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ORDINANCE NO. 19218

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. amending the
Comprehensive Zoning Regulations in Appendix C of the City of
Topeka Code § 48-24.01 through § 48-24.07 concerning planned
unit development districts and specifically repealing said original
sections.

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

Section 1. That section 48-24.01, Regulations generally, of the
Comprehensive Zoning Regulations of The Code of the City of Topeka, Kansas, is
hereby amended to read as follows:

Regulations generally.

The regulations set forth in this article or set forth elsewhere in this chapter when
referred to in this article, are the district regulations for the "PUD" planned unit
development district. A development plan shall not be inconsistent with the following
general standards for use of land, and the use, type, bulk, design and location of
buildings, the density or intensity of use, the common open space, the public facilities
and the development by geographic division of the site as well as with the surrounding
or adjacent properties.

One or more use groups, referring to one or more of the zoning districts, shall be
established on the master plan. The use regulations, dimensional requirements, off-
street parking regulations and sign regulations for each of the use groups shall be as
set forth in each of the corresponding zoning districts contained in this code, unless
other requirements are specifically set forth on the master plan or the site plan.
Section 2. That section 48-24.02, Use regulations, of the Comprehensive Zoning Regulations of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Use regulations.

(a) Permitted uses: A planned unit development district may provide for any use or combination of uses that are listed in the use regulations of the various districts contained in this chapter, subject to applicable limitations, provisions or conditions specified therein and in accordance with the following regulations:

(1) All approved permitted uses of this district shall be geographically designated and grouped by category on all plans in like manner as other districts contained in this chapter, either by individual group or in combination therewith.

(2) Permitted use categories and any approved conditional uses provided by the individual categories shall be specifically designated on all approved plans and shall be set forth in the adopting ordinance or resolution.

(3) Provided that all applicable limitations, provisions and conditions specified by use and set forth in this district are complied with, there may be use changes or relocations within each group category provided that the approved plan is not modified except as otherwise provided for by the procedures of this district.

(b) Dimensional requirements: Setback and Height regulations.

(1) Intensity of use:
a. **Residential:** The average land area shall not be less than the following standards which shall be exclusive of public street right-of-way:

**TABLE INSET:**

<table>
<thead>
<tr>
<th>Category</th>
<th>Minimum Land Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single-family</td>
<td>6,000 sq. ft./unit</td>
</tr>
<tr>
<td>Two-family</td>
<td>2,500 sq. ft./unit</td>
</tr>
<tr>
<td>Multiple-family</td>
<td>1,000 sq. ft./unit</td>
</tr>
</tbody>
</table>

b. **Office and institutional:** The minimum land area for any individual principal use or structure shall be 7,500 square feet.

c. **Commercial/industrial:** The minimum land area for any individual principal use or structure shall be 10,000 square feet.

(2) **Area and height regulations:**

a. All structures shall set back from all street right-of-way and perimeter boundary lines a distance of not less than 30 feet.

b. The height and front, side and rear yard setbacks for individual structures within the planned unit development and which are not applicable to paragraph "a" above, shall be determined in conjunction with the final approval of the planned unit development plan.

c. The height of structures shall be determined in conjunction with the review and approval of the master plan of the planned unit development.
(3c) Off-street parking regulations. The provisions of article XXX, Off-Street Parking Requirements shall apply to the planned unit development district in all respects except for the specified standards establishing the required number of spaces. Off-street parking regulations shall be based on the applicable requirements for each proposed use as set forth in this code. The planning director can provide a downward variance from this requirement based on factors provided by the applicant, including but not limited to, the use of shared parking, near by public parking or other factors that justify a lesser parking requirement. The required on-site parking for each geographically designated use group within the district shall individually average and conform to the following minimum standards:

a. Residential use groups: two spaces/unit.

b. Office and institutional use groups: Four spaces/1,000 sq. ft. of floor area for professional offices; community facilities and institutional uses shall be subject to the provisions set forth in article XXX, Required Number of Off-Street Parking Spaces.

c. Commercial use groups: five spaces/1,000 sq. ft. of floor area.

d. Industrial use groups: one space/600 sq. ft. of floor area.

e. In those instances in which more than one use group category is proposed to be assigned the same geographic area, the parking standards of the use group providing for the more liberal number of spaces shall prevail.
f. In those instances, when in the opinion of the planning director, a proposed use is not clearly and generally recognized and identified as being subject to one of the aforementioned provisions, then the provisions of article XXX, Required Number of Off-Street Parking Spaces shall prevail as the standard, all as determined by the planning director.

(4d) Signs: The number, location, size, area, height and type of signs shall be determined in conjunction with the approval process.

Section 3. That section 48-24.03, Requirements and development standards for the planned unit development district, of the Comprehensive Zoning Regulations of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Requirements and development standards for the planned unit development district.

The following performance criteria shall be required of all planned unit developments and shall be addressed by the master plan:

(a) Applicability Size of Parcel:

(1) In order to encourage the efficient use of land and resources; promote greater efficiency in public and utility services; and, encourage innovation in the planning, design and building of all types of development, the minimum site size requested for a planned unit development district shall be five one (51) acres.

(2) Parcels containing less than five one (51) acres, but more than one (1) acre may be sought for reclassification to the planned unit development
district where because of environmentally sensitive areas, existing natural
features, the land is completely surrounded by development, the age of existing
development or scenic assets, it can be demonstrated that such development is
more appropriate and efficient than could be achieved through conventional
development the planning director determines the proposed PUD to be a
“transition area,” defined as an area that separates a non-residential use group
classification ("O&I", “C”, or “I” districts alone or within a PUD) from another non-
residential use group classification or a residential use group classification ("R" or
“m” districts alone or within a PUD). The determination of the planning director
may be appealed to the planning commission.

(b) Additional standards and requirements for projects on less than
fiveone (51) acres.

(1) The use group category assignment of the planned unit
development will be comparable to that of surrounding properties in the
neighborhood.

(2) The density and design of the planned unit development shall be
compatible in use, size and type of structure, relative amount of open space,
traffic circulation and general layout with adjoining land use, and shall be
integrated into the neighborhood.

(3) The development shall not have any greater impact on existing
streets and utilities than that anticipated for a conventional development of the
site.
(4) The development shall not adversely affect views, light and air, and use and enjoyment of neighboring properties any more than would a conventional development.

(5) In addition to the requirements of Section 48-24.04(a), the master planned unit development plan shall also include building elevations for all structures and details of materials to be used for external construction, when determined necessary by the planning director. The determination of the planning director may be appealed to the planning commission.

(c) Property Owners Association. Areas within the planned unit development which are designated as private streets, private utility services, common areas, recreation areas, or other open space set aside for the benefit of tenants and property owners, shall be maintained by the property owners association or, in the alternative, property owners within the planned unit development. In the event the property owners association or property owners within the planned unit development fail to maintain such areas, the governing body may proceed under applicable ordinances and/or resolutions to maintain such areas. All costs incurred by the governing body in maintaining such areas shall be assessed against the lots within the planned unit development as provided for by law. Nothing contained herein shall be construed as creating a duty on behalf of the governing body to enforce any of the duties, obligations, or responsibilities of the property owners’ association or in the alternative, individual property owners.

(d) Platting. Building or zoning permits shall not be issued nor any development initiated on any property designated as planned unit development until such time that the property has been platted as a subdivision; or replatted as a
subdivision when determined by the planning director that conditions and circumstances relating to utility extension and service, street or alley right-of-way, topographic and drainage factors, easements, or vehicular access warrant said replat.

(e) Access.

(1) All drives, lanes, streets, culs-de-sac, and other accessways within the planned unit development shall be owned and maintained by the property owners' association or owners within the planned unit development unless it is determined by the planning commission that there is a public need for local streets and/or major trafficways to transverse the district. In such instances, the transversing streets and/or trafficway right-of-way shall be dedicated by the developer in accordance with the plat subdivision regulations.

(f2) All drives, lanes, streets, culs-de-sac and other privately owned accessways providing accessibility to individual structures, buildings, and uses within the planned unit development shall, by the nature and intent of the district, be considered and serve as mutual rights of access for owners, tenants, invited guests, clients, customers, support and utility service personnel and emergency service providers, including law enforcement, fire protection and ambulance services. No gates, structures or other barriers shall be constructed across said accessways which may impede, limit, or restrict the above rights of access.

(g3) The site will be accessible from public streets which are adequate to carry the traffic that will be imposed upon them by the proposed development, streets, and driveways on the site of the proposed development will be adequate to serve the residents, occupants, or users of the proposed development. Traffic
control signals will be provided without expense to the city when the governing body determines that such signals are required to prevent traffic hazards or congestion in adjacent streets.

(h4) All drives, lanes, streets, culs-de-sac, accessways, and parking lots shall comply with all applicable provisions of article XXX in respect to surfacing, design, screening, lighting, and drainage.

(if) Other standards. Other developmental standards, requirements, and provisions of applicable jurisdictional units including but not limited to those of public works, fire and water district, law enforcement, utilities, and parks and recreation, and which may not be specifically set forth in this article, shall apply and the master and final planned unit development plans should account for such and reflect a development design accordingly provided that variances and waivers are not granted by the appropriate authority.

Section 4. That section 48-24.04, Procedure for securing approval of a planned development and the establishment of a planned development district, of the Comprehensive Zoning Regulations of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Procedure for securing approval of a planned development and the establishment of a planned development district.

Prior to any use or development within the planned unit development district, the district shall be established in accordance with the provisions of this article, including the approval of all plans set forth in the procedure.
(a) Application to amend to the district. Except as set forth by this article, a petition to reclassify property to the planned unit development district shall be as established in article XXXIII, Amendments, and include like contents. Additionally, the application shall include twelve (12) copies of the planned unit development master plan which shall consist of the following documents, information and graphics unless determined to be unnecessary by the planning director:

(1) Legal description of the proposed district in its entirety, total acreage, and planned unit development name/designation.

(2) Legal description of each proposed use group category with corresponding acreage.

(3) The site plan shall identify the name of the planned unit development in large, bold letters centered across the top of all plan sheets; the general location and arrangement of all existing structures; the proposed traffic circulation pattern within the development; the approximate location of proposed and existing major streets and major pedestrian and bicycle routes, including major points of access; the areas to be developed for parking; the points of ingress and egress including access streets where required; the relationship of abutting land uses and zoning districts; proposed types of signage; proposed lots and blocks, if any; proposed public or common open space, if any, including parks, playgrounds, school sites, and recreational facilities.

(4) The site plan of the development shall be at a minimum scale of one (1) inch equals fifty (50) feet, composed of one (1) or more sheets with an outer dimension of twenty-four (24) inches by thirty-six (36) inches. A single-line...
border shall be provided around all plan sheets measuring exactly one (1) inch from the edge of the sheet except along the left side of the sheet which line shall measure exactly two (2) inches from the edge. The scale, north point and most recent date of preparation shall be so indicated on the plan.

(5) Graphically reflect the geographic location and designation of each use group category proposed.

(6) The anticipated density, number, maximum height and type of residential units; and floor area, maximum height and types of business, commercial and industrial use presented in tabular form in comparison to minimum applicable standards.

(7) Existing topographical character of the land at a contour appropriate with the scale of the project; all watercourses, flood plains, unique natural features, including wildlife areas and vegetative cover, and recognized historical sites and structures. Further, all existing streets, alleys, easements, utility lines, and existing land use shall be included on the plan.

(8) Total land area, approximate location, and amount of open space included in the residential, business, commercial, and industrial areas.

(9) When a planned development includes provisions for common open space, streets, utilities, drainageways or recreational facilities, a statement describing the provision that is to be made for the care and maintenance of such open space, streets, utilities, drainageways, or recreational facilities.
(10) A preliminary plat of subdivision pursuant to the applicable ordinances, rules and regulations relating to subdivision approval; or a copy of the existing recorded plat which is appropriate for the intended plan.

(11) Area shown on the site plan shall extend beyond the property lines of the proposal to include a survey of the area within one hundred fifty (150) feet of the proposal, exclusive of public right-of-way, at the same scale as the proposal and include the following:

   a. Land uses, location of principal structures, and major existing landscape features.

   b. Traffic circulation system.

   c. General topographical mapping at same scale as master plan.

(12) Traffic impact analysis as defined by this chapter, provided however, if in the opinion of the planning director, upon determination at preapplication conference that the intensity and scope of the requested planned unit development is of such nature that said impact analysis is not warranted, the director may waive said requirement.

(13) A development phasing schedule including the sequence for each phase, approximate size in areas of each phase, and proposed phasing of construction of public improvements, recreation, and common open space areas.

(14) One (1) eight and one half (8 1/2) by eleven (11) by seventeen (17) inch film positive reduction reproducible electronic and paper copy of master plan.
(15) Indicate BOOK PAGE DATE TIME in upper right-hand corner of all plan sheets.

16) Immediately below the Book, Page, Date and Time entries, provide the following signature block:

Recorded With The Shawnee County Register of Deeds:

(Registrars Name) - Register of Deeds

(17) Include the following statement on the plan sheet:

This Planned Unit Development (PUD) Master Plan has been reviewed and approved in accordance with the provisions of article 24 of the Comprehensive Zoning Regulations of the City of Topeka and Shawnee County, Kansas, and may be amended only as prescribed in Section 48-24.05 of said article and as set forth on this document or as may subsequently be approved and recorded.

(18) Notarized owner's certification of acceptance of conditions and restrictions set forth on the master plan as follows:

OWNER'S CERTIFICATE: (Type Name) agrees to comply with the conditions and restrictions as set forth on the master PUD plan.

In Testimony Whereof:

The Owner(s) of the above described property, (Type Name), have signed these presents this _________ day of _________, (Year)_______.

(Type Name and Title)  (Type name and Title)

Be it remembered that on this _________ date of _________, A.D. ________(Year)
before me, a notary public in and for said County and State come_______________,

Owner(s) of the above described property.
I hereby set my hand and affix my notarial seal the day and year last written above.

______________________________ Notary Public

My Commission Expires:_________

(19) Notarized certification of master PUD plan approval by the

secretary to the planning commission as follows:

Certification of Master PUD Plan Approval:

(Planning Director's Name) (Date)

Secretary to Planning Commission

Be it remembered that on this _________ date of __________, A.D. ________, (Year) before me, the undersigned, a notary public in and for said County and State came (Planning Director's Name) who is personally known to me to be the same person who executed the within instrument of writing, and such person duly acknowledged the execution of the same.

In Witness Whereof, I hereby set my hand and affix my notarial seal the day and year last written above.

______________________________ Notary Public

My Commission Expires:_________

(b) Action on the petition and master plan of the planned unit development plan by the planning commission and governing body. Upon filing of a petition to amend a district to the planned unit development district as set forth in article XXXIII, Amendments, and as further provided by this article, the planning commission shall review, consider, and act on the petition in a like manner and procedure as provided in said article XXXIII. The appropriate governing body shall consider such proposal upon
report and recommendation by the planning commission also in a like procedure as provided in said article XXXIII.

Section 5. That section 48-24.05, Status of the planned unit development upon approval by the governing body, of the Comprehensive Zoning Regulations of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Status of the planned unit development upon approval by the governing body.

For those proposals which are approved to be reclassified to the planned unit development district, the master plan as approved by the governing body with all conditions, revisions, and restrictions as set forth or imposed by said action of the governing body shall be recorded within forty-five (45) days of the action date of the governing body by the metropolitan planning agency with the register of deeds. Upon recordation, any changes, revisions, or modifications to the plan shall be in accordance with this article and again recorded in a similar manner. Failure by the applicant to provide the planning agency the approved plan on a permanent-type drafting film material on sheets twenty-four (24) inches by thirty-six (36) inches suitable for recording within thirty (30) days of the action by the governing body shall deem the petition as null and void. Following the recordation of the master plan, an ordinance or resolution shall be adopted by the governing body to officially amend the district zone as set forth below:

(a) Form of ordinance or resolution. An ordinance or resolution approving a planned unit development and establishing a planned unit development district shall specify the restrictions that will, pursuant to the development plan, apply in the planned
development district and shall describe the boundaries of such district or set such boundaries out on a map that is incorporated and published as a part of such document. Such document shall also specify the conditions and restrictions that have been imposed by the governing body on the planned development and shall designate geographic areas by use group category. Prior to consideration of an ordinance by city council, the applicant shall submit the plan on a permanent-type drafting film material on sheets twenty-four (24) inches by thirty-six (36) inches suitable for recording.

(b) A planned unit development plan which has been approved and recorded as provided above shall not be modified, revoked, or otherwise impaired by action of the governing body without the consent of the developer for a minimum period of three years. Recording. For those proposals which are approved to be reclassified to the planned unit development district, the master plan, and site plan (if concurrent approval is requested by the applicant) as approved by the governing body with all conditions, revisions, and restrictions as set forth or imposed by said action of the governing body shall be recorded within sixty (60) days of the action date of the city council by the applicant with the register of deeds. Failure by the applicant to record the plan within the prescribed time period or provide the planning department fifteen (15) copies of the recorded plan within ninety (90) days of the action by the governing body shall deem the zoning petition as null and void. The planning director upon written request of the applicant and for good cause shown may extend this time period an additional thirty (30) days. Upon recordation, any changes, revisions, or modifications to the plan shall be in accordance with this article and again recorded in a similar manner. Provided however,
if the cause of the delay was one of circumstances beyond the control of the applicant, the planning director may grant an additional extension of ninety (90) days.

(c) Site development plan review. If the site plan was not submitted and approved concurrently with the master plan, the following procedure shall apply:

Following the recording of the master planned urban development plan and prior to application for any building development on the site, the applicant shall be required to submit a site development plan in accordance with the procedures set forth as follows:

(1) Submission of Site Development Plan. A site development plan shall be submitted for the entire area as per the approved master planned unit development plan or for a subarea (single use group area) within the planned development provided: 1) The plan of the subarea meets all the requirements of the master planned unit development plan; 2) The dwelling unit density for residential development or total floor area for non-residential development does not exceed the dimensional standards established by the master plan unit development plan; 3) The subarea can function as an independent development unit with adequate access, services, utilities, open space; etc.; and, 4) The subarea is more than two (2) acres in size. The applicant shall submit twelvefifteen (125) copies of the site development plan which shall contain the following information:

(a) The title of the project, centered across the top of the plan sheet, and the names of the engineer or surveyor and names of the developer; and, a signature panel for the Planning Director's approval.

(b) A north point, scale, date and vicinity map.
(c) Existing zoning and improvement of immediately adjacent properties.

(d) The boundaries of the entire planned unit development or the specific land use area for which development is sought; all existing property lines; setback lines; the right-of-way and pavement dimension of existing streets; the location, dimension, height and square feet of all existing buildings and identification of those to be retained or removed; location, alignment and area of water courses, waterways or lakes; and other physical features in or adjoining the proposed development.

(e) The right-of-way and pavement dimension of all proposed streets, loading and parking areas; location, height, type of fixture, and intensity of illumination of all exterior lighting; location and dimension of storm drainage facilities and all curb cuts and access points.

(f) The location, dimension, height, and square footage of all proposed buildings, main and accessory, including dwelling type and number of dwelling units per building.

(g) The location of trash receptacles including the type and height of trash enclosures.

(h) The location and dimension of proposed recreation areas, open spaces, and other amenities and improvements.

(i) The location, character, size, height, and orientation of existing and proposed signs.
(j) The location, type, height, and materials of all fences and walls.

(k) The location and type of all existing trees with a caliper of eight (8) inches or greater. The plan shall indicate which of the trees are to be retained and which are to be removed.

(l) A landscape plan showing the location, description, size, height, and spacing of all new plant material in compliance with the requirements of the provisions of article XXXVIII, Landscape requirements.

(m) A tabulation of the total number of acres in the project, total number of acres in the land use area for which site plan approval is sought, the percentage and acreage thereof proposed to be allocated to residential use, non-residential uses, off-street parking, common open space, parks, schools, and other reservations.

(n) A tabulation of the total number of dwelling units in a residential area and the overall project density in dwelling units per gross acre. Tabulation of floor area by use in a non-residential area.

(o) The type, location, and size of all existing and proposed utilities and utility easements extending through or adjacent to the site.

(p) A topographic survey showing the elevation of streets, buildings, structures, water courses, and their names. The topography shall be shown by adequate spot elevations. The finished grade for the entire site shall be shown and the proposed first floor elevation of all
buildings (except for garages and storage areas which shall be located at or above the one-hundred (100) year flood elevation) shall be at or above the elevation of (1) the flood water of record; or (2) the intermediate flood level as determined by the U.S. Army Corps of Engineers; or (3) the flood level as determined by the Department of Public Works, whichever is greater. All horizontal dimensions shown on the site development plan shall be in feet and decimals of a foot, all bearings in degrees, minutes and seconds.

(2) Review and approval of site development plan. Site plans shall be approved administratively by the Planning Director after first circulating the plan and all attachments to all applicable reviewing departments and agencies for written comment. This provision however shall not prohibit the Planning Director from requesting a recommendation from the Zoning and Platting Committee. The site development plan shall be reviewed for conformity with the provisions of the master planning unit plan and other applicable codes and regulations of the appropriate jurisdiction. The Planning Director may approve the site development plan as submitted, approve with modifications, remand back to the applicant for modifications, or deny. If the plan is approved, the Director shall certify thereon his approval and state the conditions of approval, if any. If the plan is disapproved, he shall indicate his disapproval and the reasons therefore in writing to the applicant. Appeals of any decision of the Planning Director shall be submitted to the Zoning and Platting Committee for review and determination. Appeals of any
decision of the Zoning and Platting Committee shall be submitted to the governing body for final action.

(3) Amendments or modifications to approved site development plans must be submitted to the Planning Department for review and determination. Such modifications shall be submitted to all applicable reviewing agencies and departments for review and comment. The Planning Director shall approve, modify, or deny the proposed amendment in the same manner as the submission of the original site development plan. The Planning Director again may submit the proposed amendment to the Zoning and Platting Committee for recommendation.

(4) A stop work order shall be put on a project if any improvements required on the approved site development plan are not adhered to during the development of the site.

Section 6. That section 48-24.06, Amendments to planned unit development plans, of the Comprehensive Zoning Regulations of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Amendments to planned unit development plans.

Each applicant petitioning for a planned unit development district shall, as part of the application, designate a prescribed manner as to who may initiate amendment(s) to the approved planned unit development master plan and the final site plan. Said procedure shall also be made part of the site plan and shall be recorded of record with the register of deeds. Upon recordation, the amendment procedure as set forth in the recorded site plan shall govern the initiation of all amendments. In addition to the
planning commission or city council, the owner may solely initiate amendments to the plan. The terms and provisions of the plan shall extend to and be binding upon the heirs, executors, administrators, trustees, and assignees of the owner. Should more than one entity hold title, then all such affected owners of all such title as determined by the planning director shall be required to execute any such amendment. In lieu of all owners individually executing such document, the planning director may approve a homeowners or property owners association to execute any such amendment if they present evidence their organization has the authority to represent all owners within the PUD.

(a) Minor amendments to master plan: Minor changes to a planned unit development master plan may be approved administratively, if at all, by the planning director. Such changes may be authorized without additional public hearings, at the discretion of the planning director. This provision shall not prohibit the planning director from requesting a recommendation from the planning commission.

(1) Minor amendment criteria: Amendments shall not be deemed as minor if the cumulative revisions to the most recent approved master plan of record which was considered at a public hearing do not include:

a. A change to the use and character of the development.

b. The possible creation of obstacles, barriers and service problems to traffic circulation, fire protection, public safety, and public utility services due to the revision(s).

c. A reduction by greater than fifteen percent (10%) of the designated open space.
ed. An increase by greater than fifteen percent (10%) in the approved number of residential dwelling units.

de. Increase the floor area proposed for nonresidential use by more than fifteen percent (10%).

f. Increase by greater than twenty percent (20%) the approved signage including, but not limited to, height or sign face area.

(2) Submittal of revised master plan with minor amendments. The proposed revised master plan shall be submitted to the planning director for consideration of approval. Said plan shall be presented on reproducible tracing material in like manner, and substance as reflected on the most recent approved plan. All other data, conditions, and information other than that proposed for amendment shall be identical to the most recently approved plan. Space for acknowledgement of approval by the planning director with date space shall be reflected on said plan. A letter of transmittal from the designated applicant setting forth in detail all proposed amendments shall accompany the submittal. Upon approval of any revised plan, the applicant shall furnish 16 copies of such plan with the planning agency for distribution to public agencies and utilities. The original tracing will remain on file in the planning agency and the revised master plan shall be rerecorded with the register of deeds in like manner as established with the original filing.

(b) Major amendments to master plan: Major changes shall include all—any modifications and quantities in conflict with the limitations and provisions as reflected in that do not meet all the minor amendment criteria set forth above. Upon initiation of the
amendment as established by the original petition, all major amendments to the master
plan shall be submitted to the planning commission for public hearing and
recommendation to the governing body as required for the original application and
approval. Provided further, that those proposed amendments reflecting the addition of a
permitted use group and/or the change in location of a use group by legal description,
all property owners within the prescribed notification area as set forth in section 48-
33.04 shall have the same rights of protest as provided by said section 48-33.04 and
further the proposed amended plan shall only be approved by the governing body in a
like manner as prescribed by section 48-33.04. A major amendment is processed and
approved in the same manner as the original application. Amendments that add a
permitted use group and/or change the location of a use group by legal description are
subject to protest as provided for under state law for any other rezoning.

Section 7. That section 48-24.07, Planned unit development plan variance
procedures, of the Comprehensive Zoning Regulations of The Code of the City of
Topeka, Kansas, is hereby amended to read as follows:

Planned unit development plan variance procedures.

The planning commission is solely empowered to grant variances to the
provisions of this article and only under the following circumstances:

(a) The applicant demonstrates that the plan as submitted is equal to or
better more effectively accomplishes the goals and objectives of the comprehensive plan
than such plan incorporating the provision for which a variance is requested; or

(b) The strict application of any provision would result in peculiar and
exceptional practical difficulties to, or exceptional and undue hardship upon, the owner
of such property, provided that the variance may be granted without substantial
detriment to the public good and without substantially impairing the purpose of this
article.

Section 8. That original sections § 48-24.01 through § 48-24.07 of the
Comprehensive Zoning Regulations of The Code of the City of Topeka, Kansas, are
hereby specifically repealed.

Section 9. 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 February 3, 2009.

CITY OF TOPEKA, KANSAS

____________________________
William W. Bunten, Mayor

ATTEST:

____________________________
Brenda Younger, City Clerk