

TOPEKA PLANNING COMMISSION

A G E N D A

Monday, July 20, 2015
6:00 P.M.

620 SE Madison
1st Floor, Holliday Conference Room
Holliday Building
Topeka, Kansas 66607

Members of the Topeka Planning Commission

Kevin Beck
Dustin Crook
Rosa Cavazos
Scott Gales, Chair
Dennis Haugh
Nicholas Jefferson, Vice Chair
Carole Jordan
Mike Lackey
Patrick Woods

Topeka Planning Staff

Bill Fiander, AICP, Planning Director
Carlton O. Scroggins, AICP, Planner III
Dan Warner, AICP, Planner III
Mike Hall, AICP, Planner III
Tim Paris, Planner II
Dean W. Diediker, Planner II
Annie Driver, AICP, Planner II
Susan Hanzlik, AICP, Planner II
Taylor Ricketts, Planner I
Kris Wagers, Office Specialist



ADA Notice: For special accommodations for this event, please contact the Planning Department at 785-368-3728 at least three working days in advance.

AGENDA ITEMS
Topeka Planning Commission
Monday, July 20, 2015 at 6:00 P.M.

A. Roll call

B. Approval of minutes – May 18, 2015

C. Communications to the Commission

**D. Declaration of conflict of interest/exparte communications
by members of the commission or staff**

E. Discussion Item

1. Downtown Zoning D-1 Conversion

F. Adjournment



CITY OF TOPEKA
TOPEKA PLANNING COMMISSION

MINUTES

Monday, May 18, 2015

6:00PM – Municipal Building, 214 SE 8th Street, 2nd floor Council Chambers

Members present: Nicholas Jefferson, Kevin Beck, Patrick Woods, Dennis Haugh, Dustin Crook, Carole Jordan (6)

Members Absent: Scott Gales, Rosa Cavazos, Mike Lackey (3)

Staff Present: Mike Hall, Planner III; Annie Driver, Planner II; Mary Feighny, Deputy City Attorney; Kris Wagers, Office Specialist

A) Roll Call

6 Members present for a quorum

B) Approval of Minutes from April 20, 2015

Motion to approve as typed; moved by Mr. Crook, second by Mr. Haugh. **APPROVED (6-0-0)**

C) Communications to the Commission – None

D) Declaration of conflict of interest/exparte communications by members of the commission or staff

– None

E) Action Items

1) **Request by residents of Stone Crest Subdivision to initiate rezoning**

Mr. Hall reviewed the staff report/information provided to the Commissioners.

Mr. Jefferson asked if any building permits had been requested or granted yet. Mr. Hall stated that none had yet come to Planning Department staff.

Mr. Jefferson asked the Commissioners if they would like to open the meeting for public comment. Mr. Beck moved to do so, stipulating that those wishing to speak should present new information rather than information that had been presented at the April Planning Commission meeting. Second by Mr. Crook; **unanimous affirmation.**

Speaking as a Stone Crest homeowner and petitioner, Mr. Jeff Wineinger came forward and introduced himself. He stated that he did not have any new information to speak of but thanked the Commission and Staff for the time and effort that had been spent. He stated that regardless of the decision made this evening, he would ask as a homeowner and representative that, if we run into these situations in the future where there's a potential conflict, the Planning Commission or Planning Department would

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get involved earlier in the process and perhaps change the zoning so future developments don't find themselves in the same situation.

Ms. Jordan asked if there had been any communication between the landowners and the petitioners in the last month. Mr. Wineinger stated that there was none he was aware of. He stated that he would have liked the landowners to be in attendance at the Planning Commission meeting rather than represented by an attorney.

Mr. Heptig, of Sloan Law Firm, came forward to speak for the landowners, explaining that he officially represents MTK Properties but the interest of the other landowner aligns with his client's so he will be speaking on behalf of both.

Mr. Heptig stated that since the last Planning Commission meeting, all 12 lots on the west side have been purchased and are owned by the entities that intend to put in the duplexes.

Mr. Heptig provided printed copies of the blueprints/rendered drawings of the planned duplexes, as well as the following information. The plans indicate the units will be just over 1,900 sq. feet. Permits have not been requested; the preference of the builder would be to space out the timing of the permitting, timing out construction so that all 12 units are not complete at once. If necessary, they do intend to apply for all the permits and construct all the units at once so to protect their investment.

Mr. Heptig stated that he and the developers understand the concern of the homeowners but at the end of the April Planning Commission meeting, the Commission asked what the real concern of the homeowners was. It seemed to be that of property values declining and that the rental properties not being taken care of. He stated that a change in zoning will not have the desired effect; duplexes will likely go in either way. He also stated that the concerns were also there even if there were single family homes built and it is not the place of the Planning Commission to try to regulate property maintenance.

Mr. Haugh asked if the developer plans to have a variety of exterior elevations or if the duplexes will be identical. Mr. Heptig stated that only the one floor plan had been presented.

Mr. Haugh asked if the developer guarantees the homes will meet the restrictions in the covenant. Mr. Heptig stated that under their interpretation of the covenant, the developers certainly do.

With no further questions from Commissioners, Mr. Heptig took his seat and Mr. Jefferson called for discussion among Commissioners.

Mr. Jefferson asked staff exactly what the Commission's options are. Mary Feighny stated that the options are to initiate re-zoning or to deny the request to re-zone.

Mr. Jefferson stated that he can sympathize with the petitioners, but in light of information provided by staff, there seems to be no precedent for initiating re-zoning in an instance such as this, and he's not sure it's entirely appropriate or justifiable.

Mr. Crook stated he thought Mr. Jefferson's comments were well-said. **Motion** to deny the requested rezoning of the affected property; moved by Mr. Crook, second by Mr. Haugh.

Discussion:

Mr. Beck stated that as he was contemplating the case, he thought of several reasons why he cannot support initiating a re-zoning of someone else's property. Trying to force that on somebody would be difficult and most likely we would face legal battles. Also, the property is zoned M-1 and always has been; it's in the covenants as such. He pointed out that even the properties on the east side are M-1 zoning and it's always been known that there could be either single family or two-unit structures on the properties. Mr. Beck stated he can sympathize with what the homeowners are attempting to do but he cannot support trying to initiate something like that.

Mr. Haugh stated that he sees two potential losses; the single family homeowners have a potential of devaluation of their property, hinging upon the aesthetics and upkeep of the development. On the other hand you have a developer who wants to build duplexes and if he's denied that right he has immediately lost value in his investment. It's not perceived, it's real; the investment is much reduced. He added that with due diligence he believes the initial owners of the single family homes knew it was an M-1 zoning and they always ran the risk of this happening.

Mr. Jefferson called for a vote. **APPROVED (6-0-0)**

F) Adjournment at 6:30PM



CITY OF TOPEKA

PLANNING DEPARTMENT
620 SE Madison Street, Unit 11
Topeka, Kansas 66607-1118
Tel.: (785) 368-3728
Fax: (785) 368-2535

MEMORANDUM

To: Topeka Planning Commission

From: Dan Warner, AICP, Comprehensive Planning Manager

Re: Downtown Zoning D-1 Conversion

Date: July 20, 2015

In recent years Downtown has seen increased investment and greater overall interest in its historic character. The City of Topeka invested \$5 million, which was matched with more than \$2 million of private investment, to upgrade the streetscape and utility infrastructure along Kansas Avenue.

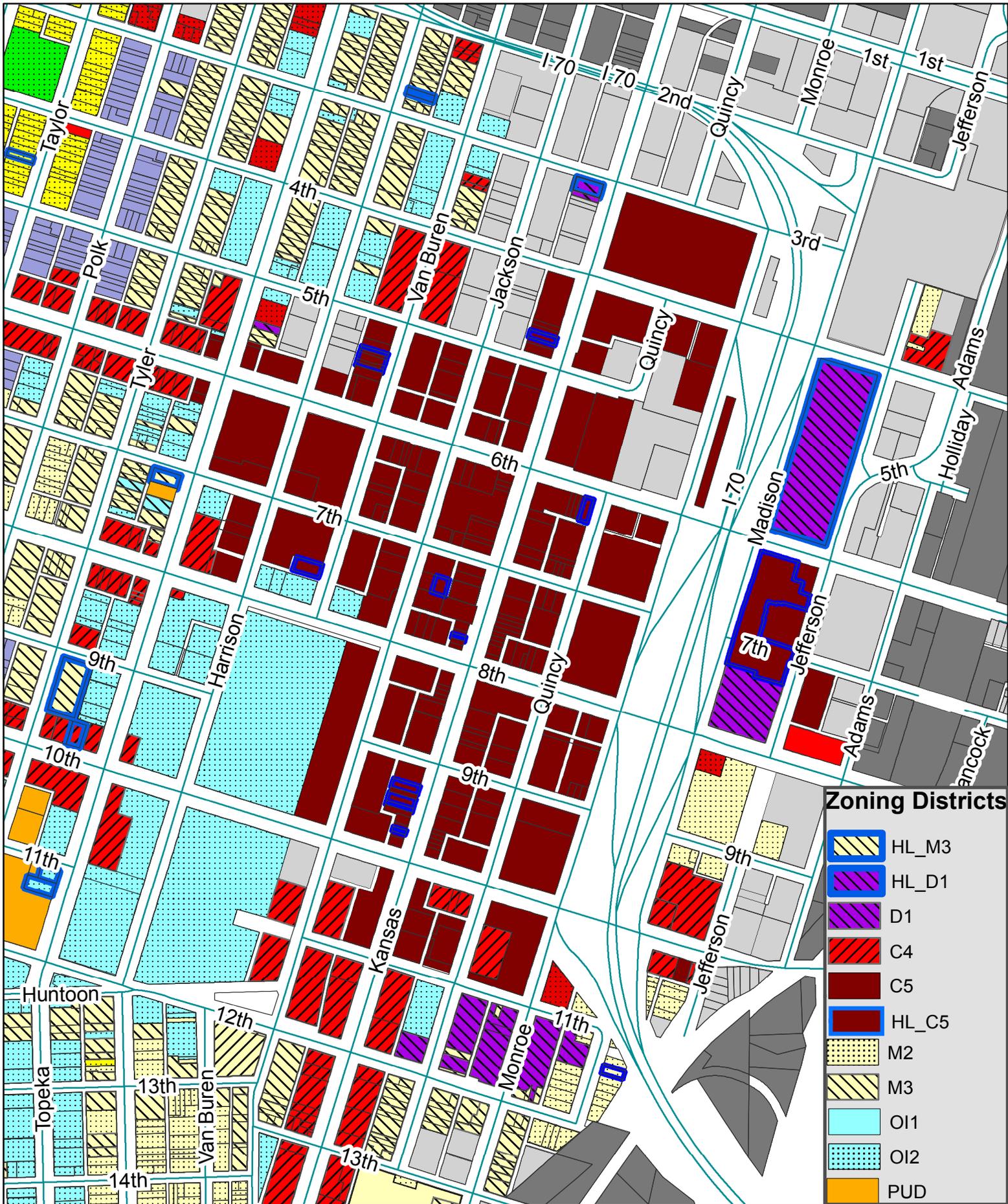
Additionally, two historic districts were added to the Register of Historic Kansas Places on May 10, 2015. A request for proposals has been issued to seek a qualified consultant to assist with writing specific design guidelines for the two historic districts.

The current C-5 downtown zoning does not protect mixed use or urban design character. The D-1 zoning does and further assures integrity of the historic districts. There are three components to the D-1 District:

- use matrix,
- design guidelines, and
- signs.

We would like to discuss each of these components with the Planning Commission, starting with the use matrix (see attached). In subsequent months, we will bring back the design guidelines and signs for additional discussion.

Staff is proposing to work with Downtown Topeka, Inc., stakeholders, and design professionals to review the three components. The goal is to put together a package of changes for the D-1 District that can be presented in public meetings to downtown property owners. The expectation is to bring this project to the Planning Commission for consideration while also working parallel with the Landmarks Commission on the approval of design guidelines for the two historic districts.



Downtown Zoning Map



		C-5 Commercial	D-1 Downtown Mixed Use	D-1 proposed changes
<div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;"> Differences between the C5 and proposed D1 D-1 proposed recommendations by staff </div> # = See Definition in Chapter 18.55 Topeka Municipal Code		Description		
Residential				
Assisted Living Facility #	has individual living units where at least 6 persons receive personal/nursing care	-	●	●
Bed & Breakfast Home #	owner-occupied home with up to 4 guest rooms	-	●	●
Bed & Breakfast Inn #	single-family dwelling for up to 10 guests	●	●	●
Boarding House #	dwelling where lodging, with or without food, for 3 - 20 persons is provided	-	●	●
Caretaker's Residence		-	-	-
Community Living Facility, Type I #	dwelling operation for short-term residential care for improving living skills	●	●	●
Community Living Facility, Type II #	dwelling operation for residential care providing an intermediate and primary treatment setting	●	●	●
Correctional Placement Residence or Facility General #	residential/rehabilitation facility occupied by more than 15 individuals	-	-	-
Correctional Placement Residence or Facility Limited #	residential/rehabilitation facility occupied by 3 to 15 individuals	-	-	-
Crisis Center, Type I #	may include meals and merchandise to residents	-	●	C
Crisis Center, Type II #	facility used for immediate human social service functions including meals, merchandise or shelter	-	●	C
Dwelling, Detached Single-Family #		-	-	-
Dwelling, Attached Single-Family #		-	-	-
Dwelling, Two-Family # (Duplex)		-	-	-
Dwelling, Three/Four-Family	includes 3-4 unit row or town houses #	-	-	-
Dwelling, Multiple-Family #	structure with at least 5 units	●	●	S
Dwelling Units Above Ground Floor or Basement	other than medical care & community living facility	●	●	●
Dwelling Units on main floor	subordinate to principal non-residential uses	S	S	S
Group Home #	licensed dwelling for up to 8 with disability & 1 or 2 staff	-	●	●
Group Residence, General #	dwelling occupied by 9 to 15 persons and at least 8 with a disability	-	-	-

Residential							
Group Residence, Limited #	dwelling occupied by up to 10 persons, up to 8 with a disability, and up to 2 staff	-	-	-			
Home Care, type I #	nonsecure dwelling with residential/nursing care for up to 8 care receivers	-	●	●			
Home Care, type II #	nonsecure dwelling with residential/nursing care for up to 12 care receivers	-	●	●			
Management/Leasing Facilities	for managing an onsite multi-family community	-	S/ C	●			
Medical Care Facility, type I #	dwelling for the personal nursing care & treatment for up to 2 persons	-	-	-			
Medical Care Facility, type II #	dwelling for the personal nursing care & treatment for more that 3 persons	●	●	●			
Mobile Home #, Manufactured Home #	residential structure manufactured off-site excluding "residential- design manufactured home"	-	-	-			
Residential-Design Manufactured Home #	At least 22' wide on a permanent foundation, pitched roof, and siding/ roofing materials similar to site built homes	-	●	-			
Residential Care Facility, Type I #	nonsecure dwelling in which residential care is provided for children and/or adults on 24-hr basis, up to 4 persons	-	●	●			
Residential Care Facility, Type II #	nonsecure dwelling in which residential care is provided for children and/or adults on 24-hr basis, up to 10 persons	-	●	●			
Residential Care Facility, Type III #	nonsecure dwelling in which residential care is provided to children and/or adults on a 24-hour basis	-	-	-			
Student or Faculty Housing		-	-	-			

		C-5 Commercial	D-1 Downtown Mixed use	D-1 proposed changes
<div style="border: 1px solid black; padding: 5px; width: fit-content;"> <div style="display: flex; align-items: center; margin-bottom: 5px;"> <div style="width: 15px; height: 15px; background-color: yellow; border: 1px solid black; margin-right: 5px;"></div> Differences between the C5 and proposed D1 </div> <div style="display: flex; align-items: center;"> <div style="width: 15px; height: 15px; border: 2px solid red; margin-right: 5px;"></div> D-1 proposed recommendations by staff </div> </div>				
# = See Definition in Chapter 18.55 Topeka Municipal Code	Description			
Civic, Cultural and Recreational				
Art and Portrait Galleries Artist Studios	Framing and sales of pictures and frames must be subordinate to the principal use	●	●	●
Cemetery #	See standards in Chapter 18.225 TMC	-	-	-
Class "A" & "B" Clubs #	as licensed by state alcohol beverage control board (e.g. ELKS)	●	●	●
Club or Lodge, Private # (excludes Class "A" & "B" Clubs)	organization for social, educational, or recreational purposes. Not licensed by the State.	●	●	●
Common Open space # (within a development and for its occupants)	natural areas and passive recreational facilities only	●	●	●
Community Center #	building open to the public for recreational and/or educational activities	●	●	●
Cultural Facility #, Museum # Library		●	●	●
Day Care Facility, Type I #	dwelling unit where care is provided for up to 12 children and/or adults	-	●	●
Day Care Facility, Type II # (Includes Child Cares and Pre-Schools)*	structure where care is provided for children and/or adults	S	●	●
Fairgrounds		-	-	-
Farmers' Market #	Conditional Uses in R & M Districts are limited to 2.5-acre or larger sites	●	●	●
Gardens, Community Type I #	No permanent sales	S	S	S
Gardens, Community Type II #	Sales/Non-Type I Standards	S	C	C
Golf Course #, Country Club #		-	-	-
Government Services, Type I	government administrative offices and services	●	●	●
Government Services, Type II	police, fire, and ambulance stations	●	●	●
Open Spaces		●	●	●

Civic, Cultural and Recreational				
Private Residential Recreational Facility (allows clubhouses; "Recreation, Indoor Type I"; and "Recreation, Outdoor Type I" uses)	located within a residential project and only for its residents and their guests	-	●	●
Park #	owned or controlled by public	●	●	●
Public Utility Facilities, Type I # (See Section 18.50.100(c)(1) of Topeka Municipal Code)	non-major facilities are exempt from zoning use restrictions	●	●	●
Public Utility Facilities, Type II # (See Section 18.50.100(c)(1)(i,ii,iii) of Topeka Municipal Code)	major facilities including: pump stations, towers, treatment plants, etc.	C	C	C
Reception, Conference, and Assembly Facilities	For Conditional Uses see Section 18.225 TMC	●	●	●
Recreation, Indoor Type I # (lower intensity recreational uses)	Indoor pools, fitness clubs, skating rinks, gyms, dancing, martial arts, etc.	●	●	●
Recreation, Indoor Type II # (higher intensity recreational uses)	pool & billiard halls, bowling alleys, arcades, indoor amusement parks, etc.	C	C	C
Recreation, Outdoor Type I # (low intensity recreational uses)	tennis, basketball & shuffle board courts, pools, golf courses, horse shoes, etc. in conjunction with a residential community	●	●	●
Recreation, Outdoor Type II # (medium intensity recreation uses)	batting cages, dog parks, miniature golf, driving ranges, model airplanes airfields, riding academies, etc.	●	●	-
Recreation, Outdoor Type III # (high intensity recreation uses)	go kart tracks, horse and auto race tracks, drag strips, amusement and motorized kiddie parks; and sport stadiums, complexes and arenas, etc.	-	●	-
Religious Assembly #		●	●	●
RV Short-Term Campgrounds #	has at least 24 campsites	●	-	-
Schools #, Public or Private Educational Facility #	elementary school # and secondary school #	●	●	●
School, Business and Vocational School #	includes technical colleges and training academies	●	●	●
Youth Camps	retreats for scouting, etc	-	-	-

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# = See Definition in Chapter 18.55 Topeka Municipal Code	Description	C-5 Commercial	D-1 Downtown Mixed Use	D-1 Proposed Changes
Commercial/Office				
Animal Care and Services type I#	for common household pets in an enclosed building	S	●	S
Animal Care and Services type II#	services within an enclosed building	-	-	-
Auction House		●	-	-
Automobile or Vehicle Carwash #		S	-	-
Automotive Rental Establishments		●	-	-
Auto Service Station, type I #	convenience store with gas sales	S	●	S
Auto Service Station, type II #	excludes drive-train work	S	●	S
Auto Service Station, type III #	includes drive-train work	C	C	C
Automobile Sales & Service	excludes heavy duty vehicles and type III auto services	S	-	-
Automobile, Boat, Truck, Heavy & Ag Equipment, Sales/Services	includes heavy-duty trucks, rec. vehicles, trailers and type III service	-	-	-
Automobile or Vehicle Tow Lot and Body Shop	not including wrecking yards or long-term storage of disabled vehicles	-	-	-
Bakery (Commercial)	including wholesale distribution	-	-	-
Bank/Financial Institution	includes drive-through facilities/ATM.	●	●	●
Bars and Taverns	includes allowing a microbrewery as an accessory use	C	●	●
Billboard/Panel Poster Sign # (See Section 18.25.110 TMC)	off-premise advertising signs	●	C	C
Billboard, Modified Legal Non-Conforming Billboards	relocation, remodeling or rebuilding of legal non-conforming billboards	-	-	-
Body Art Service/ Tattooing, Body-Piercing	excludes ear-piercing only	●	●	●
Brew Pub #	includes a microbrewery as an accessory use	●	●	●

Commercial/Office				
Building, Construction, & Mechanical Contractor Office	showroom, shop & sales including plumbing, heating, air, electrical, etc.	●	-	-
Catering		●	●	●
Check cashing/pay-day loans/title loans		●	●	●
Funeral Home, Mortuary # without Crematorium	Includes the display and sale of related products	●	●	●
Funeral Home, Mortuary # with Crematorium	Includes the display and sale of related products	●	●	●
Grave Monuments & Markers	includes display but not stone engraving or cutting.	●	●	●
Gun Ranges, Indoor		-	-	-
Health Services #, Clinic #, Health Care Facility #	May include a pharmacy as part of the facility	●	●	●
Home Improvement & Building Supply	outdoor display, storage limited to only C-4 & I	●	●	●
Labor Pools #		-	-	-
Hospital #	institution providing inpatient health services, medical or surgical care, and related facilities	●	●	●
Hotel #, Motel #	commercial establishment providing sleeping rooms for overnight guests	●	●	●
Lawn/Garden Centers	landscape materials, lawn & garden equipment and supplies	-	-	-
Liquor Sales, Packaged Goods		●	●	●
Manufactured Housing & Accessory Structure Sales		-	-	-
Medical Equipment	Hearing aids, eyeglasses, prosthesis stores, etc.	●	●	●
Office #, Professional Office #	includes medical offices	●	●	●
Oil/Gas Well Drilling		-	-	-
Parking, Surface Lot - As a stand alone Principal Use	temporary storage of vehicles as a principal use	C	C	C
Parking, Surface Lot, in association with a Principal Use.	temporary storage of vehicles as a principal use	C	C	C

Commercial/Office			
Parking Garage, (Multi-Level)	temporary storage of vehicles as a principal use	●	●
Patio/Garden, Hardware		●	●
Pawn Shops/Second Hand Shops	For outdoor display, see Retail Merchandise Outdoor Display	●	S
Personal Services #	including beauty & barber shops, laundromats, dry-cleaning, tailors, tanning salons, etc.	●	●
Pet Shops		●	●
Pharmacy # & Drugstores	retail sales of drugs, prosthesis, rehabilitation equipment & medicine.	●	●
Printing/ Copy Center		●	●
Radio & TV Broadcasting/ Recording Studio		●	●
Rental Establishment	general equipment and domestic items	-	-
Restaurant, Family Dining, carry-out # (Delicatenssen)	limited to 50 seats and no drive-throughs in C-1.	●	●
Restaurant, drive-in # Restaurant, fast-food #	Definitian 18.55 is not clear that this would not prohibit all fast food restuarants (w/o drive thrus) in D1	S	-
Retail Merchandise, Outdoor Display	no truck bodies or cargo containers used for storage in any district except in I-1 and I-2	-	-
Retail Sales/Service #	sale and repair of items having a low intensity	●	●
Gun Sales and Service		●	-
Theaters #	enclosed structure used for performances for admitted audiences	●	●
Tobacco Shop		●	●

		C-5 Commercial	D-1 Downtown Mixed Use	D-1 Proposed changes
<div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;"> Differences between the C5 and proposed D1 </div> <div style="border: 1px solid black; padding: 5px;"> D-1 proposed recommendations by staff </div>				
# = See Definition in Chapter 18.55 Topeka Municipal Code	Description			
Industrial				
Airport	including landing strips & heliports	-	-	-
Agriculture #	agricultural activity and the production, storage, processing of agricultural products	-	-	-
Agricultural Product Sales & Storage	storage & retail sales of raw food material, fertilizers, pesticides, and similar products for crop/livestock production	-	-	-
Bottling Works		-	-	-
Contractor Yards		-	●	-
Heliport	heliport only	-	-	-
Landfill, Demolition #		-	-	-
Landfill, Sanitary #		-	-	-
Laundry, Commercial #; Dry-Cleaning, Dyeing		●	-	●
Machinery and Equipment Repair and Restoration		-	-	-
Manufacturing/Processing Type I #	few if any off-site impacts	-	-	-
Manufacturing/Processing Type II #	up to medium off-site impacts	-	-	-
Manufacturing/Processing Type III #	potential for significant off-site impacts	-	-	-
Microbrewery#	in X & D Districts limited to 5,000 barrels per year. Taprooms allowed in C-5, X-3 & D-1	C	C	C
Publishing Establishments and Distribution		●	-	-
Raw Material Extraction	extraction, processing, storage, and sale of these materials	-	-	-
Recycling Depot	collection, storage, & processing of recyclables	-	-	-
Research Lab #, Testing or Development Laboratory	facility for scientific investigation or engineering & development	●	●	●
Railroad Facilities		-	-	-

Industrial				
Self-Storage, type I #	Indoor storage with indoor access	-	-	-
Self-Storage, type II (allows boat/RVs) #	Indoor and outdoor	-	-	-
Small Wind Energy System	Non-residential use only	C	C	C
Storage of non-merchandise, outdoor	in C-4 and I-1 see Retail Merchandise Outdoor Display. No truck bodies or cargo containers used for storage except in I-2	-	-	-
Tower, Communication #, Transmission Tower #	ground-mounted free-standing structure transmitting or receiving tv , radio, & microwave frequencies	S	C	C
Towers, Receiving and Commercial Broadcasting	For radio and television	-	-	-
Truck/Freight/Bus Terminal	In <u>D-1</u> bus terminal only	●	-	●
Warehouse #, Storage #, Distribution Facilities	structure for storing goods, wares, and merchandise	-	-	-
Welding, Tinsmithing & Machine Shop		-	-	-

Density and Dimensional Standards			
		D1 Downtown District	C5 Commercial District
Standards	Notes	Districts	
Lot Standards			
Minimum Lot Area (sq. ft.)	New lots	None	None
Maximum Density	Dwelling units/a	-	-
Maximum Building Coverage	% of lot area	100	100
Minimum Lot Width (ft.)		25	25
Setbacks (ft.) [1,2,7,10]	Front [5]	0	0
	Side [4,7,10]	0	0
	Rear [4,10]	0	0
Maximum Height (ft.) [3,6,8] [5,6]		None	None
Accessory Buildings (Detached)			
Maximum Accessory Building Coverage Ratio	% of principal building coverage	-	-
Setbacks (ft.) [1,2]	Front [9,11]	-	-
	Side [10,14,15]	-	-
	Rear [10,14]	-	-
	From other buildings [12]	6	6
Minimum Garage Entry Setback (ft.)	front entry [9]	-	-
Minimum Garage Entry setback (ft.)	rear entry (from alley)	-	10
Minimum Garage Entry Setback (ft.)	side entry (from alley)	-	5
Maximum Height (ft.) [3, 7,13]		-	-

Notes:							
[1] If the recorded plat of subdivision provides greater setbacks, the provisions of the plat shall prevail.							
[2] The side yard of a corner lot and rear yard of a double frontage lots shall conform to the minimum front yard requirements of the district.							
[3] Height restrictions of Airport Overlay District may be more restrictive.							
[4] "I" Districts: 10' rear or 7' side yard setback where that yard abuts any residential dwelling district.							
[5] "I" Districts: Where the frontage along one side of the street in that block abuts a residential district, then, the front yard requirements of the residential district shall apply.							
[6] "U" District : Minimum yard requirments and maximum height shall be in accordance with the approved Master Development Plan.							
[7] "MS-1" District: The side setbacks are 5' for buildings up to 50' in height and 10' for buildings taller than 50' in height.							
[8] "MS-1" District: Any other building or structure that is not a hospital shall not exceed a height of 100 feet; however, if located within 150 feet of the boundary of the district, it shall not exceed a height of 50 feet.							
[9] "X" Districts: Setbacks with a range are determined at the discretion of the Planning Director.							
[10] "X-2" District: Side and rear yard setbacks may be reduced if not abutting residential uses, as determined at the discretion of the Planning Director.							
[11] Accessory structures shall not be located within a required front yard or beyond the front face of the principal structure, whichever is more restrictive. However, a minimum setback of 20 feet from all street rights-of-way shall be provided for roadside stands, garages and carports. If, in the judgment of the planning director, construction of a roadside stand, garage or carport is compatible with the neighborhood, in respect to availability of land for public sidewalks, right-of-way needs, and the location of structures within the block, then such construction							
[12] Setback from Principal Building. No portion of an accessory building, except for a carport, shall be located closer than six feet to the principal building or another accessory building on the same lot. However, an unenclosed breezeway may be extended between the principal structure and the accessory structure for the purpose of providing a covered walkway. In no event shall the construction of a covered walkway or a detached carport located next to another building be deemed to join the principal and accessory structures into one principal structure.							
[13] Maximum Height. In the "MS-1", "X", and "D-2" districts accessory buildings and structures shall not exceed 15 feet when the principal building is one-story or 20 feet when the principal building is two-stories or more.							
[14] The Accessory building (detached) side and rear setbacks only applies to residential uses in the "X" and "MS-1" Districts.							
[15] An unenclosed carport located less than 6 feet from the principal building may extend to within 3 feet of a side yard. <u>property line.</u>							
[16] (i) In " C-5 " "D-1" District, no building hereafter erected or structurally altered shall exceed a height at the street line which is greater than the width of the street times a factor of three. An additional height of six feet may be added for each one foot the building or structure is set back from the front property line or street line. The street line shall mean the right-of-way line or property line at the front of the lot, lots or building site. On corner lots, and where the widths of the two intersecting streets are varied, the larger street width shall be used to determine the height of any building or structure.							
(ii) Exception. Within the state zoning area, as defined by K.S.A. 75-3630, the height of structures and buildings shall be regulated in accordance with the following provisions: no building shall exceed a height at the street line of six stories or 75 feet, but above the height permitted at the street line three feet may be added to the height of the building for each one foot that the building or portion thereof is set back from all sides of the lot, except that the cubical contents of such building shall not exceed the cubical contents of a prism having a base equal to the area of the lot and a height equal to two times the width of the street; provided, however, that a tower with a base not to exceed 20 percent of lot area not to have any side greater than 60 feet nor to have any wall closer than 20 feet to any lot line, may be constructed without reference to the above limitations. Any applicable provisions of Chapter 18.225 TMC shall apply to buildings erected in this district.							

Chapter 18.225 SPECIFIC USE REQUIREMENTS

Sections:

[18.225.010](#) Special use requirements.

Cross References: City council – mayor, Chapter 2.15 TMC; department of public works, TMC 2.25.170; planning department, TMC 2.25.210; planning commission, Chapter 2.65 TMC; traffic engineer, TMC 10.10.010.

18.225.010 Special use requirements.

The special uses identified in the use matrix table at TMC 18.60.010 are subject to the additional requirements of this chapter. In case of any conflict between the regulations of the district in which the use is allowed and the additional regulations of this chapter, the most restrictive regulations shall govern:

(a) Automobile or Vehicle Dealership. This use includes the sales, leasing, and service of vehicles and trailers having a gross vehicle weight rating over 12,000 pounds, watercraft, recreational vehicles, heavy construction equipment, and agricultural equipment.

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

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

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

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

(b) Automobile or Vehicle Car Wash Facility.

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

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

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

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

(5) The traffic circulation plan for the facility shall be subject to the approval of the traffic engineer or authorized designee of the public works department.

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

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

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

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

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

(d) Automotive Service Station.

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

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

(i) Lubrication.

(ii) Tire repair and replacement.

- (iii) Brake repair and wheel balancing and alignment.
- (iv) Muffler and exhaust system repair and replacement.
- (v) Shock absorber and strut replacement.
- (vi) Engine adjustment (tune-up).
- (vii) Replacement of pumps, cooling systems, generators, alternators, wires, starters, air conditioners, bearings and other similar devices.
- (viii) Radio, GPS, rear cameras, and similar electronics installation and repair.
- (ix) Glass replacement.
- (x) Trailer hitch and wiring installation and repair.
- (xi) And other similar repair and replacement services normally deemed to be emergency and convenience services; however, the same shall not include drive train units such as the engine, transmission or drive components.

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

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

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

- (1) Storage of damaged vehicles needing body shop repairs shall only be parked on paved areas in rear yards or screened from view from public roadways.
- (2) Vehicle wrecking and dismantling for salvage purposes are prohibited.
- (3) Each disabled vehicle is limited to 30 days of on-site storage.
- (4) A solid, opaque screen, fence or sight prohibitive landscaping shall be provided along lot lines adjoining residential property at a height of not less than six feet except in front yards where it may

be reduced to three feet or replaced with shrubs designed to grow two to three feet in height.

(f) Cemetery.

(1) Areas. Any cemetery established after the effective date of the ordinance codified in this division shall be located on a site containing not less than 20 acres.

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

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

(4) All on-site private drive locations and their widths shall be reviewed by the traffic engineer or designee of the applicable department of public works in respect to providing efficient vehicular access and traffic flow; and to minimize vehicle conflict with pedestrians. Development of the cemetery shall not commence until approval of the aforementioned drive locations and their widths have been secured.

(g) Community Gardens.

(1) All community gardens shall be allowed only after the owner or applicant has registered the community garden with the planning department and has paid a fee of \$50.00. The planning director shall adopt administrative procedures necessary to govern the registration requirements and ensure compliance with the requirements.

(2) Community gardens shall be the primary use of the lot. The gardens may be divided into plots for cultivation by one or more individuals and/or groups or may be cultivated by individuals and/or groups collectively.

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

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

- (5) Cultivation equipment shall not exceed the size of a compact utility tractor and its accessories.
- (6) The cultivated area shall have a minimum setback of three feet from all property lines. Crops planted in any minimum front yard setback are limited to those that will grow to a height of four feet or less (e.g., four feet maximum in the front 30 feet).
- (7) Dead garden plants shall be removed regularly and no later than November 30th of each year.
- (8) Weeds, grass, undergrowth and uncultivated plants shall not exceed a height of 12 inches.
- (9) Compost bins shall be set back at least 10 feet from all side and rear property lines and 25 feet from the front property line. Compost bins shall be screened and maintained in such a manner as to not attract insects, vermin, reptiles and other animals. Appropriate best management practices shall be used to minimize odor.
- (10) The site shall be designed and maintained so that no water, fertilizers, or pesticides drain onto adjacent property.
- (11) The entire site shall be maintained in a manner, including noise and odors, so that it complies with Chapter 8.60 TMC.
- (12) Signage is limited to one permanent identification sign per property frontage consisting of up to 10 square feet per sign face and temporary signs are allowed in accordance with TMC 18.25.230(a).
- (13) Orchards and tree farms shall meet the front yard setback for their zoning district and shall be set back at least 15 feet from all other property lines, with the measurements based on the nearest part of the trees' canopies.
- (14) Accessory structures for type I community gardens are limited to the following standards.
 - (i) Accessory structures may include storage buildings, green houses, high tunnels and hoop houses maintained in good condition.
 - (ii) Maximum height of 12 and one-half feet.
 - (iii) Maximum lot coverage for structures shall be calculated based on the cultivated area for the community garden, including pathways. Maximum lot coverage for structures shall be 10 percent or less than 150 square feet, whichever is greater.
 - (iv) Storage buildings are limited to less than 150 square feet and may only be used for storing garden equipment and materials used on site.

(v) Each structure shall meet the required setbacks from property lines as outlined in TMC 18.210.030(a)(2). If the area of cultivated land exceeds one acre, a 50-foot setback is required between properties with existing dwelling units and any cultivated area or accessory structures.

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

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

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

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

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

(h) Day Care Facility, Type I.

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

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

(i) Day Care Facility, Type II.

(1) An on-site automobile drop off/pickup area for a minimum of two vehicles shall be provided for a facility which only has street frontage on a roadway that is classified as a collector or arterial roadway on the Shawnee County functional classification of roadways map; and said drop off/pickup shall be provided in accordance with any applicable provisions of said plan.

(j) Demolition Landfill.

(1) The applicant shall submit documentation showing compliance with all licenses or permits required by the State Department of Health and Environment prior to construction and within 30

days of renewal of any state licenses and permits. The site shall maintain a neat appearance along all public road frontages and along all property boundaries abutting residential zoning districts.

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

(1) The units must be subordinate to nonresidential uses on the main floor; or

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

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

(1) Site Plan. A site plan prepared by a registered civil engineer, drawn to scale on a sheet measuring 24 inches by 36 inches in size and including the following:

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

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

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

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

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

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

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

(viii) Show location of at least five borings, which show depths to ground water.

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

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

(i) North point, scale and date.

(ii) Extent of area to be excavated.

(iii) Location, dimension and intended use of proposed structures.

(iv) Location of all areas on the property subject to inundation or flood hazard, and the location, width, and directions of flow of all watercourses and flood control channels that may be affected by the excavation.

(v) Benchmarks.

(vi) Typical cross-section, at sufficient intervals, showing the extent of overburden, extent of sand and gravel deposits or rock, and the water table.

(vii) Identification of processing and storage areas, the boundaries of which to be shown to scale.

(viii) Proposed fencing, gates, parking areas and signs.

(ix) Sequences of operation showing approximate areas involved shall be shown to scale and serially numbered with a description of each.

(x) Ingress/egress roads including on-site haul roads and proposed surface treatment and means to limit dust.

(xi) A map showing access routes between the property and the nearest arterial road.

(xii) Location of screening berms shall be shown to scale, and notes shall be provided indicating when they will be used as reclamation material. In the same manner overburden storage areas shall be identified and noted.

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

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

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

- (i) The approximate date of commencement of the excavation and the duration of the operation.
- (ii) Proposed hours of operation and days of operation.
- (iii) Estimated type and volume of the excavation.
- (iv) Method of extracting and processing, including the disposition of overburden or top soils.
- (v) Equipment proposed to be used in the operation of the excavation.
- (vi) Operating practices proposed to be used to minimize noise, dust, air contaminants, and vibration.
- (vii) Methods to prevent erosion and pollution of surface or underground water.

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

- (i) A statement of planned reclamation, including methods of accomplishment, phasing, and timing.
- (ii) A plan indicating: the final grade of the excavation; any water features included in the reclamation and methods planned to prevent stagnation and pollution; landscaping or vegetative planting; and areas of cut or fill. This plan, if clearly delineated, may be included with the site plan. For quarry applications, the final grade shall mean the approximate planned final grade.
- (iii) A phasing plan, if the excavation of the site is to be accomplished in phases. This plan shall indicate the area and extent of each phase and the approximate timing of each phase.
- (iv) The method of disposing of any equipment or structures used in the operation of the excavation upon completion of the excavation.
- (v) Show location of any proposed streets within the reclaimed area and their connection to present public streets beyond.
- (vi) Show location of any lakes, ponds, or streams proposed within the reclaimed area and their connections to streams or drainageways beyond.

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

(m) Golf Course – Country Club.

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

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

(3) All patron parking lots, clubhouses and recreational facilities other than those for golf, shall be located a minimum distance of 500 feet from all property boundaries of the golf course or country club.

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

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

(n) Indoor Gun Range.

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

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

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

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

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

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

site distance triangles, as outlined in TMC 12.20.020.

(p) Reception, Conference and Assembly Facility.

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

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

(i) Maximum occupant load at any one time.

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

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

(B) Any permitted outdoor activities.

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

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

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

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

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

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

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

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

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

(r) Religious Assembly.

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

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

(s) Relocation, Remodeling or Rebuilding of Legal Nonconforming Billboards. No application for a conditional use permit to relocate, remodel, or rebuild an existing legal nonconforming billboard shall be approved unless the governing body, upon recommendation by the planning commission, shall determine that the proposed billboard is appropriate in the location proposed based upon its consideration of the standards set forth below.

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

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

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

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

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

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

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

(8) No billboard to be relocated shall be placed within 300 feet of a residential dwelling, which fronts on the same street right-of-way, nor within 500 feet of any religious assembly or public or

private elementary or secondary school on the same street.

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

(10) No billboard shall be so designed to include the vertical stacking of billboards on the sign pole. Each billboard shall be comprised of a single sign face oriented in a given direction. This provision does not preclude double sided billboards where arranged back to back on the sign pole.

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

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

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

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

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

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

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

(u) **Retail Merchandise Outdoor Display.** Items for sale that are displayed outside buildings, exclusive of very large items such as vehicles and construction materials, shall meet the following standards:

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

(2) Screening shall be provided between the merchandise being stored and residentially zoned

properties when the merchandise is located in a side or rear yard next to residentially zoned properties. Merchandise shall not be stacked higher than the screening in this area.

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

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

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

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

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

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

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

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

(w) Animal Care and Services, Type I.

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

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

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

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

(1) A site plan or plans drawn to scale of one inch equals 30 feet or larger and identifying the site boundary; tower(s); guy wire anchors; existing and proposed structures; vehicular parking and access; existing vegetation to be retained, removed, or replaced; and uses, structures, and land

use designations on the site and abutting parcels.

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

(3) The applicant shall provide written communications obtained from the Federal Communications Commission and the Federal Aviation Administration indicating whether the proposed tower complies with applicable regulations administered by that agency or that the tower is exempt from those regulations. If each applicable agency does not provide a requested statement after the applicant makes a timely, good-faith effort to obtain it, the application is complete. The applicant shall send a subsequently received agency statement to the planning director.

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

(y) Vehicle Surface Parking Lot.

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

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

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

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

(z) Bed and Breakfast Home.

(1) Specific Requirements. Requests to establish a bed and breakfast home shall conform to all of the following requirements:

(i) The bed and breakfast shall operate as an ancillary use to the principal use of the residence as a single-family dwelling.

(ii) The bed and breakfast shall be located in an existing single-family dwelling and no new structure shall be built expressly for a bed and breakfast establishment.

- (iii) The bed and breakfast shall be operated within the single-family dwelling and not in any accessory structure.
- (iv) The primary entrance to all guestrooms shall be from within the dwelling. A guestroom can retain an original secondary exterior entrance opening onto a porch or balcony.
- (v) The exterior of the dwelling and premises shall outwardly remain and appear to be a single-family dwelling giving no appearance of a business use.
- (vi) Individual guestrooms shall not contain cooking facilities.
- (vii) The bed and breakfast shall not be used for weddings, receptions, parties, business meetings, or similar such activities.
- (viii) One nonilluminated nameplate sign, attached flat on the face of the principal dwelling, shall be permitted not to exceed nine square feet. The nameplate shall be styled and detailed architecturally with the principal building and shall be limited to the name of the bed and breakfast or owner or both.
- (ix) Retail sales of a nature clearly incidental and subordinate to the primary use of the premises as a bed and breakfast establishment shall be permitted subject to the following requirements:
 - (A) The merchandise offered for sale shall be confined to the dwelling and not located within a garage or accessory structure, whether attached or detached.
 - (B) Merchandise offered for sale shall be restricted to that produced on site; souvenir items bearing the name and/or logo of the establishment; and those items customarily provided for the convenience of resident guests.
 - (C) There shall be no advertising, display or other indication of merchandise offered for sale on the premises.
 - (D) No commercial telephone listing, newspaper, radio or television service shall be used to advertise the sale of merchandise.
 - (E) The total area devoted to the display or merchandise shall not exceed five percent of the gross floor area of the dwelling, excluding an attached garage.

(aa) Bed and Breakfast Inn.

(1) Specific Requirements. Requests to establish a bed and breakfast inn shall conform to all of the following requirements:

- (i) The bed and breakfast shall be located in an existing single-family dwelling and no new structure shall be built expressly for a bed and breakfast establishment.
- (ii) The bed and breakfast shall be operated within the single-family dwelling and not in any accessory structure.
- (iii) The primary entrance to all guestrooms shall be from within the dwelling. A guestroom can retain an original secondary exterior entrance opening onto a porch or balcony.
- (iv) The exterior of the dwelling and premises shall outwardly remain and appear to be a single-family dwelling giving no appearance of a business use.
- (v) Individual guestrooms shall not contain cooking facilities.
- (vi) One nonilluminated nameplate sign, attached flat on the face of the principal dwelling, shall be permitted not to exceed nine square feet. The nameplate shall be styled and detailed architecturally with the principal building and shall be limited to the name of the bed and breakfast or owner or both.
- (vii) Retail sales of a nature clearly incidental and subordinate to the primary use of the premises as a bed and breakfast establishment shall be permitted subject to the following requirements:
 - (A) The merchandise offered for sale shall be confined to the dwelling and not located within a garage or accessory structure, whether attached or detached.
 - (B) Merchandise offered for sale shall be restricted to that produced on site; souvenir items bearing the name and/or logo of the establishment; and those items customarily provided for the convenience of resident guests.
 - (C) There shall be no advertising, display or other indication of merchandise offered for sale on the premises.
 - (D) No commercial telephone listing, newspaper, radio or television service shall be used to advertise the sale of merchandise.
 - (E) The total area devoted to the display or merchandise shall not exceed five percent of the gross floor area of the dwelling, excluding an attached garage.

(F) In the RR-1 district, a bed and breakfast inn shall not be established on less than a three-acre parcel. In all other districts where permitted, a bed and breakfast inn shall be established on a parcel having a minimum size equivalent to 500 square feet per guestroom plus the minimum lot area of the district, for a single-family dwelling, in which located.

(G) Social events such as weddings, receptions, parties, business engagements or similar activities may be accommodated in conjunction with a bed and breakfast inn, subject to the following requirements:

- a. The scheduling and conduct of social events shall be incidental and subordinate to the principal use of the premises as a bed and breakfast inn.
- b. All scheduled events shall be by prearranged contract or agreement. Such event shall not be open to the general public.
- c. No amplified sound or music, noise or glare shall be allowed outside the inn nor be perceptible from beyond the property line.
- d. Social events shall be restricted to between the hours of 9:00 a.m. and 11:00 p.m.
- e. Submission of a plan of operation which shall include:
 1. Types of social events anticipated to be scheduled at the inn including the types of services to be offered in conjunction with a social event and the anticipated maximum number of guests to be accommodated.
 2. Days of the week and hours of operation for which social events would be scheduled.
 3. Any permitted outdoor activities and the location on the premises that may be used for such activities.
 4. Supervision of guests and arrangements for enforcement of any provisions of the conditional use permit, when applicable.
 5. Any proposed screening, buffering, or landscaping to mitigate potential negative effects.
 6. Arrangements for parking. Specify the added number and location of guest parking in conjunction with social events. Additional on-site parking shall not interfere with accessing guest parking spaces nor conflict with internal traffic circulation.

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

(bb) Management/Leasing Office and Maintenance Facility.

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

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

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

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

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

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

(cc) Automobile Rental Establishments.

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

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

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

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

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

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

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

(dd) Group Residence, General – Group Residence, Limited – Correctional Placement Residence or Facility, General – Correctional Placement Residence or Facility, Limited – Home Care, Type II. In considering an application for a conditional use permit for a correctional placement residence or facility, general; a correctional placement residence or facility, limited – home care, type II; a group residence, general; or a group residence, limited, the planning commission and governing body will give consideration to the following criteria:

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

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

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

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

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

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

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

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

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

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

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

(12) The recommendation of professional staff. (Ord. 19921 § 139, 9-23-14.)