ORDINANCE NO. 18094

AN ORDINANCE introduced by Councilmember Clark Duffy relating to the reorganization of the planning and zoning program of the City of Topeka, specifically creating a City of Topeka planning commission, pursuant to K.S.A. 12-741 et seq. providing for transition measures, and amending City of Topeka Code §§ 110-26 through 110-50 inclusive, 110-71 through 110-77 inclusive and specifically repealing said original sections.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That City of Topeka Code § 110-26 Created, is hereby amended to read as follows:

Created Topeka Planning Commission created.

There is hereby created and established a body which shall be known as the Topeka-Shawnee County Metropolitan Planning Commission, in place of and instead of the body heretofore known as the Topeka-Shawnee County Regional Metropolitan Planning Commission. The Metropolitan Topeka Planning Commission shall assume all powers, duties, responsibilities and functions provided by the laws of the state and resolutions and ordinances of the city and county. Such body shall in this article be referred to as the Topeka Planning Commission.

Section 2. That City of Topeka Code § 110-27 Composition; appointments; terms, is hereby amended to read as follows:

Composition; appointments; terms.

(a) Membership generally. The Topeka Planning Commission shall consist of

45 nine (9) members, nine of whom shall be appointed by the city
council and six of whom shall be appointed by the board of county commissioners and have the terms of service as follows:

The Mayor with the consent of the City Council shall appoint seven (7) persons from within the corporate boundaries of the City. In addition, the Mayor with the consent of the City Council shall appoint two (2) persons who reside outside of the corporate limits but within the extra territorial area. Of the members of the Topeka Planning Commission first appointed, three (3) members shall serve one (1) year terms; three (3) members shall serve two (2) year terms and three (3) members shall serve three (3) year terms. The Mayor with the consent of the City Council shall determine the terms of each appointed member. Persons appointed to the first Topeka Planning Commission may be reappointed to additional terms, subject to applicable bylaws of the Topeka Planning Commission.

Members appointed to the Topeka Planning Commission shall serve without compensation. Members may be removed for cause by the Mayor and City Council.

In case of death, incapacity, resignation or disqualification of any member of the Topeka Planning Commission, the Mayor with consent of the City Council shall appoint another member for the unexpired term of the deceased, incapacitated, resigned or disqualified member.

The board of county commissioners may designate one or more of its appointees to represent the units of local government of the City of Rossville, City of Silver Lake, City of Auburn, and the City of Willard, Kansas. Neither
the mayor nor any member of the governing body of the city or the county
shall be a member of the planning commission.

(b) Citizen representation. The mayor, with the consent of the city council, and the
board of county commissioners shall appoint members to the planning commission who
shall be persons having general knowledge and/or experience in one or more of the
following fields: finance, commerce, real estate, economic development, education,
industry, transportation, architecture, landscape architecture, engineering, building, social
welfare, civil administration, law, agriculture, sanitation, recreation and ecology.

(c) Terms. All appointments to the planning commission shall be for a term of three
years. All terms shall commence and be effective in January of each year; provided, that all
members shall continue to serve until their successors are appointed or until such member
has been reappointed.

(d) All persons who are serving as members of the planning commission on the
effective date of this ordinance/resolution [Ordinance Number 17456] may be allowed to
serve out their existing terms of office.

(e) New appointments to the planning commission created by this article shall be
staggered so as to ensure that the terms of not more than five members expire at the same
time.

Section 3. That City of Topeka Code § 110-28 Ex officio members and
cooperative planning process, is hereby amended to read as follows:

Ex-officio members and cooperative planning process. Organization and
transition.
(a) In order to provide for a continuing, cooperative and comprehensive planning process, the following officials shall serve as ex officio members to the planning commission. Such members shall be advisory only and shall be nonvoting. Such members shall include the following: city engineer, county engineer, traffic engineer, health officer, code enforcement director, fire chief, director of water pollution control department, superintendent of the water department, superintendent of the park department, director of the metropolitan airport authority, director of the metropolitan economic development commission, director of the community development program, director of the human relations commission, director of urban renewal agency, intergovernmental coordinator, chairperson of the metropolitan transit authority, financial administrator of the county, director of the department of labor services, director of the county community assistance and action, director of emergency medical services, facilities planner of unified school district no. 501, director of the recreation commission, police chief, county sheriff, city auditor, director of the housing authority, and one representative of the unified school districts of the county.

(b) The ex officio members of the planning commission may designate an alternate from their agency to attend any or all meetings, and such alternate shall have any or all of the respective powers, duties, responsibilities or authority of the ex officio members.

The Topeka Planning Commission shall meet as soon as possible after its appointment to organize. The provisions of K.S.A. 12-745 and amendments thereto shall apply to the Topeka Planning Commission with regards to meetings, officers and bylaws. The Topeka Planning Commission shall have as its first order of business to set and
conduct all necessary public hearings for the adoption of a comprehensive land use plan, subdivision regulations and zoning code.

All ordinances, to the greatest extent practical including, but not limited to, ordinances adopting the comprehensive land use plan, subdivision regulations and comprehensive zoning code, resolutions, policies, rules and regulations now in force and effect within the City of Topeka and its extraterritorial jurisdiction at the time this ordinance is effective which are not inconsistent with the provisions of this ordinance shall remain in force and effect until amended or repealed as may be provided by law.

Section 4. That City of Topeka Code § 110-30 Residency, is hereby repealed.

Residency.

All members shall reside within the county.

Section 5. That City of Topeka Code § 110-31 Compensation, is hereby specifically repealed.

Compensation.

The members of the planning commission shall serve without compensation, but may be reimbursed for expenses actually incurred in the performance of their duties as members of the planning commission.

Section 6. That City of Topeka 110-32 Officers, is hereby amended to read as follows:

Officers.

The Topeka PPlanning CCommission shall, from its membership, elect a chairperson and vice-chairperson. The terms of such officers shall be for one year or until their successors shall have been duly elected and qualified. The initial officers shall serve until the first regularly scheduled meeting in January. The terms of all subsequent officers shall
be for a period of one year, and they shall be elected and take office annually at the first
regularly scheduled meeting in January of each year thereafter.

Section 7. That City of Topeka Code § 110-33 Committees is hereby specifically
repealed.

Committees.

(a) The planning commission shall be authorized to create a zoning and platting
committee composed of seven members of the planning commission consisting of five city
appointees and two county appointees. The purpose of the zoning and platting committee
shall be to approve subdivision plats and to make recommendations to the governing
bodies of the city and county on amendments to the zoning regulations affecting specific
properties.

(b) The planning commission shall be authorized to create a planning policy
committee composed of eight members of the planning commission with four appointees of
the city and four appointees of the county, to review and make recommendations to the
governing bodies of the city and the county concerning planning issues including, but not
limited to:

- Comprehensive plan

  Subdivision regulations

  Zoning regulations

  Transportation

  Neighborhood revitalization

  Capital improvements
Such recommendations of the planning policy committee relating to revisions of the comprehensive plan, subdivision regulations, and zoning regulations other than those affecting specific properties, shall be approved by not less than a majority of all members of the planning commission.

(c) Appointments to the zoning and platting committee and the planning policy committee of the planning commission shall be made annually by the chairperson of the planning commission, provided, however, that the chairperson shall be authorized to appoint such alternates as may be necessary to ensure the presence of a quorum of the zoning and platting committee of the planning commission as hereinafter set forth in

(d) Every member of the planning commission shall be appointed to either the planning policy committee or the zoning and platting committee and shall rotate service on these committees in accordance with the by-laws.

(e) The planning commission may establish other committees. Such committees shall be open to other interested persons, agencies and community organizations which may participate at the request and concurrence of the planning commission. The purpose of such committees is to:

1. Provide a forum for decision making with respect to the continuing, cooperative and comprehensive planning process.

2. Provide for a technical resource and input into the planning process.

3. Assist the planning commission staff in the preparation and development of the comprehensive plan and respective elements thereof, and to recommend changes, revisions and amendments to the planning commission.
Section 8. That City of Topeka Code § 110-34 Meetings, is hereby amended to read as follows:

Meetings.

(a) The Topeka Planning Commission shall convene for its first meeting at such time and place as shall be fixed by the chairperson of the board of county commissioners and the mayor of the city, and shall thereupon proceed to organize and elect officers and fix and determine times and places of future meetings, which meetings shall not be less frequent than four (4) times a year.

(b) Special meetings of the Topeka Planning Commission may be called by the chairperson, or, if absent, by the vice-chairperson, on not less than three (3) days' notice, such notice to be by mail at the address given to the secretary of the Topeka Planning Commission by each member.

(c) The zoning and platting committee of the planning commission shall convene for its first meeting at such time and place as shall be fixed by the chairperson of the planning commission and shall thereupon proceed to organize and elect officers and fix and determine times and places of future meetings which shall not be less frequent than once a month.

(d) The planning policy committee of the planning commission shall convene for its first meeting at such time and place as shall be fixed by the chairperson of the planning commission and shall thereupon proceed to organize and elect officers and fix and determine times and places of future meetings, which shall not be less frequent than once a month.
(ec) The Topeka Planning Commission shall adopt bylaws to implement the provisions of this ordinance in accordance with state law, a certified copy to be filed with the board of county commissioners and the City Council.

Section 9. That City of Topeka Code § 110-35 Quorum, is hereby amended to read as follows:

Quorum.

(a) A quorum of the Topeka Planning Commission shall consist of eight-five (5) members. Except as otherwise provided by state law requiring a higher number of affirmative votes, any matter requiring that a recommendation be made to either of the respective governing bodies of the City Council and county shall require the affirmative votes of not less than a majority of the quorum present at such meeting of the Topeka Planning Commission. Matters pertaining only to the administration of the planning department shall require only a simple majority vote of the quorum as set out in this section. The secretary shall record all votes taken by name, indicating whether the member voted in the affirmative or negative or abstained, and a copy of such record shall be transmitted to the City Council and to the board of county commissioners following each meeting of the Topeka Planning Commission, the zoning and platting committee, and the planning policy committee. The planning director shall serve as secretary to the Topeka Planning Commission. The secretary shall cause a proper record to be kept of all the proceedings of the Topeka Planning Commission.

(b) A quorum of the zoning and platting committee shall consist of four members.

(c) A quorum of the planning policy committee shall consist of five members.
(d) The chairperson of the planning commission shall be authorized to appoint, as may be necessary to ensure the presence of a quorum of either the zoning and platting and planning policy committee, any member of the planning commission to serve as a member of either committee.

Section 10. That City of Topeka Code § 110-36 Conflict of interest, is hereby amended to read as follows:

Conflict of interest.

Should any member of the planning commission have a conflict of interest, directly or indirectly, in any matter to be considered by the planning commission, the member shall be disqualified to consider, discuss or vote upon the matter.

Should any member of the Topeka Planning Commission have an interest, pecuniary or otherwise in any matter to be considered by the Topeka Planning Commission, the member shall be deemed to have a conflict of interest and shall be disqualified from considering, debating, discussing and voting on said matter. Failure to disclose a conflict of interest or refrain from considering a matter for which the member has a conflict of interest shall be cause for removal from the Topeka Planning Commission.

Section 11. That City of Topeka Code § 110-37 Dismissal for absence from meetings, is hereby specifically amended to read as follows:

Dismissal for absence from meetings.

When any member of the Topeka Planning Commission shall have been absent from three (3) or more consecutive regular meetings within any Twelve (12)-month period without having been previously excused by the chairperson, the chairperson shall cause to be prepared and forwarded to the appropriate governing body City Council a report thereof
with an explanation of the circumstances. Such governing body The City Council may, within its sound discretion, dismiss the member and appoint a replacement for the unexpired term of the dismissed member.

Section 12. That City of Topeka Code § 110-38 Budget, is hereby repealed.

Budget.

On or before the first Monday in June of each year, the planning commission shall submit to the board of county commissioners and the council a budget of income and expenditures for the ensuing fiscal year on forms provided by the respective jurisdictions. Thereupon, such budget shall be considered by the board of county commissioners and the council at a joint hearing, and such budget, as submitted, or as such budget may be amended by the joint consent of both such governing bodies, shall be approved and adopted by both such governing bodies to the extent of 40 percent of such amended or revised budget by the board of county commissioners and to the extent of 60 percent of such amended or revised budget by the city council. The city treasurer is hereby designated as the custodian for the total budget and the board of county commissioners shall direct the county treasurer to pay over direct to the city treasurer 40 percent of the total amount of such amended or revised budget.

Section 13. That City of Topeka Code § 110-39 Functions; authority, is hereby amended to read as follows:

Functions; authority, and jurisdiction.

(a) The Topeka Planning Commission shall have such powers and duties as may be prescribed by law from time to time. The Topeka Planning Commission shall have the authority prescribed to a Planning Commission in Chapter 12, Article 7 of the
Kansas Statutes Annotated and amendments thereto except as otherwise provided in this ordinance. As a primary function, the Topeka Planning Commission shall have the responsibility for the preparation, adoption and recommendation to the City Council of a long-range comprehensive metropolitan plan to guide the future physical orderly growth and harmonious development of the Topeka metropolitan area. Such general The comprehensive metropolitan plan shall consist of, but not be limited to, a land use element, a circulation element, and a public facilities element. Any regional plan so developed shall be based on studies of physical, social, economic and governmental conditions and trends. The plan and its recommendations may in whole or in part be adopted by the governing bodies the elements described in City of Topeka Code § 110-72. The Topeka Planning Commission shall recommend development plans for specific public projects. Such development plans shall be related to the comprehensive plan and shall ensure the integration of proposed land uses. The development plan shall provide adequate access and proper relationship to the neighborhood or neighborhoods to be served appropriate legislative, administrative or budgetary actions necessary for the governing bodies-body to implement the comprehensive metropolitan plan on or before May 1 of each year.

(b) The planning commission shall cause to be prepared zoning studies and shall recommend the zoning of all land within its jurisdiction. The present subdivision regulations and zoning regulations of the city and county shall remain in full force and effect until a comprehensive joint-zoning plan and other joint-planning legislation prepared by the planning commission shall have been adopted by the
council and the board of county commissioners consistent with the comprehensive
metropolitan plan. The Topeka Planning Commission shall have jurisdiction over all
planning, zoning and platting matters which arise within the corporate boundaries of
the City of Topeka and shall also have jurisdiction over all planning, zoning and
platting matters which arise within three (3) miles of the City's corporate boundaries.

Section 14. That City of Topeka Code § 110-40 Counsel, specialists, is
hereby specifically repealed.

Counsel, specialists.

The planning commission shall have the right to employ legal counsel in accordance
with the provisions of section 102-42(b), to advise the commission, which counsel shall not
be a member of the staff of the city attorney or of the county attorney. The planning
commission shall have the right to call upon qualified specialists in the field of urban
planning, and to pay their necessary expenses for attending the meetings. All funds
budgeted for the operation of the planning commission, and all other receivable funds,
shall be received and disbursed by the city treasurer and accounting department of the
department of finance and revenue of the city.

Section 15. That City of Topeka Code § 110-41 Authority of the governing bodies
body, is

Authority of the governing bodies body.

All recommendations of the Topeka Planning Commission shall be forwarded to
the appropriate governing-body Topeka City Council for final determination as may be
required by law.
Section 16. That City of Topeka Code § 110-42 Planning department, is hereby amended to read as follows:

Planning department.

(a) Created. There is hereby established and created the metropolitan Topeka planning department, which shall act as the staff of the metropolitan Topeka Planning Commission. The director of such department shall be known as the planning director and shall be appointed hired by the mayor and majority vote of the county commission with concurrence by the city council. Both the mayor and county commission will be involved in the interview/selection process. The termination of the planning director's employment may be initiated by the mayor, a majority of the county commission or a majority of the city council and shall require approval by the mayor and a vote of the majority of the county commissioners.

(b) Planning director. The planning director shall have a bachelor's master's degree from a college or university in city or regional municipal planning, civil engineering, architecture, landscape architecture, or other related field, plus five (5) years of planning experience; or in the alternative, a master's degree in city or regional planning which shall be deemed the equivalent of two years' planning experience. Waiver of this requirement must be approved by the City Council.

(c) Administrative control. The planning director shall be an employee of the city for personnel management purposes. The mayor and county commission shall have equal authority to direct work of the planning director.

(d) The planning director shall be responsible for preparing, developing, directing, implementing and administering short and long range planning programs to ensure the
orderly growth and harmonious development of the Metropolitan City-County City and the area within three (3) miles area of the City's corporate boundaries and promote efficient use of city/county resources in compliance with ordinances, resolutions, statutes, policies and procedures pertaining to land use, development, zoning, and economic development. The planning director shall develop, advocate for and monitor the implementation of the comprehensive metropolitan plan and facilitate the update of the comprehensive metropolitan plan annually.

(e) The planning director shall actively participate in the development and update of the capital improvement programs for the city and the county.

(e) The Topeka Planning Department shall provide the City Council such advice as appropriate regarding all proposed annexations in conformance with the provisions of Chapter 12, Article 5 of the Kansas Statutes Annotated and amendments thereto.

(f) Except as otherwise provided by state law, neither the planning department nor its director shall be called upon to prepare any report or recommendation in support, or in opposition to, the annexation or deannexation of land by the city or any other unincorporated city with the county. Nothing herein shall prevent the planning department or its director from preparing reports setting forth findings.

Section 17. That City of Topeka Code § 110-43 Comprehensive metropolitan plan, is hereby amended to read as follows:

Comprehensive metropolitan plan and the continuing planning process.

(a) It shall be the duty of the planning commission to make or cause to be made, and to adopt, a comprehensive plan for the physical development of the metropolitan area. The planning commission is hereby authorized to cooperate and coordinate with all general
local units of government in the continuing planning process. Such plan, with the accompanying maps, plate, charts and descriptive matter, shall show the commission's recommendations for the development and redevelopment of such territory, including the general location, character and extent of streets, alleys, sewers, viaducts, bridges, subways, parkways, parks, playgrounds, waterways, waterfronts, boulevards, squares, aviation fields and other public ways, grounds and open spaces, the general location of public buildings and other public property, and the general location and extent of public utilities and terminals; also the removal, location, widening, narrowing, vacating, abandonment, change of use or extension of any public ways, grounds, open spaces, buildings, property, utilities or terminals; as well as a zoning plan for the control of the height, area, bulk, location, use and intensity of use of buildings and premises. It shall be the duty of the planning department to formulate a comprehensive metropolitan plan with the public input received through a continuing planning process. The planning department shall prepare the comprehensive metropolitan plan in accordance with the provisions of this ordinance. The planning department shall seek advice from the general public and individuals with knowledge of and an interest in the elements contained in City of Topeka Code § 110-72.

(b) The planning commission may from time to time amend, extend or add to the comprehensive metropolitan plan, and may publish all or parts thereof. In the preparation of such master plan, the planning commission shall annually update relevant elements of the comprehensive metropolitan plan and present such updates to the Topeka Planning Commission for adoption and recommendation to the governing body, and publish all or parts thereof. Such adoption and recommendation
shall take place on or before May 1 of each year. In the preparation of the comprehensive
metropolitan plan, the planning department may make or cause to be made careful and
comprehensive surveys and studies of present conditions and trends of future growth of
the metropolitan area. The plan shall be made and used for the general purpose of building
and accomplishing a coordinated, adjusted orderly growth and harmonious
development or redevelopment of the metropolitan area and its environs which will, in
accordance with present and future needs, best promote the health, safety, morale, order,
convenience, prosperity and general welfare, as well as efficiency and economy in the
process of development or redevelopment, including adequate provisions for traffic, the
promotion of safety from fire or other dangers, adequate provision for light and air, the
promotion of the healthful and convenient distribution of population, the promotion of good
civic design and arrangement, wise and efficient expenditure of public funds, and the
adequate provision of public requirements.

(c) The Topeka Planning Commission may adopt the comprehensive metropolitan
plan as a whole by a single resolution or may by successive resolutions adopt parts of the
plan, such parts corresponding with the major geographical sections or divisions of the
metropolitan area or with functional subdivision of the subject matter of the comprehensive
metropolitan plan, and may adopt any amendment or extension thereof or addition thereto.
Before the adoption of the plan or any such part, amendment, extension or addition, the
Topeka Planning Commission shall hold at least one public hearing thereon, and notice
of the time and place of such hearing shall be given by one publication in the official county
City newspaper at least twenty (20) days prior to the date of public hearing. The adoption
of the plan or of any part or amendment or extension or addition thereof shall be by resolution of the Topeka Planning Commission.

(d) A certified copy of the resolution required by subsection (c) of this section, together with other descriptive materials, maps, charts, reports and data containing legislative, administrative or budgetary recommendations for the implementation of the comprehensive metropolitan plan, shall be forwarded to the council, the board of county commissioners, and all other legislative or administrative bodies affected thereby. The governing bodies of both the city and county shall, within sixty (60) days after receiving such resolution, consider such proposal and submit a statement containing its recommendation to the planning commission. The planning commission shall consider such recommendation at a regularly scheduled meeting and may adopt the proposed plan, in whole or in part thereof, as the official plan for the metropolitan area: may:

1. Adopt such recommendation;

2. Override the planning commission's recommendation by a 2/3 majority vote of the membership of the governing body; or

3. Return such recommendation to the planning commission with a statement specifying the basis for the governing body's failure to approve or disapprove.

All reports and documents pertaining thereto shall bear the signature of the chairperson of the Topeka Planning Commission and secretary. An attested copy shall be certified to the city clerk and county clerk and any other affected legislative or administrative agencies which are affected. The planning commission shall review such
comprehensive metropolitan plan and report its findings to the governing bodies on or before June 1 of each year.

Section 18. That City of Topeka Code § 110-44 Improvements required to be approved, is hereby amended to read as follows:

Capital improvements required to be approved and plan review.

Whenever the planning commission shall have adopted and certified the comprehensive metropolitan plan or one or more major sections or districts thereof, then and thenceforth no public improvement, public facility or public utility of a type embraced within the recommendations of the plan or portion thereof shall be constructed without the proposed plans of improvement thereof first being submitted to the planning commission for their study and report. If the planning commission does not make a report within 60 days, the project shall be deemed to have been approved by the planning commission; provided, that in case of disapproval, the planning commission shall submit forthwith in writing the cause of such disapproval to the governing body sponsoring the improvement, and such governing body may, by a recorded vote of three-fourths majority of its membership, overrule the disapproval of the planning commission and the comprehensive metropolitan plan for the area affected shall be deemed to have been amended and the planning commission shall make the necessary changes in the plan to reflect such amendment.

The Topeka Planning Commission may review and make recommendations on public improvements or the plans of other departments of the city government to ensure such activities are consistent with the comprehensive metropolitan plan. The Topeka Planning Commission may also request any department, which shall have the duty upon
that request, to submit any proposed plan, program or project to the Topeka Planning Commission. The Topeka Planning Commission shall then submit its recommendations to the governing body as to whether such plans and programs or projects are consistent with the comprehensive metropolitan plan.

Section 19. That City of Topeka Code § 110-45 Regulations as to filing of plats, is hereby amended to read as follows:

Regulations as to filing of plats.

Whenever the Topeka Planning Commission shall have adopted a major street plan and shall have filed a certified copy of such plan with the governing bodies City Council, then no plat of a subdivision of land lying within the city for which such major street plan has been prepared, or within three (3) miles of the corporate limits thereof provided such territory is within the county and that such territory does not extend more than one-half of the distance between the corporate limits of the city and the corporate limits of any other city which has adopted subdivision regulations as provided by law, shall be filed or recorded until it shall have been approved by such Topeka Planning Commission and governing body City Council and such approval entered in writing upon the plat by the chairperson and secretary of the commission, the mayor and city clerk of the city, and the chairperson and members of the board of county commissioners; provided, that if the planning commission does not act within 60 days after the plat has been submitted to it for action, then such plat shall be deemed to have been approved by it and a certificate to that effect shall be issued upon demand; provided, however, that the applicant for approval of the plat may waive such time limitation and consent to an extension of such period; provided further, that the Topeka Planning Commission shall
adopt rules and regulations governing the subdivision of land within the city and within
three (3) miles thereof, which rules and regulations shall be subject to approval by the City
council. Such rules and regulations shall provide for the orderly growth and harmonious
development of the city and its environs; the proper location and width of streets; building
lines; open spaces; safety and recreational facilities; and the avoidance of congestion of
population, including minimum width, depth and area of lots. Such rules and regulations
shall also include the extent to which, and the manner in which, streets shall be graded and
improved, and shall also include the extent to which water, sewer and other utility mains
and piping or connections or other physical improvements shall be installed. Such rules
and regulations may provide that in lieu of the completion of such work and installations
previous to the final approval of the plat, the planning commission and governing body may
accept bond in the amount and with or without surety and with conditions satisfactory to
them providing for and securing to the proper governing body the actual construction of
such improvements and utilities, and the governing body is hereby granted the power to
enforce such bond by all equitable remedies. Before the adoption of the subdivision rules
and regulations or any amendment thereof, a public hearing shall be held thereon by the
Topeka Planning Commission; provided, that a notice of such hearing shall be published
Twenty (20) days prior to the date of such hearing in a the official City newspaper having
general circulation in the municipality.

Section 20. That City of Topeka Code § 110-46 Issuance of building permits
restricted; plats, dedications and deeds endorsed before filing is hereby amended to read
as follows:
Issuance of building permits restricted; plats, dedications and deeds endorsed before filing.

No building permit shall be issued for the construction of any structure that is located upon any lot, tract or parcel of land located in the area governed by the subdivision regulations that has not been divided, subdivided, resubdivided or replatted after the date of the adoption of the rules and regulations by the Topeka Planning Commission and governing body City Council. No such plat, replat, dedication or deed of any street or public way shall be filed with the register of deeds as provided by law until such plat, replat, dedication or deed shall have endorsed on it the fact that it has been submitted first to the Topeka Planning Commission and by the Topeka Planning Commission to the governing body City Council and has been duly approved by the such governing body City Council duly approved.

Section 21. That City of Topeka Code § 110-47 Building or setback lines, is hereby amended to read as follows:

Building or setback lines.

Whenever the plan for a major street system has been adopted and properly filed, the city council, upon recommendation of the Topeka Planning Commission, is hereby authorized and empowered to establish, regulate and limit, by ordinance, building or setback lines on such existing and proposed major streets or highways, and to prohibit any new building being located within such building or setback lines, in the corporate limits of the city. The council shall provide for the method by which this section shall be enforced. The board of zoning appeals, or other similar board in any city which has established such board having power to make variances or exceptions in zoning regulations, shall have the...
power to modify or vary the setback regulations in specific cases, in order that unwarranted
hardship, which constitutes a complete deprivation of use as distinguished from merely
granting a privilege, may be avoided, yet the intended purpose of the regulations shall be
strictly observed and the public welfare and safety protected. Setback regulations shall not
be adopted, changed or amended until a public hearing by the council has been held
thereon, and twenty (20) days' prior notice of the time and place of such hearing shall have
been published in the official city newspaper. The powers of this section shall not be
exercised so as to deprive the owner of any existing property of its use or maintenance for
the purpose to which it is then lawfully devoted.

Section 22. That City of Topeka Code § 110-48 Effect on inspection
department, shall read as follows.

Effect on inspection department.

Nothing contained in this article shall be construed to change the present functions,
duties and jurisdiction of the inspection department of the city or the zoning administrator of
the county.

Section 23. That City of Topeka Code § 110-49 Effective date, is hereby
specifically repealed.

Effective date.

This article shall constitute an agreement between the city and county as provided in
K.S.A. 12-716 et seq., and shall also constitute a resolution of the board of county
commissioners and an ordinance of the city and shall be effective upon its passage and
adoption by the board of county commissioners and the city council, acting separately, and
after its publication once in the official city newspaper. A fully-executed and attested copy
shall be filed in the office of the county clerk and city clerk.

Section 24. That City of Topeka Code § 110-50 Saving clause, is hereby
specifically repealed.

Saving clause.

If this article or any part thereof shall be held or determined to be unconstitutional;
illegal, ultra vires or void, the same shall not be held or construed to change or annul any
provisions of this article which may be legal or lawful; and in the event this article or any
part thereof shall be held unconstitutional, illegal, ultra vires or void, the same shall not
affect any action theretofore taken by the planning commission as theretofore established
and constituted.

Section 25. That City of Topeka Code § 110-71, Plan required, is amended
to read as follows:

Plan required.

The Topeka Shawnee county metropolitan Planning Commission shall be
responsible for the prepare, adoption and recommendation to the City Council of and keep
current through periodic and annual updates, a Comprehensive Metropolitan Plan for
the City of Topeka and its extraterritorial, which shall serve as a guide for the future
development of the planning jurisdiction and for public and private actions and decisions to
assure the most appropriate development of land consistent with adopted goals of the
community. The content, procedures, approval process, and updating of said
Comprehensive Metropolitan Plan shall be the same as provided in K.S.A. 12-747 and 12-
748 and amendments thereto except as otherwise provided in this ordinance.
Section 26. That City of Topeka Code § 110-72 Content of plan, is hereby amended to read as follows:

Content of plan.

The comprehensive metropolitan plan shall consist of plan elements in such descriptive form, written and/or graphic, as may be appropriate to prescribe the goals, objectives, policies, standards and guidelines for the orderly and balanced future economic, social, physical, environmental and fiscal development of the metropolitan area. The plan, therefore, shall include the following elements:

1. A statement of goals consistent with this ordinance which shall describe the purpose, the desires, the aims, the condition and the state of the community to be achieved in the future as a result of the coordinated, cooperative comprehensive continuous planning process.

2. A future land use plan and growth management element which shall designate the projected future general distribution, location and extent, and intensity of uses of land for housing, business, industry, agriculture, recreation, conservation, public or community facilities, and other public/private uses of land throughout the metropolitan area.

3. A transportation or circulation plan element which shall consist of the types, locations and extent of existing and projected major transportation routes and network, including routes and facilities for the various modes of transportation throughout the metropolitan area.

4. A public/community facilities element which shall include the location, type, extent and distribution of existing and projected major facilities which are
essential to accommodate the *orderly* growth and *harmonious* development of the metropolitan area. This plan element shall include such facilities as water, sewer, drainage, solid waste, utilities (electric, gas, telephone and communications), libraries, hospitals, public buildings, schools and educational institutions, airports, and other facilities as may be deemed necessary.

(5) *An open space, parks and recreation plan element* which shall include the location, type and extent of existing and projected open space and recreational facilities to accommodate the projected *orderly* growth and *harmonious* development of the metropolitan area.

(6) *A housing plan element* which shall include the standards, principles, extent and location guidelines to meet the housing needs of the *orderly* growth and *harmonious* development of the metropolitan area.

(7) *A conservation and preservation plan element* which shall include the standards, principles, extent and provisions to protect natural resources, together with identified structures and places deemed to be historically significant to the metropolitan area.

(8) *Economic development element* which shall include strategies for fostering new investments in targeted businesses and expanded tax base. It shall also address regional economic development strategies and programs for retention and expansion of existing businesses and industries.

(9) *Public safety element* which shall include strategies that reflect standards for a livable and safe community.
(10) Facility system plan element including, but not limited to developing strategies for waste management, pedestrian trails and transportation.

(11) Neighborhood plans for all geographic sub areas of Topeka. Such areas shall be determined by the Topeka Planning Commission.

(12) An intergovernmental coordination element which shall include a description of the relationships and a statement of the principles and guidelines to be followed in accomplishing the coordination of the comprehensive metropolitan plan with the plans of other units of local government providing public services but not having regulatory authority over the use of land.

(13) A capital improvement plan element which shall describe the public facilities to be provided, together with the justification, the priority of need, the timetable for accomplishment, and the anticipated public expenditures required. This element shall consist of an annual element and a three-five-year element and shall be adopted annually. Such public projects and related financial plans shall be consistent with and implement the goals, policies, objectives and programs of the comprehensive metropolitan plan.

(14) An implementation plan element which shall include the legal framework, regulatory controls, budgetary requests, land use policies and management procedures to be followed in facilitating growth and development implementing the comprehensive metropolitan plan.

(15) A growth management element which shall describe the alternative objectives and strategies, principles and standards used to fulfill the stated goals, including a policy plan to guide the decision-making process.
Any other element deemed necessary to the proper orderly growth and harmonious development or redevelopment of the planning jurisdiction.

Section 27. That City of Topeka Code § 110-73 Research requirements, is hereby specifically repealed.

Research requirements.

All elements of the comprehensive metropolitan plan shall be based upon data appropriate to the element involved and including, but not limited to, the following research, analysis and projections:

(1) An analysis of the general distribution and characteristics of past and present population, a forecast of the extent and character of future population and a statement of the population assumptions on which the plan is based.

(2) An economic survey and analysis of the major existing public and private business activities and a forecast of future economic levels and conditions, including the economic assumptions on which the plan is based.

(3) Research and analysis as to the nature, extent, adequacy and the needs of the community for the existing land and building use, transportation, housing and community facilities in terms of their general location, character and extent.

(4) Additional background information for the elements of the comprehensive plan may include any other research, analysis and projections which, in the judgment of the planning commission, will further serve the purposes of the plan.
Section 28. That City of Topeka Code § 110-74 Adoption of statement of goals, is hereby amended to read as follows:

Adoption of statement of goals.

The metropolitan Topeka Planning Commission shall prepare and adopt, prior to the preparation or adoption of the remaining plan elements, a statement of goals element of the plan, which shall be submitted to the governing bodies City Council. The statement of goals shall act as a guide for the preparation of the remaining plan elements and as an aid to the subsequent implementation of the plan. All remaining elements of the plan shall then be prepared with a view towards carrying out the statement of goals.

Section 29. That City of Topeka 110-75 Procedure for adoption, is hereby amended to read as follows:

Procedure for adoption.

(a) Upon the adoption of the statement of goals by the Topeka Planning Commission and governing bodies the City Council, the Topeka Planning Commission Department shall proceed with the preparation of the remaining plan elements. Upon the completion of each plan element, the Topeka Planning Commission and governing bodies City Council shall review the plan element in whole or in part, and recommend its adoption with or without amendment or revisions as the case may be. Such plan elements shall not be made a part of the comprehensive metropolitan plan unless the Topeka Planning Commission has adopted and the governing bodies City Council have certified such plan elements.

(b) The Topeka Planning Commission or governing bodies City Council may initiate an amendment, revision or change to any plan element or part thereof at any time.
Amendments shall be considered and adopted in the same manner and pursuant to the same procedure as for the initial adoption of the plan.

(e) The planning commission shall make a report to the governing bodies on or before June 1 of each year concerning the status of the comprehensive plan.

Section 30. That City of Topeka Code § 110-76 Effect of adoption, is hereby amended to read as follows:

Effect of adoption.

Upon the adoption and certification of the comprehensive metropolitan plan by the planning commission and governing bodies City Council, all land development regulations, including the zoning ordinance, subdivision regulations, major street plan, regulation of public improvements, facilities and utilities, and all or any governmental actions relating to land use and development approvals, shall be consistent with the comprehensive metropolitan plan as adopted.

Section 31. That City of Topeka Code § 110-77 Plan implementation process, is hereby specifically repealed:

(a) The governing bodies of the city and county shall be responsible for implementation of the adopted comprehensive metropolitan plan. Implementation shall be accomplished through adoption and/or amendment of the zoning ordinance, subdivision regulations, budgets, capital improvements program, official maps, tax and assessment policies, annexation policies, public facility decisions and other appropriate and available methods and techniques.

(b) Each governing body shall be fully responsible for all plan implementation decisions within their jurisdiction; however, in order that a plan implementation—is
coordinated and effective as to matters of joint interest and concern, the governing bodies
of the city and county shall sit, at times and places designated by them, as a joint-plan
implementation advisory council. The chairman of the planning commission shall sit as an
ex-officio, nonvoting member of the advisory council.

(e) The advisory council established under subsection (b) shall make
recommendations on matters of joint interest and concern to the respective governing
bodies for appropriate action. The advisory council shall set its own agenda based upon
referrals from the planning commission, city and county departments, independent
agencies, state agencies, individual citizens, groups and others. The agenda may include,
but not be limited to, the following general or specific planning matters:

(1) Statement of goals.

(2) Other plan elements.

(3) Amendment or revision to plan.

(4) Annual status report on the plan.

(5) Capital improvement program.

(6) Annexation proposals.

(7) Any other development or redevelopment proposal, plan improvement or
issue which is of joint city/county concern.

(d) The advisory council established under subsection (b), at its initial meeting, shall
set up a regular meeting schedule and a procedure for placing items on the agenda for
each meeting. Subsequently, the advisory council may develop guidelines for determining
appropriate agenda items.
Section 32. That City of Topeka Code § 110-51 shall read as follows:

Severability.

If any part or parts of this Ordinance shall be held unconstitutional, invalid, or otherwise unenforceable by any Court of competent jurisdiction, such decision shall not affect the validity of the of the remaining provisions of this Ordinance.

Section 33. That City of Topeka Code § 110-52 shall read as follows:

Saving clause.

If this article or any part thereof shall be held or determined to be unconstitutional, illegal, ultra vires or void, the same shall not be held or construed to change or annul any provisions of this article which may be legal or lawful; and in the event this article or any part thereof shall be held unconstitutional, illegal, ultra vires or void, the same shall not affect any action theretofore taken by the Topeka Planning Commission as theretofore established and constituted.

Section 34. Original City of Topeka Code §§ 110-26 through 110-50 inclusive and 110-71 through 110-77 inclusive are hereby specifically repealed.

Section 35. This Ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper.

PASSED and APPROVED by the City Council

September 23, 2003

Harry Felker, Mayor

ATTEST:

Iris E. Walker, City Clerk

APPROVED AS TO FORM AND LEGALITY
DATE 9/24/03 BY 31
TO BE CODIFIED √
NOT TO BE CODIFIED