SHAWNEE COUNTY RESOLUTION NO. 2002-12
CITY OF TOPEKA ORDINANCE NO. 17781

A JOINT SHAWNEE COUNTY RESOLUTION AND CITY OF TOPEKA ORDINANCE
introduced by Mayor Felker relating to building setbacks for existing lots,
amending City of Topeka Code § 48-27.02, and specifically repealing said
original section.

BE IT RESOLVED by the Board of County Commissioners of the County of
Shawnee, Kansas, on this 14th day of January, 2002.

BE IT ORDAINED by the Council of the City of Topeka, Kansas, on this 15th day
of January, 2002, as follows:

Section 1. City of Topeka Code § 48-27.02, General yard requirements, is
amended to read as follows:

General yard requirements.

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

(b) Yard requirements for open land: If a zoning lot is, or will be, occupied by a
permitted use without buildings or structures, then the minimum yards that would otherwise
be required for said zoning lots shall be provided and maintained unless some other
provision of this chapter requires or permits a different minimum yard. The minimum yards
shall not be required on zoning lots used for gardening purposes without structures, or on
zoning lots used for public recreational areas.

(c) Restrictions on allocation and disposition of required yards or space:
(1) No part of a lot, yard, off-street parking space, open space or other space provided in connection with any building, structure or use in order to comply with this chapter shall, by reason of change of ownership or otherwise, be included as part of the minimum lot area, yard, off-street parking space, open space or other space required for any other building, structure or use, except as specifically provided herein.

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

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

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

(e) Front yards for corner and double frontage lots: Front yard requirements included in the district regulations within which the zoning lot is located shall apply on both frontages.
(f) Modification of front yard requirement: Where at least 50 percent of the lots along a frontage are occupied by buildings that deviate in setback more than five feet from the required front yard, the minimum front yard for each lot along the frontage shall be established in the following manner:

(1) If all the buildings are located more than five feet closer to the street than the required front yard, the front yard may be established five feet closer to the street than the required front yard.

(f) Front yard building setbacks on existing lots of record: An individual unimproved lot of record in the office of the Shawnee County Register of Deeds, may be developed irrespective of the front yard setback requirements of the applicable zoning district, subject to the following requirements:

(1) The proposed development of said property does not conflict with, or alternatively, promotes the policies and objectives as stated in the adopted Comprehensive Metropolitan Plan or an adopted neighborhood plan;

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

(3) The proposed development shall be consistent with the established building front yard setbacks so as to reflect and align with existing setbacks of buildings on the block face or surrounding neighborhood. Where variable building setbacks exist with respect to surrounding properties, an average of building setbacks may be applied.
(g) Platted building and setback lines: If a recorded plat imposes a building or setback line for a lot which is greater than the minimum front yard of the district in which located, then notwithstanding any other provisions of this chapter, the minimum setback shall be the setback as imposed by the plat.

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

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

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

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

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

Section 2. Original City of Topeka Code § 48-27.02 is hereby specifically repealed.
Section 3. 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 4. 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.

January 14, 2002

THEODORE D. ENSLEY, Chair

VIC MILLER, Vice Chair

MARI CE KANE, Member

Cynthia Beek, County Clerk

PASSED and APPROVED by the City Council

Jan. 15, 2002

Harry Feltet, Mayor

Iris E. Walker, City Clerk