ORDINANCE NO. 18125

AN ORDINANCE introduced by Deputy Mayor Duane F. Pomeroy relating to the Topeka Planning Commission and specifically increasing the membership by adding two commission members, clarifying the duties of the Planning Commission, and referencing the relevant Kansas Statutes and amending City of Topeka Code §§ 110-27, 110-35, 110-42 through 110-46 inclusive, 110-51 through 110-52 inclusive, 110-71, 110-72 inclusive, and 110-76 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 § 110-27 Composition; appointments; terms, is hereby amended to read as follows:

Composition; appointments; terms.

(a) Membership generally. The Topeka Planning Commission shall consist of nine (9) twelve (12) members who shall be appointed and have the terms of service as follows:

The Mayor with the consent of the City Council shall appoint twelve (12) members to the City Planning Commission. At least nine (9) but not more than seven (7) ten (10) persons shall reside within the corporate boundaries of the City. In addition, the Mayor with the consent of the City Council shall appoint at least two (2), but not more than three (3), persons who shall reside outside of the corporate limits but within the City's three (3) mile extraterritorial jurisdiction. Of the members of the Topeka Planning Commission first appointed, three (3) members shall serve one (1) year terms; three (3) four (4) members shall serve two (2) year terms and three (3) four (4) 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.

Section 2. 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 five (5) six (6) members. Except as otherwise provided by state law requiring a higher number of affirmative votes, any matter requiring that a recommendation be made to the City Council shall require the affirmative votes of not less than a majority of the quorum present at such meeting of the Topeka Planning Commission. 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 following each meeting of the Topeka Planning Commission. 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.
Section 3. 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 Topeka planning department, which shall act as the staff of the Topeka Planning Commission. The director of such department shall be known as the planning director and shall be hired by the mayor. The termination of the planning director's employment may be initiated by the mayor.

(b) Planning director. The planning director shall have a master's degree from a college or university in city or regional planning or other related field, plus five (5) years of planning experience. Waiver of this requirement must be approved by the City Council.

(c) Upon the direction of the Topeka Planning Commission, 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 City, and the area within three (3) miles of the City's corporate boundaries City's three (3) mile extraterritorial jurisdiction and promote efficient use of city resources in compliance with ordinances, resolutions, statutes, policies and procedures pertaining to land use, development, zoning, and economic development. The planning director shall advocate for and monitor the implementation of the comprehensive metropolitan plan and facilitate the update of the comprehensive metropolitan plan annually.

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

Section 4. 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 Topeka Planning Commission shall require 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 Topeka Planning Commission shall require the planning department shall to 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 an 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, order, convenience, prosperity
and general welfare, as well as efficiency and economy in the process of development or
redevelopment, including, but not limited to, 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. The public hearing and the manner of adoption of the
 comprehensive metropolitan plan shall conform with the statutory requirements contained
 in K.S.A. 12-747, and amendments thereto.

(e) 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 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, 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 body of the city shall, within sixty (60) days after receiving such resolution, consider such proposal and 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.

Section 5. That City of Topeka Code § 110-44 Improvements required to be approved, is hereby amended to read as follows:

Capital Improvements and plan review.

In accordance with K.S.A. 12-748(b) 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 shall review the City’s capital improvement program to ensure that it is consistent with the comprehensive metropolitan plan. The
Topeka Planning Commission shall then submit its findings to the governing body as to whether such plans and programs or projects are consistent with the comprehensive metropolitan plan.

Section 6. 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 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 the City's three (3) mile extraterritorial jurisdiction, shall be filed or recorded until it shall have been approved by such Topeka Planning Commission and 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; provided that the Topeka Planning Commission shall adopt rules and regulations governing the subdivision of land within the city and within three (3)-miles thereof the City's three (3) mile extraterritorial jurisdiction, 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.
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 the official City newspaper in conformance with the requirements of K.S.A. 12-
749 and amendments thereto.

Section 7. 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 existing or
subsequent subdivision regulations that has not been divided, subdivided, resubdivided or
replatted after the date of the adoption of in accordance with said subdivision regulations
and the rules and regulations by the Topeka Planning Commission and 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 City Council and has been duly approved
by the City Council.
Section 8. 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 remaining provisions of this Ordinance.

Section 9. 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 10. That City of Topeka Code § 110-71, Plan required, is amended to read as follows:

Plan required.

The Topeka Planning Commission shall be responsible for the adoption and recommendation to the City Council of a Comprehensive Metropolitan Plan for the City of Topeka and its City's three (3) mile extraterritorial, jurisdiction. 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 11. 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 comply with K.S.A. 12-741, et seq., and amendments thereto and 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 elements contained in K.S.A. 12-747 and amendments thereto, and shall may include, but shall not be limited to, 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 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.
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.

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.

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.

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.

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 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 implementing the comprehensive metropolitan plan.
(15) Any other element deemed necessary to the proper orderly growth and harmonious development or redevelopment of the planning jurisdiction.

Section 12. 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 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 intended to carry out the purpose and intent of the comprehensive metropolitan plan as adopted.


Section 14. 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 NOV 18 2003

Duane F. Pomeroy, Deputy Mayor

ATTEST:

Iris E. Walker, City Clerk

APPROVED AS TO FORM AND LEGALITY
DATE 11/19/03 BY BC
TO BE CODIFIED ✓
NOT TO BE CODIFIED

VYORD/TOPEKAPLANNINGCOMMISSION 13
11/19/03