

1 (Published in the Topeka Metro News August 29, 2011)

2  
3 **ORDINANCE NO. 19628**

4  
5 AN ORDINANCE introduced by Daniel R. Stanley, Acting City Manager, amending  
6 City of Topeka Code § 18.210.030 and 18.230.030, concerning  
7 setbacks and specifically repealing said original sections.  
8

9 BE IT ORDAINED BY THE GOVERNING BODY THE CITY OF TOPEKA:

10  
11 Section 1. That section 18.210.030, Accessory regulations, of The Code of the  
12 City of Topeka, Kansas, is hereby amended to read as follows:

13 **Accessory regulations.**

14 (a) Detached Accessory Uses and Buildings. In all districts, except as  
15 otherwise provided, detached accessory uses and buildings shall be subject to the  
16 following requirements:

17 (1) Time of Construction. No accessory building shall be constructed or  
18 established more than 120 days prior to the time of completion of the  
19 construction or establishment of the principal building or use to which it is an  
20 accessory.

21 (2) Setback from Property Lines. Except as otherwise provided, an  
22 accessory building shall be separated from lot lines in compliance with the  
23 following requirements:

24 (i) Accessory structures shall not be located within a required  
25 front yard ~~as established by the comprehensive zoning regulations for~~  
26 ~~interior and corner lot street frontages; and further, except for roadside~~  
27 ~~stands, garages and carports, accessory structures shall observe interior~~  
28 ~~and corner lot street frontage~~ or beyond the front yard setbacks as

29 ~~established by~~face of the principal structure, whichever is more restrictive.  
30 ~~In all instances~~However, a minimum setback of 20 feet from all street  
31 rights-of-way shall be provided for roadside stands, garages and carports.  
32 If, in the judgment of the planning director, construction of ~~an accessory~~  
33 ~~building~~a roadside stand, garage or carport is compatible with the  
34 neighborhood, in respect to availability of land for public sidewalks, right-  
35 of-way needs, ~~other nonconforming structures within the block~~ and the  
36 location of ~~principal~~ structures within the block, then such construction  
37 may occur ~~without regard to the~~with revised minimum setback(s) as  
38 determined by the planning director. If more restrictive than provided  
39 above, setbacks as set forth by plats of subdivision shall apply to any and  
40 all accessory structures.

41 (ii) In residential districts an accessory building shall not be  
42 located closer than three feet from a side lot line and five feet from a rear  
43 lot line. An accessory building for a zero lot line dwelling shall comply with  
44 the above requirements and shall not be located in the required 10-foot  
45 side yard.

46 (iii) Setback from Alley. When a garage or carport is entered  
47 directly from an alley, it shall not be located closer than 10 feet from the  
48 alley right-of-way line.

49 (3) Setback from Principal Building. No portion of an accessory  
50 building shall be located closer than six feet to the principal building or another  
51 accessory building on the same lot. However, an unenclosed breezeway may be

52 extended between the principal structure and the accessory structure for the  
53 purpose of providing a covered walkway. In no event shall the construction of a  
54 covered walkway be deemed to join the principal and accessory structures into  
55 one principal structure.

56 (4) Maximum Rear Yard Coverage. In residential districts, the  
57 cumulative footprint of accessory buildings shall not occupy more than 30  
58 percent of the required rear yard area.

59 (5) Maximum Height. Accessory buildings and structures in residential  
60 districts shall not exceed the greater of the height of the principal building or 12  
61 and one-half feet, but in no event shall the accessory structure exceed 20 feet in  
62 height. In other districts, accessory buildings or structures shall not exceed the  
63 maximum height permitted for a principal building.

64 (6) Reverse Corner Lot. On a reversed corner lot in a residential  
65 district, and within 15 feet of any adjacent property to the rear in a residential  
66 district, no detached accessory building or portion thereof located in a required  
67 rear yard shall be closer to the side lot line abutting the street than a distance  
68 equal to the least depth which would be required under this division for the front  
69 yard on such adjacent property to the rear. Further, in the above instance, all  
70 such accessory buildings shall meet the minimum side yard requirements of such  
71 adjacent property which coincides with the side lot line or portion thereof of  
72 property in any residential district.

73 (b) Attached Accessory Buildings. Attached accessory buildings shall be  
74 located pursuant to the requirements for principal buildings. Attached garages and

75 carports shall be located on a lot so that a minimum 20-foot-length “aisle” between the  
76 building and the street right-of-way line is provided.

77 Section 2. That section 18.230.030, General yard requirements, of The Code  
78 of the City of Topeka, Kansas, is hereby amended to read as follows:

79 **General yard requirements.**

80 (a) Location of Required Yards. The required yard space for any building,  
81 structure or use shall be contained on the same zoning lot as the building, structure or  
82 use and such required yard space shall be entirely upon land in a district in which the  
83 principal use is permitted.

84 (b) Yard Requirements for Open Land. If a zoning lot is, or will be, occupied  
85 by a permitted use without buildings or structures, then the minimum yards that would  
86 otherwise be required for said zoning lot shall be provided and maintained unless some  
87 other provision of this division requires or permits a different minimum yard. The  
88 minimum yards shall not be required on zoning lots used for gardening purposes  
89 without structures, or on zoning lots used for public recreational areas.

90 (c) Restrictions on Allocation and Disposition of Required Yards or Space.

91 (1) No part of a lot, yard, off-street parking space, open space or other  
92 space provided in connection with any building, structure or use in order to  
93 comply with this division shall, by reason of change of ownership or otherwise, be  
94 included as part of the minimum lot area, yard, off-street parking space, open  
95 space or other space required for any other building, structure or use, except as  
96 specifically provided herein.

97                   (2) All of the lot area, yards, off-street parking, open space or other  
98 space provided in connection with any building, structure or use in order to  
99 comply with this division shall be located on the same zoning lot as such building,  
100 structure or use.

101                   (3) No part of a lot, yard, off-street parking, open space or other space  
102 provided in connection with any building, structure or use (including, but not  
103 limited to, any building, structure or use existing on the effective date of the  
104 ordinance codified in this division) shall be subsequently reduced below, or  
105 further reduced if already less than, the minimum requirements of this division for  
106 the equivalent new construction.

107                   (d) Computing Rear Yard. In computing the required minimum depth of a rear  
108 yard for any principal building, principal structure or principal use where such yard abuts  
109 on an alley, one-half of the alley right-of-way width may be included as part of the  
110 required minimum rear yard.

111                   (e) Yards for Corner and Double Frontage Lots. Front yard requirements  
112 included in the district regulations within which the zoning lot is located shall apply on  
113 both frontages. A double frontage lot shall have two front yards, two side yards, and no  
114 rear yard. A corner lot shall have two front yards, one side yard, and one rear yard. The  
115 corner lot's rear yard shall be opposite the front yard, which is the yard having the least  
116 street frontage, unless the applicant desires otherwise or doing so would create a  
117 reversed corner lot. The planning director may approve the creation of an alternative  
118 layout when doing so would result in a better development pattern based on existing  
119 and anticipated future development. A property owner may appeal the decision of the

120 planning director by filing an appeal to the planning commission within 10 days of  
121 receiving written notification of the decision. Such appeal shall be made in writing to the  
122 planning director and shall be considered by the planning commission at its next  
123 regularly scheduled meeting.

124 (f) Front Yard Building Setbacks on Existing Lots of Record. An individual  
125 ~~unimproved lot of record in the office of the Shawnee County register of deeds~~ may be  
126 developed with revised minimum ~~irrespective of the front yard setback requirements of~~  
127 ~~the applicable zoning district,~~ as determined by the planning director, subject to the  
128 following requirements:

129 (1) The proposed development of said property does not conflict with  
130 or, alternatively, promotes the policies and objectives as stated in the adopted  
131 comprehensive metropolitan plan or an adopted neighborhood plan;

132 (2) The proposed development is intended to complement the existing  
133 character and architecture of the surrounding properties in the neighborhood;

134 (3) The proposed development ~~shall~~will be consistent with the  
135 established building front yard setbacks so as to reflect and align with existing  
136 setbacks of buildings on the block face ~~or surrounding neighborhood~~. Where  
137 variable building setbacks exist with respect to ~~surrounding~~these properties, an  
138 average of the building setbacks may be applied.

139 (g) Platted Building and Setback Lines. If a recorded plat imposes a building  
140 or setback line for a lot which is greater than the minimum front yard of the district in  
141 which located, then notwithstanding any other provisions of this division, the minimum  
142 setback shall be the setback as imposed by the plat.

143 (h) Where a lot in the O&I, C, I or MS district abuts an R district, a yard at  
144 least equal to the abutting yard required in the R district shall be provided along the R  
145 district boundary line.

146 (i) An owner of an existing improved property who desires to undertake  
147 further improvements to the property, but which property does not comply with the yard  
148 requirements, shall not be required to file a variance with the metro board of zoning  
149 appeals for such further improvement, provided the following conditions are met:

150 (1) The additional improvement will not result in any less yard than that  
151 observed by the existing structure; and

152 (2) The original structure was in compliance with regulations existing at  
153 the time the original structure was built, or a variance was previously granted  
154 which allowed for the deviation from the dimensional requirements; and

155 (3) Applicable designated yard requirements with which the existing  
156 improvements are in conformance shall continue to be observed and conformed  
157 to, unless an official variance is granted by the metro board of zoning appeals.

158 Section 3. That original § 18.210.030 and § 18.230.030 of The Code of the  
159 City of Topeka, Kansas, are hereby specifically repealed.

160 Section 4. This ordinance shall take effect and be in force from and after its  
161 passage, approval and publication in the official City newspaper.

162 Section 5. This ordinance shall supersede all ordinances, resolutions or rules,  
163 or portions thereof, which are in conflict with the provisions of this ordinance.

