

(Published in the Topeka Metro News February 11, 2009)

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.

29 Section 2. That section 48-24.02, Use regulations, of the Comprehensive
30 Zoning Regulations of The Code of the City of Topeka, Kansas, is hereby amended to
31 read as follows:

32 **Use regulations.**

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

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

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

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

48 (b) ~~*Dimensional requirements:*~~ *Setback and Height regulations.*

49 ~~(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:

Single-family	6,000 sq. ft./unit
Two-family	2,500 sq. ft./unit
Multiple-family	1,000 sq. ft./unit

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.~~

91 f. ~~In those instances, when in the opinion of the planning~~
92 director, a proposed use is not clearly and generally recognized and
93 identified as being subject to one of the aforementioned provisions, then
94 the provisions of article XXX, Required Number of Off-Street Parking
95 Spaces shall prevail as the standard, all as determined by the planning
96 director.

97 (4d) *Signs:* The number, location, size, area, height and type of signs shall be
98 determined in conjunction with the approval process.

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

102 **Requirements and development standards for the planned unit**
103 **development district.**

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

106 (a) ~~Applicability~~ Size of Parcel:

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

112 (2) Parcels containing less than ~~five~~one (51) acres, ~~but more than one~~
113 ~~(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
~~five~~one (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), t~~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~~fifteen (12~~5~~5) 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~~public works 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.

270 (15) Indicate BOOK PAGE DATE TIME in upper right-hand corner of all
271 plan sheets.

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

274 Recorded With The Shawnee County Register of Deeds:
275 (Registrars Name) - Register of Deeds

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

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

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

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

286 In Testimony Whereof:

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

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

290 Be it remembered that on this _____ date of _____, A.D. _____(Year)
291 before me, a notary public in and for said County and State come_____,
292 Owner(s) of the above described property.

293 I hereby set my hand and affix my notarial seal the day and year last written above.

294 _____
295 Notary Public
296 My Commission Expires:_____

297 (19) Notarized certification of master PUD plan approval by the
298 secretary to the planning commission as follows:

299 Certification of Master PUD Plan Approval:
300 (Planning Director's Name) (Date)

301 Secretary to Planning Commission

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

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

309 _____
310 Notary Public
311 My Commission Expires:_____

312 (b) Action on the petition and master plan of the planned unit development
313 plan by the planning commission and governing body. Upon filing of a petition to amend
314 a district to the planned unit development district as set forth in article XXXIII,
315 Amendments, and as further provided by this article, the planning commission shall
316 review, consider, and act on the petition in a like manner and procedure as provided in
317 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 p~~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~~unit 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 ~~twelve~~fifteen (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.

386 (c) Existing zoning and improvement of immediately adjacent
387 properties.

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

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

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

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

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

406 (i) The location, character, size, height, and orientation of
407 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~~

431 buildings ~~(except for garages and storage areas which shall be located at~~
432 ~~or above the one-hundred (100) year flood elevation)~~ shall be at or above
433 ~~the elevation of (1) the flood water of record; or (2) the intermediate flood~~
434 ~~level as determined by the U.S. Army Corps of Engineers; or (3) the flood~~
435 ~~level as determined by the Department of Public Works, whichever is~~
436 ~~greater. All horizontal dimensions shown on the site development plan~~
437 ~~shall be in feet and decimals of a foot, all bearings in degrees, minutes~~
438 ~~and seconds.~~

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

454 decision of the ~~Zoning and Platting Committee~~planning commission shall be
455 submitted to the ~~governing body~~city council for final action.

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

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

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

470 **Amendments to planned unit development plans.**

471 Each applicant petitioning for a planned unit development district shall, as part of
472 the application, designate a prescribed manner as to who may initiate amendment(s) to
473 the approved planned unit development master plan ~~and the final site plan. Said~~
474 ~~procedure shall also be made part of the site plan and shall be recorded of record with~~
475 ~~the register of deeds. Upon recordation, the amendment procedure as set forth in the~~
476 ~~recorded site plan shall govern the initiation of all amendments.~~ In addition to the

477 planning commission or city council, the owner may solely initiate amendments to the
478 plan. The terms and provisions of the plan shall extend to and be binding upon the
479 heirs, executors, administrators, trustees, and assignees of the owner. Should more
480 than one entity hold title, then all such affected owners of all such title as determined by
481 the planning director shall be required to execute any such amendment. In lieu of all
482 owners individually executing such document, the planning director may approve a
483 homeowners or property owners association to execute any such amendment if they
484 present evidence their organization has the authority to represent all owners within the
485 PUD.

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

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

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

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

498 c. A reduction by greater than ~~five~~ten percent (10%) of the
499 designated open space.

ed. An increase by greater than ~~five~~ten percent (10%) in the approved number of residential dwelling units.

~~de.~~ Increase the floor area proposed for nonresidential use by more than ~~five~~ten 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