helper motor or by both and has two (2) tandem or three (3) wheels with a cylinder capacity of not more than one hundred thirty (130) cubic centimeters and a maximum design speed of no more than thirty (30) miles per hour.

**Vehicle, motor scooter.** A self-propelled device a person may ride upon having two tandem or three wheels each not greater than twelve (12) inches in diameter and in contact with the ground, a saddle seat, handle bars, and an electric or gas motor no more than two hundred (200) cubic centimeters. A motor scooter may or may not require a State of Kansas Class M motorcycle license.

Section 2. Topeka City Code Article XVI, § 4.8-16.02 is hereby amended to read as follows:

**Use regulations.**

(a) **Permitted uses:**
(1) Permitted uses in the "O&I-3" and "C-1" districts; and store, shop, or facility for the conduct of a retail business or service similar in use and nature to the types of activities provided for in less restricted districts.

(2) Art and school supply stores.

(3) Automobile accessory stores.

(4) Bicycle sales and service.

(5) Blueprinting and photocopying services.

(6) Business machine sales and service.

(7) Catering establishments.

(8) China, ceramic, and glassware stores.

(9) Commercial, indoor recreational facilities which are used primarily for physical exercise, recreation and/or health maintenance including fitness centers, spas, suntanning salons, swimming pools, gymnasiums, game courts, locker and training rooms.

(10) Community centers.

(11) Crisis center.

(12) Department stores.

(13) Electronic and telecommunications equipment, sales and service.

(14) Furniture, household appliance, and home entertainment stores.

(15) Furrier shops, including the incidental storage and conditioning of finished furs.

(16) Hobby and craft shops.

(17) Hotel, motel and apartment hotel.
(18) Home decorating and interior improvement stores, including paint, wallpaper, carpet, window dressing, fabrics and glass, sales; and further, including upholstering and making of draperies, slipcovers, and other similar articles, when conducted as part of the retail operations and secondary to the principal use.

(19) Leather goods and luggage stores.

(20) Mail order, catalog facility.

(21) Motor bicycle or motor scooter sales and service.

(22) Musical instruments, supplies and equipment store.

(23) Office supply and equipment store.

(24) Orthopedic, medical appliance, and prosthesis stores, optician and the sale of eyeglasses; hearing aid evaluations, fitting and sales.

(25) Pet grooming studios.

(26) Pet shops.

(27) Photo finishing lab.

(28) Post office and postal substations.

(29) Private class "A" and "B" clubs as licensed by the state alcohol beverage control board.

(30) Repair and servicing of any article the sale of which is a permitted use in the district.

(31) Restaurants.

(32) Theater; nonadult.

(33) Grave monument and marker sales/display; provided that there is no engraving, stone cutting, or assembly in conjunction therewith.
(b) **Provisional uses:**

1. Automobile rental establishments subject to the requirements of article XXVI.
2. Automobile service stations, type[s] I and II subject to the requirements of article XXVI.
3. Automotive or vehicle carwash facility subject to the requirements of article XXVI.
4. Day care facility, type II.
5. Small animal hospital or veterinary clinic for small domestic animals subject to the requirements of article XXVI.
6. Dwelling units other than medical care and community living facilities located above the ground floor.
7. Vehicle surface parking lot in association with a principal use subject to the requirements of article XXVI.

(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.
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.

Public use facility.

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.

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.

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

Section 3. Original City of Topeka Code Article XXXV and Article XVI. C-2, § 48-16.02 are hereby specifically repealed.

Section 4. If any section or provision or part thereof of this ordinance shall be adjudged invalid or unconstitutional by a court of competent jurisdiction, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or portion thereof not adjudged invalid or unconstitutional.

Section 5. This ordinance shall take effect and be in force after its passage, approval and publication in the official city newspaper.
PASSED and APPROVED by the City Council  June 20, 2006.

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Iris E. Walker, City Clerk

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William W. Bunten, Mayor

ATTEST: