(Published in the Topeka Metro News September 1, 2000)

SHAWNEE COUNTY RESOLUTION NO. 2000-98

CITY OF TOPEKA ORDINANCE NO. 17502

A JOINT SHAWNEE COUNTY RESOLUTION AND CITY OF TOPEKA ORDINANCE
introduced by Mayor Joan Wagon, amending Chapter 48 of the Code of the
City of Topeka, Comprehensive Zoning Regulations for the City of Topeka
and unincorporated areas of Shawnee County by creating X-Mixed Use
Districts and the OS-Open Space District, providing use regulations therefor
and providing performance standards.

BE IT RESOLVED by the Board of County Commissioners of the County of
Shawnee, Kansas, on this 22nd day of May, 2000.

BE IT ORDAINED by the Council of the City of Topeka, Kansas, on this 9th day
of May, 2000, as follows:

Section 1. City of Topeka Code Chapter 48, Comprehensive Zoning Regulations
for the City of Topeka and Unincorporated Areas of Shawnee County is amended by the
addition of the following language:

Article XXIIla X-Mixed Use Districts:

Purpose: The Mixed Use Districts are unique to the North Topeka area and are
provided to encourage a compatible mixed use environment, utilizing the historic character
of the area. The X-Mixed Use Districts serve to implement the North Topeka Revitalization
Plan, which is part of the City of Topeka’s comprehensive metropolitan plan.

Regulations: The regulations set forth in this article or set forth elsewhere in
Chapter 48 are the district regulations for the X-Mixed Use Districts.

Section 2: City of Topeka Code Chapter 48, Comprehensive Zoning Regulations
for the City of Topeka and Unincorporated Areas of Shawnee County is amended by the
addition of the following language:
Mixed Use District Classifications:

There are three (3) classifications of Mixed Use Districts as follows:

1. **X-1 Mixed Use District** – This district facilitates a compatible mixed use activity center within a traditional residential neighborhood. The district includes a balance of compatible residential, office, civic, and neighborhood commercial retail/service uses of low to moderate intensity that compliment and support dense neighborhood residential areas and pedestrian usage with quality urban design.

2. **X-2 Mixed Use District** – This district facilitates a mixed use area within North Topeka that transitions from a higher intensity industrial use area to lower intensity neighborhood-scale residential areas and includes a balance of compatible residential, office, commercial service, and light industrial uses.

3. **X-3 Mixed Use District** – This district facilitates a destination-oriented Mixed Use District in the area known as the North Crossings area of North Topeka that serves as the northern entertainment/cultural anchor of downtown. The objectives of the district include:

   a. Improving the area as a twenty-four (24) hour destination for urban, cultural, entertainment, community, and residential experiences; and

   b. Retention and attraction of businesses, workplaces and residences through adaptive reuse and rehabilitation of existing buildings as a preference; and

   c. Redeveloping vacant and under-utilized properties through appropriately scaled in-fill development; and
d. High quality development and urban design standards that maintain a sense of history, human scale, and pedestrian-orientation.

Section 3. City of Topeka Code Chapter 48, Comprehensive Zoning Regulations for the City of Topeka and Unincorporated Areas of Shawnee County is amended by the addition of the following language:

Applicability of Mixed Use Districts:

1. The X districts shall only be permitted on an area-wide basis as designated by a specific land use policy set forth in the comprehensive metropolitan plan for that area. The X district shall be identified as an area that merits special design considerations, involving a variety of property owners and uses within a developed urban environment. The X district shall be sufficiently cohesive and substantial to achieve a common objective as identified in comprehensive metropolitan plan.

2. The procedure for amending the district map to include X-Mixed Use Districts shall be in accordance with the procedures of City of Topeka Code § 48-33.01 of this Chapter.

Section 4. City of Topeka Code Chapter 48, Comprehensive Zoning Regulations for the City of Topeka and Unincorporated Areas of Shawnee County is amended by the addition of the following language:

Use Regulations for X-1 Mixed Use District:

1. Permitted Principal Uses:

   a. Single and two (2)-family dwellings.

   b. Three (3) and four (4)-family dwellings.

   c. Dwelling units as primary or accessory use.
d. Residential design manufactured home.
e. Group home.
f. Churches, places of worship or assembly.
g. Schools.
h. Community facilities.
i. Parks, recreation, and open space.
j. Residential care facility, type I.
k. Artisan and photography galleries, studios.
l. Automobile service station, type I.
m. Bed and breakfast establishments.
n. Child care centers.
o. Clubs and lodges.
p. Funeral homes.
q. Health clubs.
r. Offices, financial services, medical clinics.
s. Pet shops/small animal clinics.
t. Indoor recreation facilities.
u. Restaurants.
v. Retail establishments.
w. Service shops – personal/business.

2. Uses Permitted by Conditional Use Permit:

a. Multi-family dwellings, more than four (4) units.
b. Boarding and lodging houses.
c. Public use facilities.

d. Residential care facility, type II.

e. Indoor amusement.

f. Automobile service station, type II.

g. Bars and taverns.

h. Entertainment facilities/theatres (non-adult).

i. Farmer's markets.

j. Parking lots/garages (principal use).

k. Motor vehicle sales (size restriction).

l. Research and development.

Section 5. City of Topeka Code Chapter 48, Comprehensive Zoning Regulations for the City of Topeka and Unincorporated Areas of Shawnee County is amended by the addition of the following language:

Use Regulations for X-2 Mixed Use District:

1. Permitted Principal Uses:

   a. Single and two (2)-family dwellings.

   b. Three (3) and four (4)-family dwellings.

   c. Dwelling units as primary or accessory use.

   d. Residential design manufactured home.

   e. Mobile homes (single).

   f. Schools.

   g. Community facilities.

   h. Parks, recreation, and open space.
i. Artisan and photography galleries, studios.

j. Automobile service station, type I.

k. Automobile service station, type II.

l. Child care centers.

m. Clubs and lodges.

n. Funeral homes.

o. Health clubs.

p. Motor vehicle sales (size restrictions).

q. Offices, financial services, medical clinics.

r. Indoor recreation facilities.

s. Restaurants.

t. Retail establishments.

u. Service shops – personal/business.

v. Assembly without fabrication.

w. Fabrication of products allowed under “I-1” light industrial district.

x. Printing and distribution.

y. Research and development.

z. Warehousing.

2. Uses Permitted by Conditional Use Permit:

a. Multi-family dwellings, more than four (4) units.

b. Group homes.

c. Boarding and lodging houses.

d. Crisis centers.
145  e. Churches, places of worship or assembly.
146  f. Conference/convention center.
147  g. Public use facilities.
148  h. Residential care facility, type I.
149  i. Residential care facility, type II.
150  j. Amusement parks.
151  k. Automobile service station, type III.
152  l. Bars and taverns.
153  m. Bed and breakfast establishments.
154  n. Farmer's markets.
155  o. Hotel, motel.
157  q. Pet shops/small animal clinics.
158  r. Unenclosed, outdoor equipment/product storage.
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Section 6. City of Topeka Code Chapter 48, Comprehensive Zoning Regulations for the City of Topeka and Unincorporated Areas of Shawnee County is amended by the addition of the following language:

Use Regulations for X-3 Mixed Use District:

1. Permitted Principal Uses:

   a. Single and two (2)-family dwellings.

   b. Three (3) and four (4)-family dwellings.

   c. Multi-family dwellings, more than four (4) units.

   d. Dwelling units as primary or accessory use.
168  e. Residential design manufactured home.
169  f. Schools.
170  g. Community facilities.
171  h. Parks, recreation, and open space.
172  i. Indoor amusement.
173  j. Artisan and photography galleries, studios.
174  k. Automobile service station, type I.
175  l. Bars and taverns.
176  m. Bed and breakfast establishments.
177  n. Child care centers.
178  o. Clubs and lodges.
180  q. Farmer’s markets.
181  r. Health clubs.
182  s. Night clubs.
183  t. Offices, financial services, medical clinics.
184  u. Indoor recreation facilities.
185  v. Restaurants.
186  w. Retail establishments.
187  x. Service shops – personal/business.
188  2. Uses Permitted by Conditional Use Permit:
189  a. Group homes.
190  b. Boarding and lodging houses.
c. Churches, places of worship or assembly.
d. Conference/convention center.
e. Public use facilities.
f. Residential care facility, type I.
g. Residential care facility, type II.
h. Amusement parks.
i. Hotel/motel.
j. Parking lots/garages (principle use).
k. Pet shops/small animal clinics.
l. Unenclosed, outdoor equipment/product storage.
m. Research and development.
n. Warehousing.

Section 7. City of Topeka Code Chapter 48, Comprehensive Zoning Regulations for the City of Topeka and Unincorporated Areas of Shawnee County is amended by the addition of the following language:

**Dimensional and Performance Standards:**

1. Dimensional performance standards are set forth below and are not intended to supercede or undermine adopted design standards within this Article:

   a. Mixed Use District X-1 Performance Standards:

      1. Maximum building coverage - seventy-five (75) percent.

      2. Front yard setback - range zero (0) feet – fifteen (15) feet.

      3. Rear yard setback – range zero (0) feet – twenty-five (25) feet.

      4. Side yard setback – range zero (0) feet - eight (8) feet.
5. Maximum building height - forty (40) feet.
6. Maximum residential density (net) - ten (10) units/acre.

b. Mixed Use District X-2 Performance Standards:

1. Maximum building coverage - seventy-five (75) percent.
2. Front yard setback range - zero (0) feet - twenty-five (25) feet minimum.
4. Minimum side yard setback - ten (10) feet from residential.
5. Maximum building height - fifty (50) feet.
6. Maximum residential density (net) - ten (10) units/acre.

c. Mixed Use District X-3 Performance Standards:

1. Maximum building coverage - one hundred (100) percent.
2. Front yard setback range - zero (0) feet - ten (10) feet.
3. Minimum rear yard setback - zero (0) feet.
4. Minimum side yard setback - zero (0) feet.
5. Maximum building height - fifty (50) feet.
6. Maximum residential density (net) - twenty-nine (29) units/acre.

2. Within the North Crossings and traditional neighborhood areas of Historic North Topeka as designated by the comprehensive metropolitan plan all new development, including permitted commercial, office, institutional, multi-family residential, industrial uses, or combination thereof, or change of uses with exterior modifications shall be consistent with the following applicable design standards:
a. Comprehensive Metropolitan Plan – Building design guidelines as adopted within the Historic North Topeka Revitalization Plan of the comprehensive metropolitan plan.

b. Setbacks, Massing, and Form – Minimize building setbacks within traditional neighborhood or downtown district settings so as to reflect and align with existing setbacks of buildings on the block or facing block. Massing and form of building shall also be compatible with buildings on block, facing block, or neighborhood.

c. Building Types – Permitted building types shall include a rear yard building that occupies the front of its lot at full width, a side yard building that occupies one side of the lot at full depth, or a courtyard building that occupies all or most of the edges of its lot while internally defining one or more private spaces.

d. Parking Lots – Parking lots shall not dominate the frontage of pedestrian-oriented and image streets or conflict with pedestrian crossings. No parking space shall be closer to the primary frontage street than the building.

e. Facades – Blank walls in excess of fifty (50) feet shall be avoided. Buildings with multiple storefronts should be unified in character and compatible with any upper floors.

f. Outdoor Activity – Buildings should accommodate outdoor activity with balconies, arcades, terraces, decks and courtyards for patron's, resident's, or workers' interaction to the extent reasonably feasible.
g. Outdoor Cafes – Restaurants should be encouraged to operate outdoor cafes on sidewalks, within buildings setbacks or courtyards provided; that pedestrian circulation and access to store entrances is not impaired, the space is well-kept, and street furniture/coverings are compatible with architectural character of the building/block.

h. Pedestrian Circulation – Adequate pedestrian circulation must be maintained at all times. Pedestrian linkages between parking lots, alleys, parks, and the street or building fronts shall be provided for within the public right-of-way or by dedicated easement.

i. Access – Vehicular access shall be consistent with adopted traffic access management standards.

j. Transition Yards and Landscaping – Where a commercial or industrial lot abuts a residential use(s), a landscaped yard consisting of, but not limited to, trees, vegetation, wood fencing, landscaped earthen berm, or other plantings shall be provided for as a visual buffer that creates spatial separation and meets Crime Prevention Through Environmental Design principles. Front yard setback areas shall be landscaped.

k. Open Storage – Any open storage visible from the street, adjacent to residential uses or within image areas designated by the comprehensive metropolitan plan shall be screened to substantially
reduce visual impact by fencing, landscaping, or other appropriate means.

3. Within the North Crossings and traditional neighborhood areas of Historic North Topeka as designated by the comprehensive metropolitan plan, detached single-family, duplex, and tri-plex unit development shall be consistent with the residential design guidelines as adopted within the Historic North Topeka Revitalization Plan of the comprehensive metropolitan plan and "M-1" two-family zoning district minimum yard requirements.

4. The Planning Director may waive any of the above-listed design standards if he determines it to be unnecessary to the scope and nature of the proposed development.

5. New development within non-traditional neighborhood areas shall be consistent with applicable site plan regulations of this Chapter.

6. Any property owner who is adversely impacted by a decision of the Planning Director regarding compliance or noncompliance with the Dimensional and Performance standards contained herein, may appeal the Planning Director's decision to the Zoning and Platting Committee of the Topeka-Shawnee County Metropolitan Planning Commission.

Section 8. City of Topeka Code Chapter 48, Comprehensive Zoning Regulations for the City of Topeka and Unincorporated Areas of Shawnee County is amended by the addition of the following language:

Parking:

1. Off-street parking requirements for the X-2 Mixed Use District shall be consistent with Article XXX.
2. Minimum off-street parking requirements for the X-1 and X-3 Mixed Use Districts shall be consistent with the following:

a. Residential dwellings: one (1) space per dwelling unit.

b. Private clubs, drinking establishments, and restaurants with fifty (50) percent of gross income in food sales: one (1) space per four (4) occupants permitted.

c. Private clubs, drinking establishments, and restaurants with fifty (50) percent of gross income in alcoholic or cereal malt beverage sales: one (1) space per three (3) occupants permitted.

d. Retail and office uses: one (1) space per three hundred (300) square feet of floor area.

e. All other uses not specified shall be consistent with Article XXX.

3. Minimum off-street parking requirements for permitted uses within the X-1 and X-3 Mixed Use Districts may be exempted by the Planning Director for any change of use or expansion of an existing building provided adequate off-street or on-street parking can be demonstrated, it does not impose an unreasonable hardship on a residential neighborhood, and is consistent with any adopted neighborhood or area plan.

4. A maximum number of off-street parking spaces for a particular use may be imposed by the Planning Director to conserve open space, prevent unnecessary demolition of buildings and damage to the historic integrity of a district, or to remain consistent with adopted development performance standards.

Section 9. City of Topeka Code Chapter 48, Comprehensive Zoning Regulations for the City of Topeka and Unincorporated Areas of Shawnee County is amended by the
addition of the following language:

Additional Requirements for Mixed Use District:

1. The Planning Director shall give written approval for conformity to the
   performance standards within the X districts prior to the issuance of a building permit
   pursuant to Section 48-33.05 of this Chapter.

2. The Planning Director shall give written approval for conformity to the
   performance standards within the X districts prior to the issuance of a building permit
   pursuant to Section 48-33.05 of this Chapter for any use allowed by conditional use permit.

3. Not more than two (2) of the following uses may be established, operated,
   or maintained within one thousand (1,000) feet of each other: billiard parlor, amusement
   center, or tattoo studio.

4. Any permitted commercial or industrial use operating between 10:00 p.m.
   and 5:00 a.m. may require a conditional use permit.

5. Any permitted uses with new buildings or additions to existing buildings
   greater than thirty thousand (30,000) square feet in floor area shall be subject to a
   conditional use permit.

6. Within residentially classified blocks of the North Crossings as identified in
   the Historic North Topeka Revitalization Plan, establishment of a permitted commercial use
   within the X-3 District that is more than fifty (50) feet from another legally permitted
   commercial use shall require a conditional use permit.

Section 10. City of Topeka Code Chapter 48, Comprehensive Zoning Regulations
for the City of Topeka and Unincorporated Areas of Shawnee County is amended by the
addition of the following language:
Legal Non-Conforming Uses for the X-Mixed Use Districts:

1. Any use which is not listed as a permitted use in the Mixed Use Districts but which was permitted for a specific parcel of property pursuant to district regulations in effect for such parcel and which physically existed upon such parcel prior to the enactment of the Mixed Use Districts shall be permitted as a legal nonconforming use.

2. Legal nonconforming uses located within any of the X districts zoning classifications may expand up to ten (10) percent of the use intensity of the site. If the expansion of legal nonconforming use exceeds ten (10) percent, then the following standards must be met before the expansion can occur:

   a. The expansion will not result in a reduction of acceptable levels of off-street parking, lot coverage ratio and landscaping; and

   b. The expansion will not result in an increase of noise, odor, traffic, light or dust which is incompatible with the surrounding neighborhood or land uses; and

   c. The expansion is consistent with the applicable redevelopment plan, if any; and

   d. The expansion is consistent with the performance standards of the X districts.

Section 11. City of Topeka Code Chapter 48, Comprehensive Zoning Regulations for the City of Topeka and Unincorporated Areas of Shawnee County is amended by the addition of the following language:

Article XXIVa OS-1 Open Space District:

Purpose: The Open Space District is intended to preserve and protect existing and
potential public park land, open land, greenways, recreational space, floodways, trails and lands that have other physical, aesthetic or cultural characteristics which preclude their inclusion in other less restrictive districts. It is intended that these areas provide opportunities for passive and active outdoor recreation, preserve scenic views, and protect sensitive or fragile environmental areas. It is further the intent of this district to protect these areas from urban, non-open space or incompatible development.

Regulations: The regulations set forth in this article or set forth elsewhere in Chapter 48 are the district regulations for the OS-1 Open Space District.

Section 12. City of Topeka Code Chapter 48, Comprehensive Zoning Regulations for the City of Topeka and Unincorporated Areas of Shawnee County is amended by the addition of the following language:

Use Regulations for OS-1 Open Space District:

1. Permitted Uses:
   a. Agricultural uses.
   b. Common open space.
   c. Detached single-family dwellings.
   d. Drainage or flood prevention facilities.
   e. Golf course.
   f. Private park.
   g. Public park.
   h. Trails.

2. Uses Permitted by Conditional Use Permit:
   a. Campgrounds.
b. Cemetery.
c. Commercial equine riding academies.
d. Cultural facility.
e. Fairgrounds.
f. Farmer's markets.
g. Hunting/fishing preserve (outside City limits).
h. Public use facility.
i. Recreational field, court, or track.
j. Utility structure (private or public).

Section 13. If any section or provision or part thereof of this Resolution/Ordinance shall be adjudged invalid or unconstitutional by a court of competent jurisdiction, such adjudication shall not affect the validity of the Resolution/Ordinance as a whole or any section, provision or portion thereof not adjudged invalid or unconstitutional.

Section 14. This Resolution/Ordinance shall take effect and be in force from and after its passage, approval and publication in the official County and City newspaper.
PASSED and APPROVED by the Board of County Commissioners, Shawnee County, Kansas May 22, 2000

THEODORE ENSLY, Chairman

MARCIA KANE, Vice Chair

MIKE MEIER, Member

ATTEST: 

Cynthia Beck, County Clerk

PASSED and APPROVED by the City Council May 9, 2000

JOAN WAGNON, Mayor

APPROVED AS TO FORM AND LEGALITY
DATE 05/30/00 BY Sherry Nava

ASSISTANT SHAWNEE COUNTY COUNCILOR

ATTEST: 

IRIS E. WALKER, City Clerk

APPROVED AS TO FORM AND LEGALITY
DATE 05/30/00 BY

TO BE CODIFIED

NOT TO BE CODIFIED