

**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 requiring repairs shall only be parked on surfaces meeting City standards 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 street rights-of-way and 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 monument 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 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 has 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 at 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.

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- (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 [18.10.170](#).
- (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, greenhouses, high tunnels and hoop houses maintained in good condition.
  - (ii) Maximum height of 12.5 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 [18.60.020](#). 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 in area or location 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 groundwater.

(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.

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- (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 sight 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 either less than 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.
- (4) In D and X districts, retail merchandise outdoor display areas shall occur only during normal business hours. The outdoor display area shall provide adequate pedestrian clearance and shall not obstruct vehicular or pedestrian circulation.

(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 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) *Short-Term Residential Rental, Type I.*

- (1) *Specific Requirements.* Each short-term residential rental, type I shall meet all of the following requirements unless waived as part of the conditional use permit process:
  - (i) The primary entrance to all rooms accessible to guests shall be within the dwelling. An original secondary exterior entrance opening onto a porch or balcony or from a basement unit is allowed.
  - (ii) The exterior of the dwelling and premises shall outwardly remain and appear to be a dwelling giving no appearance of a business use.
  - (iii) Individual guestrooms shall not contain cooking facilities.
  - (iv) The short-term residential rental, type I shall not be used for weddings, receptions, large parties or gatherings, business meetings, or similar activities.
  - (v) Signage shall comply with the sign regulations applicable to residential uses.
  - (vi) Only retail sales of a nature clearly incidental and subordinate to the primary use of the premises as a short-term residential rental establishment shall be permitted.
  - (vii) Parking shall comply with the parking requirements of Chapter [18.240](#) TMC.
  - (viii) Parking of commercial vehicles by transient guests is not permitted.
  - (ix) In nonresidential zoning districts, the dwelling containing the short-term residential rental shall conform to the use standards of TMC [18.60.010](#) or be a legal nonconforming use.
  - (x) The trash and recycling receptacles shall be of sufficient size and number to accommodate all refuse generated by the owner-occupant and the guests.
  - (xi) Outdoor activities shall not produce any excessive, unnecessary, unusual or loud noises which: (A) create a nuisance; or (B) which interfere with the use or enjoyment of property of any person of reasonable sensibilities.

(2) *Administrative Permit.* Upon receipt of an application and payment of permit fee to be determined by the Director, the Director will determine whether the application meets the requirements in this subsection (z). Upon approval, the Director will issue the permit and notify owners of all parcels adjacent to the subject property of the issuance of the permit. The administrative permit shall be valid for two years and may be renewed upon a finding of compliance with the requirements and payment of a fee to be determined by the Director. The Director may deny an application, revoke, or suspend a permit for failure to comply with this subsection (z). The applicant or permit holder may appeal the Director's determination to the Board of Zoning Appeals. An administrative permit is not required if a conditional use permit is granted.

(3) *Conditional Use Permit.* In the event that a person cannot meet the requirements of subsections [\(z\)\(1\)\(i\)](#) through [\(z\)\(1\)\(vi\)](#) or [\(z\)\(1\)\(viii\)](#) through [\(z\)\(1\)\(x\)](#) of this section, such person may apply for a conditional use permit pursuant to Chapter [18.215](#) TMC.

(aa) *Short-Term Residential Rental, Type II.*

(1) *Specific Requirements.* Each short-term residential rental, type II shall meet all of the following requirements unless waived as part of the conditional use permit process:

- (i) The primary entrance to all rooms accessible to guests shall be within the dwelling. An original secondary exterior entrance opening onto a porch or balcony or from a basement unit is allowed.
- (ii) The exterior of the dwelling and premises shall outwardly remain and appear to be a dwelling giving no appearance of a business use.
- (iii) Individual guestrooms shall not contain cooking facilities.
- (iv) The short-term residential rental, type II shall not be used for weddings, receptions, large parties or gatherings, business meetings, or similar activities.
- (v) Signage shall comply with the sign regulations applicable to residential uses.
- (vi) Only retail sales of a nature clearly incidental and subordinate to the primary use of the premises as a short-term residential rental shall be permitted.
- (vii) Parking shall comply with the parking requirements of Chapter [18.240](#) TMC.
- (viii) Parking of commercial vehicles by transient guests is not permitted.
- (ix) Any short-term residential rental, type II in an R, M-1, or M-1A district established after March 1, 2021, shall be no closer than 500 feet from another short-term residential rental, type II or short-term residential rental, type III in an R, M-1, or M-1A district.

(x) In nonresidential zoning districts, the dwelling containing the short-term residential rental shall conform to the use standards of TMC [18.60.010](#) or be a legal nonconforming use.

(xi) The trash and recycling receptacles shall be of sufficient size and number to accommodate all refuse generated by the guests.

(xii) Outdoor activities shall not produce any excessive, unnecessary, unusual or loud noises which: (A) create a nuisance; or (B) which interfere with the use or enjoyment of property of any person of reasonable sensibilities.

(2) *Administrative Permit.* Upon receipt of an application and payment of permit fee to be determined by the Director, the Director will determine whether the application meets the requirements in this subsection (aa). Upon approval, the Director will issue the permit and notify owners of all parcels adjacent to the subject property of the issuance of the permit. The administrative permit shall be valid for two years and may be renewed upon a finding of compliance with the requirements and payment of a fee to be determined by the Director. The Director may deny an application, revoke, or suspend a permit for failure to comply with this subsection (aa). The applicant or permit holder may appeal the Director's determination to the Board of Zoning Appeals. An administrative permit is not required if a conditional use permit is granted.

(3) *Conditional Use Permit.* In the event that a person cannot meet the requirements of subsections [\(aa\)\(1\)\(i\)](#) through [\(aa\)\(1\)\(vi\)](#) or [\(aa\)\(1\)\(viii\)](#) through [\(aa\)\(1\)\(xi\)](#) of this section, such person may apply for a conditional use permit pursuant to Chapter [18.215](#) TMC.

(bb) *Short-Term Residential Rental, Type III.*

(1) *Specific Requirements.* A conditional use permit is required for each short-term residential rental, type III in the zoning districts designated in TMC [18.60.010](#). In those districts where a conditional use permit is required or where specific use requirements are imposed, the following standards shall apply unless waived as part of the conditional use process:

(i) The short-term residential rental, type III shall be operated within the single-family dwelling and not in any accessory structure.

(ii) The primary entrance to all rooms accessible to guests shall be within the dwelling. An original secondary exterior entrance opening onto a porch or balcony or from a basement unit is allowed.

(iii) The exterior of the dwelling and premises shall outwardly remain and appear to be a dwelling giving no appearance of a business use.

(iv) Individual guestrooms shall not contain cooking facilities.

(v) Signage shall be regulated by the sign regulations except as allowed or restricted by conditional use permit.

(vi) Only retail sales of a nature clearly incidental and subordinate to the primary use of the premises as a short-term residential rental shall be permitted.

(vii) Parking shall comply with the parking requirements of Chapter [18.240](#) TMC.

(viii) Parking of commercial vehicles by transient guests is not permitted.

(ix) The trash and recycling receptacles shall be of sufficient size and number to accommodate all refuse generated by the guests.

(x) Outdoor activities shall not produce any excessive, unnecessary, unusual or loud noises which: (A) create a nuisance; or (B) which interfere with the use or enjoyment of property of any person of reasonable sensibilities.

(xi) Social events such as weddings, receptions, parties, business engagements or similar activities may be accommodated in conjunction with a short-term residential rental, type III, 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.

(B) All scheduled events shall be by prearranged contract or agreement. Such events shall not be open to the general public.

(C) Social events shall be restricted to between the hours of 9:00 a.m. and 11:00 p.m.

(D) *Parking for Social Events.* Off-street parking for event guests shall meet the same number requirements as required by TMC [18.240.030](#) for religious assembly or cultural facilities.

(2) *Conditional Use Permit.* In the event that a person cannot meet the requirements of subsections [\(bb\)\(1\)\(i\)](#) through [\(bb\)\(1\)\(vi\)](#) or [\(bb\)\(1\)\(viii\)](#), [\(bb\)\(1\)\(ix\)](#), or [\(bb\)\(1\)\(xi\)](#) of this section, such person may apply for a conditional use permit pursuant to Chapter [18.215](#) TMC.

(cc) *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.

(dd) *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.

(ee) *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.
- (ff) *Mobile Retail Vendors.* Mobile retail vendors are allowed in zoning districts where retail sales are permitted per TMC [18.60.010](#) or where allowed by ordinance.
- (gg) *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 shall be located near the streetfront side of the building.

(3) Any portion of the building that fronts a public street shall have a storefront 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 shall be above or below the ground floor or located to the rear of the building or otherwise subordinate in area and extent.

(hh) *Artisan Manufacturing.*

(1) The area used for production and assembly shall be limited to no more than 80 percent of the gross floor area of the principal structure and shall not exceed a total of 6,000 square feet.

(2) All activities and equipment associated with all aspects of artisan manufacturing shall be confined to the interior of structures located on the property.

(3) In C-1, X-3, 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 nonrelated products are permitted.

(ii) *Drive-Up/Drive-Through Facilities.*

(1) In D and X districts, the drive-up window, menu boards and all lanes needed for vehicle stacking shall be located to the rear or side of the principal building.

(2) In D and X districts, the drive-up window facility shall be secondary and subordinate in size to the principal uses of the structure in which the drive-up facility is located.

(3) All lanes used for ingress, stacking, service, and egress shall be integrated safely and effectively with circulation and parking facilities.

(4) Ingress and egress shall be designed to minimize potential conflicts with vehicular, pedestrian, and bicycle traffic.

(5) The location and design of the drive-up facility shall minimize blank walls on street-facing exteriors of the building and disruption of existing or potential retail and other active ground floor uses.

(6) Approval of a traffic impact analysis by the City Traffic Engineer may be required.

(7) The principal use of the building is allowed in the zoning district.

(jj) *Building, Construction, and Mechanical Contractor Office – Contractor Yards.* Outdoor storage associated with a contractor office or contractor yard, when located along a lot line adjoining a visible public street or in a yard that abuts ~~residentially zoned property~~ [a residential use or mixed use zoning district](#), shall be screened from public view by a solid, opaque screen, fence or sight-prohibitive landscaping of not less than six feet in height. If storage is adjacent to driveways or intersections, screening may be reduced to comply with sight distance triangles, as provided in TMC [12.20.020](#).

(kk) *Small Cell Wireless Facilities (SCWFs).*

(1) *Application.* An applicant for placement of an SCWF shall submit site plans, elevation drawings and structural calculations prepared by a professional engineer licensed by the State of Kansas. The drawings must depict transmission equipment, power source, electrical service pedestal and any associated access or utility easements and setbacks.

(2) *Right-of-Way.* If placement is sited in public right-of-way, the applicant will execute a license agreement with the City.

(3) *Compliance with Aesthetic Requirements.* The proposed SCWF shall comply with the City of Topeka/Shawnee County Small Cell Wireless Facilities General Design and Aesthetic Requirements posted on the City's website. (Ord. 20283 § 8, 3-2-21.)

[\(ll\) Warehouse, Storage, Distribution Facilities. See Definitions.](#)

[\(1\) Any new warehouse, storage, or distribution facility shall be in an existing building. Minor additions are limited to expansions of 10% or less to the existing building.](#)

[\(2\) Only one large common dock/garage door opening shall be allowed per building façade facing a public street; or, if the building contains existing large door openings on façade facing street, no more than one additional large door is permitted.](#)

[\(3\) All items being stored must be inside of an enclosed building.](#)

**The Topeka Municipal Code is current through Ordinance 20302, passed June 15, 2021.**

Disclaimer: The City Clerk's Office has the official version of the Topeka Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

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