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SHAWNEE COUNTY RESOLUTION NO. 2001-160

CITY OF TOPEKA ORDINANCE NO. 17661

A JOINT SHAWNEE COUNTY RESOLUTION AND CITY OF TOPEKA ORDINANCE
introduced by Mayor Joan Wagnon, 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 D-Downtown
Districts, 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 20th day of August, 2001.

BE IT ORDAINED by the Council of the City of Topeka, Kansas, on this 13th day
of March, 2001, 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 XXIVa D-Downtown Districts

Purpose: The Downtown Districts are unique to the downtown Topeka area and are
provided to encourage a compatible mixed use activity. The D-Downtown Districts serve
to implement the Downtown Topeka Redevelopment 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 D-Downtown 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:
Downtown District Classifications

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

1. **D-1 District** – The purpose of this district is to facilitate a compatible mixed-use activity center within the core area of Downtown Topeka. The district is predominately composed of state offices, as well as local and federal facilities, commercial and retail uses. The district includes compatible residential, office, civic, and commercial retail/service uses which compliment and support a high density of activity and facilitate pedestrian usage.

2. **D-2 District** – The purpose of this district is to integrate a compatible mixed-use activity with urban residential neighborhoods. The district includes a balance of compatible residential, office, cultural, and neighborhood commercial retail/service uses of low to moderate intensity that compliment and support neighborhood residential areas and pedestrian usage.

3. **D-3 District** – The purpose of this district is to reestablish the linkage between downtown and the Kansas River through intensive redevelopment of the area north of Crane Street to the Kansas River. The district includes housing, commercial and office uses that emphasize the relationship between downtown and the river, as well as expand cultural opportunities in the general downtown area.

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:

**Use Regulations for D-1 District**

1. Permitted Principal Uses:
a. Permitted uses in the “C-3” commercial district
b. Single and two (2)-family dwellings
c. Three (3) and four (4)-family dwellings
d. Multi-family dwellings
e. Group homes
f. Dwelling units as primary or accessory use
g. Residential design manufactured home
h. Amusement indoor establishments, including dance, pool, and billiard halls; archery ranges, shooting galleries, pinball, electronic and video games arcade; taverns and similar establishments licensed by the city to sell and dispense cereal malt beverages for drink on premises
i. Churches, places of worship or assembly
j. Schools
k. Community facilities
l. Conference/convention center
m. Cultural facility
n. Public use facilities
o. Parks, recreation, and open space
p. Amusement parks
q. Camera and film shop; photography and artist studio; frame shop
r. Automobile service station, type I & type II
s. Bed and breakfast establishments
t. Child care centers
u. Clubs and lodges
v. Farmer's markets
w. Funeral homes
x. Health clubs
y. Hotel, motel
z. Theatre, non-adult
aa. Offices for conducting affairs of business, profession, service, industry
or government, including financial institutions and human health care
clinics which may contain a pharmacy
bb. Orthopedic, medical appliance, and prosthesis stores, optician and the
sale of eyeglasses; hearing aid evaluations, fitting and sales
cc. Pet shops/small animal clinics
dd. Commercial recreational facilities which are used primarily for physical
exercise, recreation, and/or health maintenance including fitness
centers, spas, suntanning salons, skating rinks, swimming pools,
gymnasiums, game courts, golf courses, golf driving ranges, pitch and
putt, miniature golf courses and similar activities, including locker and
training areas
ee. Personal service shops
ff. Parking lot and/or multi-story parking garage
gg. Communication towers or telecommunication equipment attached to
a building and which must meet the criteria of Article XXVI
hh. Boarding and lodging houses
ii. Crisis centers

jj. Residential care facility, type I

kk. Residential care facility, type II

ll. Child care centers

mm. Parking lots/garages (principal use)

2. Uses Permitted by Conditional Use Permit:

a. Private or public utility structures facilitating the transmission, distribution and/or collection systems, including substations, distributions stations, pump stations, reservoirs, towers, transmission equipment buildings and similar such uses

b. Free standing communication towers or telecommunication equipment which must meet the criteria of Article XXVI

c. Billboards and panel posters not exceeding three hundred (300) square foot per single face area and which do not exceed a height of fifty-five (55) feet above grade

d. Automobile service station, type III

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 D-2 District

1. Permitted Principal Uses:

a. Single and two (2)-family dwellings

b. Multi-family dwellings
c. Group homes

d. Residential design manufactured home

e. Churches, places of worship or assembly

f. Schools

g. Personal service shop less than ten thousand (10,000) square feet

h. Community facilities

i. Public use facilities

j. Parks, recreation, and open space

k. Amusement parks

l. Camera and film shop; photography and artist studio; frame shop

m. Bed and breakfast establishments

n. Retail uses less than ten thousand (10,000) gross square feet

o. Dwelling units as accessory use

2. Uses Permitted by Conditional Use Permit:

    a. Private or public utility structures facilitating the transmission, distribution and/or collection systems, including substations, distributions stations, pump stations, reservoirs, towers, transmission equipment buildings and similar such uses

    b. Communication towers or telecommunication equipment which must meet the criteria of Article XXVI with the exception that all towers must be attached to an existing building or structure, and may exceed twenty (20) feet in height

    c. Boarding and lodging houses
d. Crisis centers

e. Conference/convention center

f. Cultural facility

g. Residential care facility, type I

h. Residential care facility, type II

i. Amusement indoor establishments, including dance, pool, and billiard
   halls; archery ranges, shooting galleries, pinball, electronic and video
   games arcade; taverns and similar establishments licensed by the city
   to sell and dispense cereal malt beverages for drink on premises

j. Child care centers

k. Farmer's markets

l. Funeral homes

m. Health clubs

n. Hotel, motel

o. Offices for conducting affairs of business, profession, service, industry
   or government, including financial institutions and human health care
   clinics which may contain a pharmacy

p. Parking lots/garages as a principle use

q. Recreation – indoor

r. Restaurants

s. Retail establishments greater than ten thousand (10,000) gross
   square feet
t. Personal service shop greater than ten thousand (10,000) gross square feet
u. Automobile service station, type I
w. Clubs and lodges
x. Entertainment facilities/theatres (non-adult)
y. Small animal clinics

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 D-3 District

1. Permitted Principal Uses:
   a. Single and two (2)-family dwellings
   b. Three (3) and four (4)-family dwellings
   c. Multi-family dwellings
   d. Group homes
   e. Dwelling units as an accessory use
   f. Parks, recreation, and open space
   g. Amusement indoor establishments, including dance, pool, and billiard halls; archery ranges, shooting galleries, pinball, electronic and video games arcade; taverns and similar establishments licensed by the city to sell and dispense cereal malt beverages for drink on premises
   i. Amusement parks
j. Camera and film shop; photography and artist studio; frame shop

k. Automobile service station, type II

l. Cultural facility

m. Entertainment facilities/theatres

n. Offices for conducting affairs of business, profession, service, industry or government, including financial institutions and human health care clinics which may contain a pharmacy

o. Manufacture, processing storage and/or warehousing of any product, equipment, or material; except any activities involving the following:

1. Acetylene, gas manufacture or storage

2. Acid; alcohol; ammonia, bleaching powder, chlorine, cement, lime, gypsum, plaster of paris, disinfectant, dyestuff, glue, fertilizer, size, gelatin, oilcloth, linoleum, oiled rubber goods, paint, oil, shellac, turpentine, varnish, paper, pulp, shoe polish, soap (other than liquid), tallow grease, lard, refining of animal fat, tar distillation, tar roofing, waterproofing products, vinegar and yeast manufacture

3. Arsenal; high explosives (other than armory)

4. Asphalt; cement or other paving materials manufacture or central mixing plant

5. Vehicular wrecking or dismantling for salvage purposes

6. Blast furnace, coke oven, boiler works, forge plant, ore
reduction, smelting of tin, copper, zinc or iron ores, iron, steel, brass or copper foundry or fabrication plant

7. Brick, tile, pottery or terracotta manufacture (other than the manufacture of handcraft products only)

8. Creosote manufacture or treatment

9. Distillation of bones, coal or wood

10. Explosives or fireworks manufacture or storage

11. Fat rendering

12. Garbage, offal or dead animals reduction or disposal

13. Junk, iron or rags or paper storage or bailing except as provided elsewhere in these regulations

14. Petroleum or its products, refining or wholesale storage.

15. Planing mills; rock crusher; rolling mill

16. Rubber or gutta-percha manufacture or treatment

17. Stockyard or slaughter of animals or fowls

18. Stone mill

19. Tanning, curing or storage of raw hides or skins

20. Wool pulling or scouring

21. And in general, those uses which may be obnoxious or offensive by reason of emission of odor, dust, smoke, gas or noise

p. Recreation - indoor

q. Restaurants
r. Retail establishments less than thirty thousand (30,000) gross square feet
s. Theatre – non-adult
t. Churches, places of worship or assembly
u. Schools
v. Automobile service station, type I

2. Uses Permitted by Conditional Use Permit:
a. Private or public utility structures facilitating the transmission, distribution and/or collection systems, including substations, distributions stations, pump stations, reservoirs, towers, transmission equipment buildings and similar such uses
b. Communication towers or telecommunication equipment which must meet the criteria of Article XXVI with the exception that all towers must be attached to an existing building or structure, and may exceed twenty (20) feet in height
c. Billboards and panel posters not exceeding three hundred (300) square feet per single face area and which do not exceed a height of fifty-five (55) feet above grade
d. Community facilities
e. Conference/convention center
f. Public use facilities
g. Automobile service station, type III
h. Bed and breakfast establishments
260   i. Child care centers
261   j. Clubs and lodges
262   k. Farmer’s markets
263   l. Health clubs
264   m. Hotel, motel
265   n. Parking lots/garages principle use
266   o. Pet shops/small animal clinics
267   p. Retail establishments less than thirty thousand (30,000) square feet
268   q. Personal service facility

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:

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. D-1 Performance Standards:

1. Maximum building coverage - one hundred (100) percent
2. Minimum front yard setback - zero (0) feet
3. Minimum rear yard setback - zero (0) feet
4. Minimum side yard setback – zero (0) feet

b. D-2 District Performance Standards:

1. Maximum building coverage - seventy-five (75) percent
2. Minimum front yard setback - zero (0) feet
3. Minimum rear yard setback – zero (0) feet
4. Minimum side yard setback – zero (0) feet
5. Maximum building height - fifty (50) feet

c. D-3 District Performance Standards:
1. Maximum building coverage - one hundred (100) percent
2. Front yard setback - zero (0) feet
3. Minimum rear yard setback - zero (0) feet
4. Minimum side yard setback - zero (0) feet
5. Maximum building height - sixty (60) feet

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:

Parking

1. No off-street parking requirements for the D-1, D-3 use districts
2. Minimum off-street parking requirements for the D-2 use districts shall be consistent with the following:
   a. Residential dwellings: one (1) space per dwelling unit
   b. Private clubs, drinking establishments, and restaurants: one (1) space per four (4) occupants permitted
   c. Retail and office uses: one (1) space per five hundred (500) square feet of useable retail or office floor area
   d. All other uses not specified shall be consistent with Article XXX
3. A maximum number of off-street parking spaces for a particular use may be
required 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 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:

Legal Non-Conforming Uses

1. Any use which is not listed as a permitted use in these Downtown zoning
districts but which was permitted for a specific parcel of property pursuant to zoning district
regulations in effect for such parcel and which physically existed upon such parcel prior to
the enactment of the districts shall be permitted as a legal nonconforming use in
accordance with Section 48-28 of this Chapter.

2. Expansion of legal non-conforming uses and/or structures is prohibited
unless a determination of “no adverse impact” by the planning director is obtained based
on the following:

a. the use intensity on the site of the proposed expansion will not
increase by more than ten percent (10%) cumulatively, and

b. the expansion will not result in a reduction of acceptable levels of off-
street parking, lot coverage ratio, landscaping by more than five
percent (5%), and

c. the expansion will not result in an increase of noise, odor, traffic, light,
or dust incompatible with the surrounding neighborhood and/or uses,

and
329  d. the expansion is consistent with the any adopted neighborhood, area, 
330  or redevelopment plan, and 
331  e. the expansion is consistent with the development performance 
332  standards of these districts

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

336  **Design and Appearance Guidelines**

337  1. Within the D-1, D-2 and D-3 districts, all new development, including 
338  permitted commercial, office, institutional, multi-family residential, industrial uses, or 
339  combination thereof, or change of uses with exterior modifications shall be consistent with 
340  the following design guidelines. No building permit shall be issued unless it is in 
341  compliance with the Downtown Topeka General Design and Appearance Guidelines which 
342  are set forth in Exhibit A, attached hereto and incorporated by reference as if fully set forth 
343  herein.

344  2. Compliance shall be determined by the planning director by evaluating site 
345  plans and exterior elevations for conformity with the Downtown Topeka General Design 
346  and Appearance Guidelines.

347  3. Decisions on conformity with the guidelines shall be made within ten (10) 
348  working days of submission.

349  4. An appeal from the planning director's decision as to compliance with the 
350  Downtown Topeka General Design and Appearance Guidelines may be made to the 
351  Topeka Shawnee County Metropolitan Planning Commission's Planning and Policy
Committee. Such appeal shall be heard at the next scheduled meeting of the Committee.

Section 10. 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 11. 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 August 20, 2001.

BOARD OF COUNTY COMMISSIONERS
Shawnee County, Kansas

Vic Miller, Chairman

Marice Kane, Vice Chair

Ted Ensley, Member

ATTEST:
Cynthia Beck, County Clerk

PASSED and APPROVED by the City Council March 13, 2001

Joan Wagnon, Mayor

ATTEST:
Iris E. Walker, City Clerk

APPROVED AS TO FORM AND LEGALITY
DATE 3/13/2001 BY
TO BE CODED
NOT TO BE CODED

LM/DOWNTOWN
01/23/01
EXHIBIT A
DOWNTOWN TOPEKA URBAN DESIGN GUIDELINES

Urban design is concerned with the appearance of Downtown Topeka, and the physical implications of design and planning decisions for the public realm of the City. Urban design is an effective means to coordinate how various public and private development proposals, including transportation and public infrastructure will affect the City physically. The focus of concern is on the public realm of Downtown: the public faces of buildings, public spaces, streets, sidewalks, parks and plazas that provide the outdoor public venues for many activities. These guidelines are to be used as criteria for the design of new public and private projects and to be utilized in the evaluation of new projects by the approving authorities.

MIXED USE DEVELOPMENT

1. A mix of uses (including office, retail, housing, or other uses) within a given project is encouraged, whether it is a single building or a redevelopment district is the objective.

INFILL DEVELOPMENT

1. Exterior additions to existing buildings or adjacent infill construction should be compatible with the character of the site, and take into account the size, proportions, facade composition, rhythm and proportion of openings, materials, and colors of neighboring buildings.

2. Design new on-site parking, loading docks or ramps to be unobtrusive and compatible with the primary use of the site.
STREET ORIENTATION

1. Buildings should generally be built up to the edge of the sidewalk in a consistent plan with the other buildings on the street.

2. Other street-level setbacks, plazas and widened sidewalks from the building line should be strategically placed in accordance with an overall open space plan. The new open spaces should be located to relate to other land uses such as retail, entertainment and transit routes.

STREET LEVEL USES

1. The ground floors of buildings should contain public or semi-public uses such as retail or entertainment uses with direct entry from the street.

2. New buildings should express a principle public façade and entrance on the adjacent street, and entries from parking facilities should be considered as secondary.

3. Retail activities within buildings should be oriented towards the street and have direct access from sidewalks through storefront entries.

4. Ground floor storefront restaurants are strongly encouraged to have French doors, operable storefront windows and sidewalk cafes to increase the connection between the interior and exterior environments.

5. Sidewalk cafes should not impair pedestrian circulation nor store entrance access.
BUILDINGS FACADES

1. New buildings should be open and inviting in both their principal and secondary facades.

2. Entryways should be generously proportioned and visually transparent so as to encourage connections to the public realm.

3. Decorative and functional elements such as signage, awnings, and ornamentation should be used to create human scale elements on the facades to further encourage openness.

4. Blank walls should not be placed along public streets, but may be placed along alleys and service lanes.

5. Loading docks and garage entrances should not be located on the major pedestrian street side of new buildings.

6. Retail storefronts are strongly encouraged along the ground floor of all new and renovated buildings within the Downtown D-1 District. These should be visually transparent to the interior with large areas of window display and should provide for direct entry from the sidewalk.

7. Store display windows should be lit at night so as to contribute to ambient street lighting and a livelier street presence. Pull-down doors that cover the entire storefront are discouraged; visually open grates and grilles are preferred for security where needed.
PARKING FACILITY DESIGN

1. Facades of parking facilities should be treated with high quality materials and given vertical articulation and emphasis. The façade should be designed so as to visually screen cars at street level. Sloping interior floors should not be visible or expressed on the exterior face of the building.

2. Retail storefronts or other business uses should be placed at the street level along the principal street and are encouraged along all adjacent streets except service alleys.

3. Pedestrian entries should be clearly visible and architecturally expressed on the exterior of the garage. Expression of the vertical pedestrian circulation (stairs and elevators) on the exterior of the garage is encouraged.

4. Surface parking lots should provide a minimum of 20 square feet of landscaping for each parking space. Required landscaping should take the form of planter strips, landscaped areas and perimeter landscaping.

5. The existing street setback should be maintained along the principal street frontage in developed areas and established in new districts or developments. Tools for accomplishing this can include walls, fences, row of trees, hedges or any combination of these elements.

6. While it is important to provide adequate interior lighting for safety and comfort, it should be controlled to avoid spill out on the adjacent streets creating excessive glare.
ARCHITECTURE AND CONTEXT

1. The architectural design of new buildings and the rehabilitation of existing buildings should be sensitive to the existing built and natural environment within which they are constructed. The architecture of the existing downtown buildings, particularly buildings built before 1940, should provide examples of architectural themes, rhythm, materials and forms.

2. New construction in the Downtown Districts are not required to implement any particular architectural style, but should be designed to be compatible with the scale, form and materials of surrounding structures, by applying these guidelines.

PUBLIC INFRASTRUCTURE IMPROVEMENTS

1. All new public infrastructure projects (roads, sidewalks, public buildings, and streetlights) should meet high standards of design quality and provide significant secondary benefits in the form of major public space improvements. These projects should be subject to the same standards of Downtown design that would be required of all other projects.

2. Public art projects are encouraged to be incorporated into every major public infrastructure project such as bridges, highways and roadways.
ART IN PUBLIC PLACES

1. New public spaces and infrastructure improvements are encouraged to have a significant component of public art so the project will have a visible presence.

PUBLIC SPACES

1. New public spaces should consist of renovated or enhanced streets, or strategically selected places that are directly linked to the street system. Primary opportunities are adjacent to the Kansas-Quincy, and at the intersections of 9th and Kansas Ave. and 8th and Van Buren St.

2. Generally, pedestrian ways should not be separated from streets and sidewalks, unless in riverfront parks. They should maintain direct access from the adjacent streets. They should be open along the adjacent sidewalk and allow for multiple points of entry. A passerby should be able to see directly into the space.

3. The development of new districts and projects should emphasize the continuation or conservation of traditional block and street patterns.

4. New public spaces should be developed with amenities as follows:
   - 1 tree per 1000 square feet of open space. (3½" caliper at planting).
   - A minimum of 25 linear feet of seating for every 1000 square feet of open space.
   - However, walls, fences and dense planting that visually secludes the interior space from the sidewalk should be avoided.
HISTORY AND IDENTITY

1. All projects are encouraged to express local history and identity through functional and ornamental design elements and works of public art.

2. New development projects or renovation of existing structures should be designed to preserve the historic resources that exist on the site and reinforce the historical context within which they are developed.

3. In the event that it is not possible to preserve the entirety of a historic building the retention of historic facades is encouraged.

STREET AND BLOCK ORGANIZATION

1. New buildings and development should respect the existing organization of the city and the street and block patterns that exist.

2. Superblock developments that join together one or more blocks are discouraged.

3. Where it is feasible, street grids should be extended, reestablished or newly created in areas of large-scale redevelopment.

4. New buildings or pedestrian bridges should not bridge across or block access to existing streets.
ENTRANCES AND VISTAS

1. Buildings and new development projects should be sensitively designed and sited so as to preserve the key vistas and gateways to downtown and views of the State Capitol.

2. New buildings should not block the view corridors defined by the city streets, either by bridging across streets or the use of pedestrian bridges.

Illustrations:

P.1 Dawn Wessels & Kim Korphage (top), Draft Lawrence, Kansas Downtown Design Guidelines (bottom)
P.2 *Keeping Up Appearances* Storefront Guidelines, National trust for Historic Preservation (top), Kim Wessels (bottom)
P.3 Dave Devore (top), Planning staff (middle), *Keeping Up Appearances* Storefront Guidelines, National trust for Historic Preservation (bottom)
P.5 Dawn Wessels & Kim Korphage (top), Charlotte Cox (bottom)
P.6 Planning staff (top), Planning staff (middle), Chris Handzel (bottom)
P.7 Bryce Wittenborn (top), Joe Loretta & Aaron Harmsen (bottom)
P.8 Model and photograph by KSU Studio Students