



Legislation Details (With Text)

**File #:** 230552      **Version:** 1      **Name:**  
**Type:** Ordinance      **Status:** Passed  
**File created:** 1/10/2023      **In control:** Council  
**On agenda:** 6/29/2023      **Final action:** 6/29/2023  
**Title:** Sponsor: Director of City Planning and Development Department

Amending Chapter 88, the Zoning and Development Code, by repealing Section 88-305-15, Accessory Dwelling Units, and enacting in lieu thereof a new section of like number and subject matter for the purpose of clarifying language and adding a maximum building height; repealing Section 88-315, Animal Service, and enacting in lieu thereof a new section of like number and subject matter for the purpose of adjusting separation requirements for said uses when adjacent to right-of-way; repealing Section 88-370, Temporary Uses, and enacting in lieu thereof a new section of like number and subject matter for the purpose of exempting temporary uses on property owned by any taxing jurisdiction, exempting temporary uses in nonresidential districts when located on properties with public/civic uses, hotel/motel, eating and drinking establishments, or with an approved plan allowing such events, clarifying and simplifying the list of authorized temporary uses, adding standards pertaining to all temporary uses, and requiring permits for any temporary use not exempted from this section.

**Sponsors:** Director of City Planning & Development, City Plan Commission

**Indexes:**

**Code sections:**

**Attachments:** 1. CD-CPC-2022-00200 Docket Memo.docx, 2. CPC Staff Report (2).pdf, 3. 230552com, 4. Authenticated Ordinance 230552

Date	Ver.	Action By	Action	Result
6/29/2023	1	Council	Passed	Pass
6/28/2023	1	Neighborhood Planning and Development Committee	Adv and Do Pass	Pass
6/22/2023	1	Council	referred	

ORDINANCE NO. 230552

Sponsor: Director of City Planning and Development Department

Amending Chapter 88, the Zoning and Development Code, by repealing Section 88-305-15, Accessory Dwelling Units, and enacting in lieu thereof a new section of like number and subject matter for the purpose of clarifying language and adding a maximum building height; repealing Section 88-315, Animal Service, and enacting in lieu thereof a new section of like number and subject matter for the purpose of adjusting separation requirements for said uses when adjacent to right-of-way; repealing Section 88-370, Temporary Uses, and enacting in lieu thereof a new section of like number and subject matter for the purpose of exempting temporary uses on property owned by any taxing jurisdiction, exempting temporary uses in nonresidential districts when located on properties with public/civic uses, hotel/motel, eating and drinking establishments, or with an approved plan allowing such events, clarifying and simplifying the list of authorized temporary uses, adding standards pertaining to all temporary uses, and requiring permits for any temporary use not exempted from this section.

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. Amending Chapter 88, Code of Ordinances, by repealing and replacing Section 88-305-05, Accessory Dwelling Units, and enacting in lieu thereof a new section of like number and subject matter in order to clarify language and add maximum building height, said section to read as follows:

**88-305-15 ACCESSORY DWELLING UNITS**

**88-305-15-A. PURPOSE**

Accessory dwelling units (ADUs) are a household living use that is accessory to and located on the same lot as the permitted principal use. The purpose of this section is to:

1. Meet the changing needs of the community;
2. Provide housing choice while preserving the character of the neighborhood in which it is located;
3. Respond to the changing economy and the necessity for many households to secure additional income;  
and
4. Reduce the cost of housing by increasing housing density and doing so in a manner:
  - a. that may be more compatible with neighborhoods where detached dwellings predominate; and
  - b. where the benefits of additional income are distributed throughout the community to the individual landowners and renters.

**88-305-15-B. WHERE PERMITTED**

Accessory dwelling units are permitted on any lot with a detached dwelling where the dwelling is the principal building, subject to certain standards.

**88-305-15-C. GENERAL STANDARDS**

1. Accessory dwelling units may be attached or detached from the principal dwelling unit. If attached they shall be located in the rear or side yard. If detached they shall be located in the rear yard.
2. The owner of the lot shall reside in either the principal dwelling or accessory dwelling. The owner shall record against the property a deed restriction limiting occupancy of either the principal dwelling unit or the accessory dwelling unit to the owner of the property. Proof that such a restriction has been recorded shall be provided to the Director of City Planning and Development prior to issuance of the Certificate of Occupancy for the accessory dwelling unit.
3. No additional off-street parking is required. Any proposed parking shall conform to 88- 420.
4. Detached accessory dwelling units may be located in or attached to the same building as a garage. In such cases, the floor area limitations of each shall be applied cumulatively.
5. When attached, the accessory dwelling unit may have its own exterior entrance or shared entrance with a common vestibule.
6. If attached to the principal dwelling, the lot and building standards for the principal building shall apply.

7. If detached from the principal dwelling, it shall be located in the rear yard, and the lot and building standards shall be as follows:
  - a. Maximum height shall not exceed the height of the principal building or 25 feet, whichever is less.
  - b. Setbacks shall be five feet from all property lines including projections; except on street side yards where it shall be five feet including projections or the same as the principal building, whichever is greater.
  - c. Maximum footprint of the ADU: 60% of the footprint of the principal dwelling or 25% of the rear yard, whichever is smaller. In no case shall the footprint exceed 800 square feet.
  - d. Maximum floor area: 800 square feet or 90% of the floor area of the principal dwelling, whichever is smaller.
  - e. All other setbacks shall be those that apply to all accessory structures.
  - f. The total footprint area of all detached accessory buildings and structures shall not exceed the provisions 88-305-02-E.
8. Exterior stairs to provide access to an upper level accessory dwelling unit are allowed only on sides of the building facing the interior of the lot.
9. If an accessory dwelling unit was legally permitted prior to the passage date of this ordinance and the owner can provide documentary evidence to the satisfaction of the director of city planning and development of such use, the use may continue upon obtaining a new certificate of occupancy.

Section 2. Repealing and replacing Section 88-315, Animal Service, and enacting in lieu thereof a new section of like number and subject matter for the purpose of adjusting separation requirements for said uses when adjacent to right-of-way, said section to read as follows:

## **88-315 ANIMAL SERVICE**

### **88-315-01 STANDARDS**

The use standards of this section apply to animal service uses:

**88-315-01-A.** All animal shelter or boarding must be within a completely enclosed soundproofed and air-conditioned building.

**88-315-01-B.** In District R-80, shelter and boarding kennels and stables shall be located not less than 200 feet from any property line except when the property line is a right-of-way line and the right-of-way is at least 100 feet wide.

**88-315-01-C.** Domestic animals may be exercised in a designated and fenced area outside the building with an attendant present.

**88-315-01-D.** All outdoor runs or exercise areas must be hard surfaced or grass.

**88-315-01-E.** A landscaping, screening, and fencing plan to shield the use from adjoining properties and/or

public right-of-way must be submitted for approval.

### **88-315-02 NOISE LIMITS**

There may be no noise disturbance across property lines into any residential district exceeding 60 dB(A) between the hours of 7 a.m. and 10 p.m. and 55 dB(A) between the hours of 10 p.m. and 7 a.m.

Section 3. Repealing and replacing Section 88-370 Temporary Uses, and enacting in lieu thereof a new section of like number and subject matter for the purpose of exempting temporary uses on property owned by any taxing jurisdiction, exempting temporary uses in nonresidential districts when located on properties with public/civic uses, hotel/motel, eating and drinking establishments, or with an approved plan allowing such events, clarifying and simplifying the list of authorized temporary uses, adding standards pertaining to all temporary uses, and requiring registration for any temporary use not exempted from this section, said section to read as follows:

### **88-370 TEMPORARY USES**

#### **88-370-01 DESCRIPTION AND PURPOSE**

**88-370-01-A.** A temporary use is the use of property conducted from an area or structure (e.g., parking lots, lawns, trucks, tents, or other temporary structures) that does not require a building permit and that may not comply with the use or lot and building standards of the zoning district in which the temporary use is located.

**88-370-01-B.** The temporary use regulations of this article are intended to permit such occasional, temporary uses and activities when consistent with the purposes of this zoning and development code and when the operation of the temporary use will not be detrimental to other nearby uses.

#### **88-370-02 - AUTHORITY TO APPLY**

Applications may be filed by the subject landowner or the subject landowner's authorized agent. The application shall identify the name of the tenant or other entity that will be using the permit.

#### **88-370-03 AUTHORITY TO APPROVE**

**88-370-03-A.** The city planning and development director is authorized to approve a maximum of two temporary use permits per calendar year per property.

**88-370-03-B.** The city planning and development director is authorized to approve temporary uses that comply with the provisions of this article and to impose conditions on the operation of temporary uses that will help to ensure their general compatibility with surrounding uses.

**88-370-03-C.** The city planning and development director is also authorized to require that temporary use requests be processed as special use permits in accordance with 88-525.

#### **88-370-04 EXEMPTIONS**

The following are permitted as temporary uses without complying with the permit requirements of this section:

**88-370-04-A.** Garage sales conducted in R districts or on lots occupied by residential dwelling units for no more than 6 days total in any calendar year; and

**88-370-04-B.** Temporary uses conducted on public property or on property owned by any taxing jurisdiction provided such uses have been approved by the parks board or other duly authorized city official in the case of city parkland or other city property, and provided the duration of such uses does not

exceed 90 consecutive days or 15 nonconsecutive days in a calendar year.

**88-370-04-C.** Outdoor storage of materials or temporary offices associated with a properly permitted construction project not exceeding the duration of the construction activity.

**88-370-04-D.** Temporary uses not exceeding 90 consecutive days or 15 nonconsecutive days in a calendar year in nonresidential districts on the same property as one of the following principal uses:

1. Any of the use classifications under the public/civic use group in Tables 120-1, 130-1, and 140-1; or
2. Hotel/motel; or
3. Eating and Drinking Establishments

**88-370-04-E.** Temporary uses on any property with an approved plan with an outdoor space designed and intended and expressly allowing temporary uses when said uses do not exceed 90 consecutive days or 15 nonconsecutive days in a calendar year, unless otherwise expressly noted on the approved development plan.

**88-370-05 AUTHORIZED USES**

The following may be approved as temporary uses when the city planning and development director or other authorized decision-making body determines that the operation of such use will be generally compatible with surrounding uses and will not be detrimental to public safety:

Use	Time Limit per Permit
Outdoor sale of products or services not offered by a permanent tenant located onsite	90 consecutive days or 15 nonconsecutive days per permit
Outdoor sale of products or services offered by a permanent tenant located onsite	45 consecutive days or 15 nonconsecutive days per permit
Outdoor events such as concerts, festivals and carnivals	7 consecutive days per permit
All other temporary uses	45 consecutive days or 15 nonconsecutive days per permit

**88-370-06 STANDARDS**

**88-370-06-A.** Standards Applying to all Temporary Uses

1. All temporary uses shall comply with all applicable regulations regarding noise and outdoor lighting.
2. All temporary uses shall not be left unattended unless properly secured.
3. All temporary uses shall not block or impede access into or out of a building.
4. The arrangement of all temporary uses shall not result in conditions unsafe for pedestrians.
5. The property upon which the temporary use occurs shall be restored to its original condition upon cessation of the temporary use.

6. All structures installed, if any, (such as a tent or temporary building) shall meet applicable building and fire codes.
7. All temporary uses are limited to a total of two temporary signs. Such signs shall not be located in public right-of-way or in a manner that would impede pedestrian or vehicular movement. Such signs shall not require a sign permit in addition to the temporary use permit. temporary use registration.
8. All temporary uses located within a vehicular use area shall ensure that enough parking spaces are left available to meet the minimum parking requirement for the permanent use served.
9. All temporary uses located within a vehicular use area shall be located such that they do not impede traffic flow or pedestrian safety. In particular, they shall not obstruct access to or be located over:
  - a. Fire lanes, or
  - b. accessible parking spaces or loading zones, or
  - c. parking spaces dedicated for electric vehicles or with electric vehicle charging stations, or
  - d. pedestrian paths such as sidewalks or crosswalks, or
  - e. driveways or entrances to vehicular use areas from the public right-of-way, or
  - f. drive-aisles which connect directly to right-of-way or any other drive-aisle where a detour is not available, or
  - g. landscaped areas or areas designed for stormwater management.

### **88-370-07 PERMITS**

Each use requires its own permit. All temporary uses meeting the standards set forth in this article are allowed subject to a permit issued by the city planning and development director. The city planning and development director must review the proposed use for its likely effects on surrounding properties and its compliance with the general provisions of this article, and is authorized to disapprove a temporary use on a property if it is found that prior temporary uses on the property operated in violation of this article. In issuing a permit, the director is authorized to impose conditions of approval when necessary to ensure compliance with this article and to minimize effects on surrounding properties.

Any temporary use of property operating without a permit shall constitute a violation of this article. The city planning and development director is authorized to revoke a permit if it is found that the temporary use is in violation the standards set forth in this article or any conditions imposed at the time of permit issuance.

### **88-370-07 TEMPORARY PORTABLE STORAGE CONTAINERS**

Temporary portable storage containers are an allowed temporary, accessory use on lots containing a dwelling, subject to all of the following.

#### **88-370-07-A. On lots developed with detached houses:**

1. Temporary portable storage containers are permitted for a period not to exceed a total of 30 days within any consecutive 6-month period. However, in cases where a dwelling has been damaged by natural disaster or casualty, the city planning and development director is authorized to allow

a temporary portable storage container for a longer period.

2. Temporary portable storage containers may not exceed a cumulative gross floor area of 260 square feet.
3. Temporary portable storage containers may not be located in a setback abutting a street unless located on a driveway or other paved surface.

**88-370-07-B.** On lots developed with residential buildings other than detached houses:

1. Temporary portable storage containers are permitted for a period not to exceed 72 hours within any consecutive 6-month period. However, in cases where a dwelling has been damaged by natural disaster or casualty, the city planning and development director is authorized to allow a temporary portable storage container for a longer period.
2. Temporary portable storage containers may not exceed a cumulative gross floor area of 130 square feet for each dwelling unit.
3. Temporary portable storage containers may not be located in a setback abutting a street unless located on a driveway or other paved surface.

**88-370-07-C.** Temporary portable storage containers may not exceed 8.5 feet in height.

**88-370-07-D.** Temporary portable storage containers may not be located in any required open space, landscaped area, on any sidewalk or trail, or in any location that blocks or interferes with any vehicular and/or pedestrian circulation.

**88-370-07-E.** Signs on temporary portable storage containers must comply with all applicable sign regulations of this zoning and development code.

**88-370-07-F.** Rail cars, semi-trailers, and similar structures may not be used for temporary or permanent storage on lots containing a dwelling.

Section 4. That the Council finds and declares that before taking any action on the proposed amendment hereinabove, all public notices and hearings required by law have been given and had.

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I hereby certify that as required by Chapter 88, Code of Ordinances, the forgoing ordinance was duly advertised and public hearings were held.

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Joseph Rexwinkle, AICP  
Secretary, City Plan Commission

Approved as to form:

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Sarah Baxter  
Senior Associate City Attorney