

EXHIBITS – MISCELLANEOUS AMENDMENTS

Site Plan Applicability / Landscape Plans

Revise General Provisions:

18.50.120 Enforcement.

It shall be the duty of the ~~code enforcement~~ Planning ~~Director~~ of the city of Topeka or designee ~~or the Shawnee County zoning administrator~~ to enforce these regulations within their respective jurisdictions through proper legal channels. The Planning Director 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 ~~code enforcement director or zoning administrator~~ Planning Director or designee may be made to the ~~Board of Zoning Appeals~~ Board of Zoning Appeals as provided herein. Other officials of the various departments and divisions of the city of Topeka and Shawnee County shall have the duty and responsibility to report any apparent or alleged violations to the enforcement officer of the appropriate jurisdiction. (Code 1995 § 48-1.11.)

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Revise Landscape Regulations:

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 C-5 or 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, ~~and~~ 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 come into compliance 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 and a residential zone or parking lot buffer is required in accordance with buffer requirements in TMC 18.235.060.

(c) The provisions of this chapter shall apply to all legal nonconforming uses as established and defined in TMC 18.50.040. (Ord. 18255 § 2, 6-1-04; Ord. 17846 § 3, 6-11-02. Code 1995 § 48-38.02.)

* * *

Revise Site Plan Regulations:

18.260.030 Applicability.

~~An approved~~ 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 an institutional use in any district; or

(b) Building Alteration. For any building alteration over 15,000 square feet, or any alteration increasing the gross floor area of a building or buildings by 50 percent or more, or any alteration increasing the height of a building by one floor 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, or to an existing structure on improved real estate as set forth in subsection (a) of this section; or

(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; or

(d) Accessory Uses and Structures. Site plan review shall ~~not~~ be required for accessory uses and accessory structures of greater than 400 square feet, or when said structures result in the net reduction of off-street parking or a significant change to vehicular circulation. ~~However, such a~~ Accessory uses and/or structures uses may be reviewed in conjunction with the review of principal structures when such accessory structures are shown on the site plan; or

~~(d)~~ (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 ~~or in the regulations of Shawnee County.~~
(Ord. 17913 § 3, 11-5-02. Code 1995 § 48-39.03.)

Landscape Plans for Industrial Uses

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.

* * *

(e) Landscape for Industrial Uses. For industrial uses in I districts as listed in the Land Use Matrix in Chapter 18.60, 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.

Artisan Manufacturing

18.55.10 A” definitions.

* * *

“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; non-alcoholic 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.

* * *

18.60.010

Add row for “Artisan Manufacturing #”. “C” in C-1, C-2, C-3, and D-2; “s” in C-4, C-5, X-1, X-2, X-3, D-1, and D-3; Allowed and not subject to “s” in I-1 and I-2 districts. Prohibited in all other districts.

18.225.010 Special Use Requirements

(a) Artisan Manufacturing

1. The area used for production and assembly shall be limited to no more than 80% of the gross floor area of the principal structure and shall not exceed a total of 6,000 sq. ft.
2. All activities and equipment associated with all aspects of Artisan Manufacturing must be confined to the interior of structures located on the property.
3. In C-1, C-5, X-3, and 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.

Microbreweries, Micro-distilleries, etc.

18.55.020 “B” definitions.

* * *

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

* * *

18.55.040 “D” definitions.

* * *

“Drinking establishment” means a premises which may be open to the general public, where alcoholic liquor by the individual drink is sold. A microbrewery may be included as an accessory use and is limited to 5,000 barrels per year, which is equivalent to 155,000 gallons per year.

* * *

18.55.060 “F” definitions.

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“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 agricultural production.

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18.55.130 “M” definitions.

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~~“Microbrewery” means a facility licensed by the state for the production and packaging of malt beverages with low alcoholic content for distribution, retail, or wholesale, on or off premises, with a capacity of not more than 15,000 barrels per year.~~

“Micro-Alcohol Production” Includes Microbreweries, Farm Wineries and Micro-distilleries. 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. Tap and tasting rooms are permitted as an accessory use.

“Micro-brewery” means a facility for the production and packaging of beer 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 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.

* * *

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. Sales of alcohols manufactured outside the facility are prohibited. Does not include food sales or service.

TMC 18.60 Use Matrix

Change “Micro Brewery” to “Micro Alcohol Production” and make “Micro-Alcohol Production” a “S” in X-2 and X-3 Districts and the D Districts.

Currently, “Micro Breweries” are permitted in C-4, I-1, I-2, X-2, and D-3; not permitted in X-1, X-3; and by CUP in C-5 and D-1, D-2

Delete “Bar/Tavern” use in matrix and add “Drinking Establishment” use. TMC 18.55 Definitions refers to a “Drinking Establishment” not a “bar/tavern”. Also, consistent with State licensing terms.

* * *

TMC 18.225.010 Special Use Requirements

Proposed Change to add specific use standards for “Micro-Alcohol Production” in X-2, X-3 and D Districts:

(u) 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 should be located near the street front side of the building.
- 3) Any portion of the building that fronts a public street should 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 should be above or below the ground floor or located to the rear of the building or otherwise subordinate in area and extent.

Mobile Retail Vendors

18.55.010 “M” definitions

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“Mobile Retail Vendor” means any person, corporation, association, or other entity, however organized, that offers any merchandise, food and/or beverage for sale from any vehicle, trailer, cart, or other type of conveyance.

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18.60.010 Use Tables

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Add a row for Mobile Retail Vendors to the Land Use Matrix as an “s” in all districts.

Note: “s” means the use is permitted subject to the Special Use Requirements in TMC 18.225.

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18.225.010 Special Use Requirements

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(n) Mobile Retail Vendors

(1) Mobile retail vendors are allowed in zoning districts where retail sales are permitted per TMC 18.60.

(2) In zoning districts where retail sales are not permitted, mobile retail vendors, not including sales of fireworks, may be permitted in association with public facilities when approved by the owner. The mobile retail vendor shall be located a sufficient distance from adjacent residential land uses so as not to generate a negative impact to adjacent residential land uses.

(3) Approval of the mobile retail vendor by the property owner is required.

(4) The mobile retail vendor shall not occupy any required parking areas and associated driveways.

(5) The siting of the mobile retail vendor, including but not limited to the mobile retail vendor’s vehicles, merchandise, and customer service areas, shall not hinder the flow of pedestrian, bicycle, and vehicular traffic and shall not compromise the safe movement of traffic.

(6) The mobile retail vendor shall obtain all permits and comply with the laws administered by city, state, county, and applicable jurisdictions.

Outdoor Concert Venue / Outdoor Recreation Type III

18.55.180 “R” definitions.

* * *

“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, and theater venues, and similar activities.

* * *

Add a note to the Land Use Matrix to include outdoor concert, music, performance, and theater venues under Recreation Outdoor Type III .

Wood and Yard Waste Recycling

18.055.120 “L” definitions.

* * *

“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.

No change is proposed to 18.60 Matrix. Landfills, Demolition are allowed by CUP in I-1 and RR-1 and subject to Specific Use in I-2.

Automobile Wrecking and Salvage Yards

18.55.010 “A” definitions.

Revised Definition

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

Old Definition

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

* * *

18.60 Land Use Matrix

Add “Automobile Wrecking and/or Salvage Yard” to Use matrix TMC 18.60 to require a CUP in I-2 Heavy Industrial, and to be prohibited in all other districts. Add “#” for see definition and note to indicate cross reference TMC 5.135

“Junk” is defined in TMC 5.135 (Salvage Yard section) code section concerning “Salvage yards” and should be cross reference in matrix.

Cargo Containers

18.55.030 “C” definitions.

“Cargo 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. A cargo container is synonymous with “shipping container”, may be rented for temporary or long term, and is typically delivered and removed from the property via truck.

* * *

Chapter 18.210

ACCESSORY USES

18.210.010 Accessory uses.

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.
- (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. 19921 § 136, 9-23-14.)

18.210.020 Permitted uses.

The accessory uses, buildings and other structures permitted in each zone may include the following:

- (a) In the RR-1 district:

* * *

(18) Temporary construction buildings for on-site construction purposes for a period not to exceed the duration of the construction project.

- (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)(18) 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 for up to 30 days within a calendar year 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.

(6) Fences as regulated by TMC [18.210.040](#).

(7) Flagpoles and statuary.

(8) Private garages and carports.

(e) In the C-1, C-2, C-3, C-4 and C-5 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.

* * *

18.210.050 Cargo Containers

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 9 feet tall may be used on a temporary basis for up to 30 days within a calendar year

(b) In a non-residential or mixed use zoning district, cargo containers no larger than 320 square feet and no more than 9 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; and

(3) not be used as a base, platform, or location for business identification signs; and

(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 be stacked.

(d) Exceptions to the requirements in paragraphs a – c above 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.

3) Cargo containers not meeting the exceptions as described in this paragraph shall be subject to the conditions and standards of paragraph (c).

(e) Any legally existing cargo containers made non-conforming as a result of these regulations have 180 days from the adoption and publication of these regulation to conform.

Uncovered Horizontal Structures

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 ~~except in the case of platted setbacks and recorded easements, in which case no encroachments are permitted.~~

- (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 6 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 of a height of 6 feet or less are subject to the permitted encroachments for uncovered horizontal structures.
- (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, Off-Street 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 including Porches, Deck and Stoops porches, decks, patios, stoops, and stair landings. An unenclosed porch, deck or stoop~~ may

encroach ~~not more than 10 feet into the front or rear required yards and shall maintain a minimum distance of 12 and one half feet from a street right of way line; provided further, the aforementioned improvements shall not be in conflict with an established setback line as reflected on a plat of subdivision 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 and one half 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 3 foot setback from side and rear property lines and a minimum setback of 12 and one half 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 and one-half 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.

Fences

18.210.020 Permitted uses.

The accessory uses, buildings and other structures permitted in each zone may include the following:

(a) In the RR-1 district:

* * *

(7) Fences as regulated by TMC [18.210.040](#).

* * *

(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)(18) of this section, the following shall be permitted:

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(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:

* * *

(d) In the O&I-1, O&I-2 and O&I-3 districts:

* * *

(6) Fences as regulated by TMC [18.210.040](#).

* * *

(e) In the C-1, C-2, C-3, C-4 and C-5 districts: in addition to the accessory uses included in subsection (d) of this section, the following shall be permitted:

* * *

(f) In the I-1 and I-2 districts, the following shall be permitted:

(1) Fences as regulated by TMC [18.210.040](#).

* * *

(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. 19921 § 137, 9-23-14.)

Cross References: Planning department, TMC [2.25.210](#).

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18.210.040 Fences.

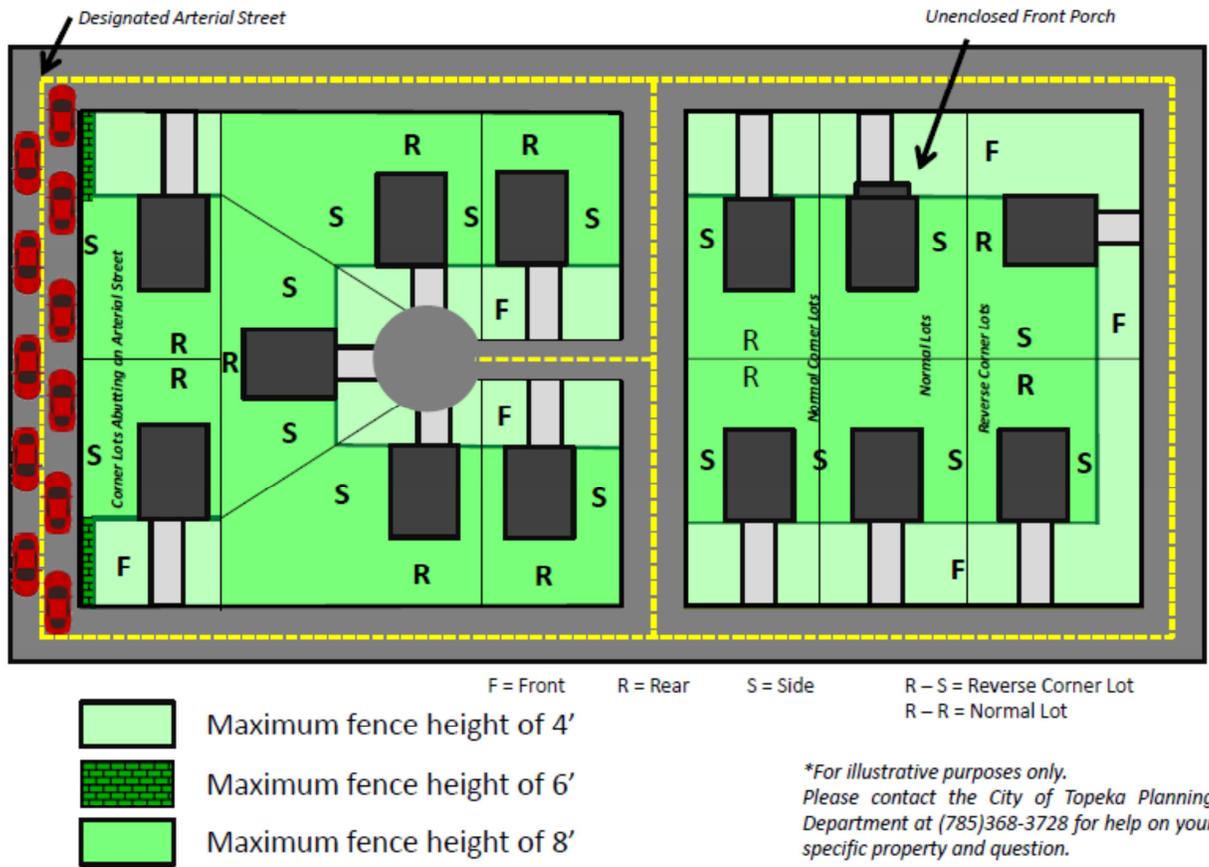
(a) Location and Height. Fences and hedges shall be subject to the following location and height requirements:

(1) Except as provided in subsection (c) 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 applicable by this paragraph.

Fence Height Limit Diagram* (for "R" and "M" zoning districts)



(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:

(1) 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 adjacent property or street. Fences shall not be constructed of salvaged metal, salvaged wood, or other material not typically supplied by vendors as fencing materials.

(ed) 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 ~~nineteen~~ nineteen feet, is necessary for public health and safety. (Ord. 19547 § 1, 4-12-11.)

(e) Fences in X districts shall comply with TMC 18.185.070.

Cross References: City engineer, TMC [2.25.180](#); planning department, TMC [2.25.210](#).

Purpose and Applicability of Mixed Use Districts

Chapter 18.185 X MIXED USE DISTRICTS

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18.185.010 Purpose and regulations.

(a) Purpose. The mixed use districts ~~are unique to~~ 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, ~~utilizing the historic character of the area.~~ The X mixed use districts also serve to implement neighborhood and other specific land use plans of the Topeka 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. 17746 § 1, 11-13-01; Ord. 17502 § 1, 5-22-00. Code 1995 § 48-23a.00.)

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 in those areas envisioned for mixed use 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. 17746 § 2, 11-13-01; Ord. 17502 § 2, 5-22-00. Code 1995 § 48-23a.01.)

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 metropolitan plan for that area. The X district shall be identified as an area that merits special design 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.

Little Free Libraries

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.

* * *

“Little free libraries” are structures for the storage and donation of books or other non-perishable 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.

“Frontage” means any lot line abutting a public street right-of-way. (Ord. 19370 § 103, 3-23-10. Code 1995 Appx. C, Art. XXXV.)

Chapter 18.210 ACCESSORY USES

Sections:

- [18.210.010](#) Accessory uses.
- [18.210.020](#) Permitted uses.
- [18.210.030](#) *Repealed.*
- [18.210.035](#) Home occupations.
- [18.210.040](#) Fences.

18.210.010 Accessory uses.

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.

(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. 19921 § 136, 9-23-14.)

18.210.020 Permitted uses.

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.
- (7) Fences as regulated by TMC [18.210.040](#).
- (8) Gazebos, enclosed patios and similar buildings for passive recreational use.
- (9) Home occupations as regulated by TMC [18.210.035](#).
- (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 for a period not to exceed the duration of the construction project.

(19) Little free libraries and other similar donation receptacles associated with residential uses are limited to a height of 6 feet, a width of 2 feet, and volume of 6 cubic feet, and to a height of 6 feet, width of 4 feet, and volume of 10 cubic feet when associated with non-residential 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)(~~18~~19) of this section, the following shall be permitted:

Condition of Signs

18.10.100 Maintenance and removal.

(a) All signs ~~must~~ shall be maintained in good condition ~~and the owner thereof shall repair any signs when ordered to do so by the public works director, planning director or their designees.~~ (b) 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 ~~If any sign is not maintained in good condition so as to meet the approval of the public works director, planning director or their designees, then the public works director, planning director or their designees may order such sign to be~~ repaired or removed within a reasonable time as determined by the planning director. (Ord. 17906 § 2, 10-15-02; Code 1981 § 39-68. Code 1995 § 118-10.)

Accessory Dwellings

In land use matrix add a row for “Dwelling, Accessory” after “Dwelling, Multiple-Family”. It is allowed in M-1, M-1a, M-2, M-3, X-1, X-2, X-3, D-1, and D-2 districts.

Add to definitions:

18.55.040 “D” definitions.

* * *

“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.

Commercial Vehicles

18.55.030 "C" definitions.

* * *

"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 and one-half 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, ~~or~~ 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.

Definition of “Park”

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 ~~owned by or controlled by a governmental entity and~~ open to used 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.