

1 (Published in the Topeka Metro News May 6, 2009)

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3 **ORDINANCE NO. 19250**

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5 AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., concerning  
6 the adoption of the International Fire Code, creating Chapter 70,  
7 Article III, Division 3, Subdivision II, amending City of Topeka Code  
8 §§ 50-48, 70-56, 70-71, 70-86, 70-87, and 98-171 and specifically  
9 repealing said original sections.

10  
11 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

12  
13 Section 1. That section 50-48, Definitions, of The Code of the City of Topeka,  
14 Kansas, is hereby amended to read as follows:

15 **Definitions.**

16 As used in this Act:

17 (1) *Appearance bond* means an undertaking, with or without security, entered  
18 into by a person in custody by which the person is bound to comply with the conditions  
19 of the undertaking.

20 (2) *Accused person* means a person, corporation or other legal entity accused  
21 by a complaint of the violation of a city ordinance.

22 (3) *Arraignment* means the formal act of calling the person accused of  
23 violating an ordinance before the municipal court to inform the person of the offense  
24 with which the person is charged, to ask the person whether the person is guilty or not  
25 guilty and, if guilty, to impose sentence.

26 (4) *Arrest* means the taking of a person into custody in order that the person  
27 will appear to answer for the violation of an ordinance. The giving of a notice to appear  
28 is not an arrest.

29           (5)    *Bail* is the security given for the purpose of insuring compliance with the  
30 terms of an appearance bond.

31           (6)    *City attorney* means any attorney who represents the city in the  
32 prosecution of an accused person for the violation of a city ordinance.

33           (7)    *Complaint* means a sworn written statement, or a written statement by a  
34 law enforcement officer, the city attorney or an assistant city attorney, an animal control  
35 officer, parking control officer as specifically authorized by Topeka City Code section  
36 142-429, property maintenance inspector as specifically authorized by Topeka City  
37 Code section 142-355 or a fire department employee with authority to enforce the  
38 ~~Uniform~~ Fire Code of the essential facts constituting a violation of an ordinance.

39           (8)    *Custody* means the restraint of a person pursuant to an arrest.

40           (9)    *Detention* means the temporary restraint of a person by a law enforcement  
41 officer.

42           (10)   *Law enforcement officer* means any person who by virtue of office or  
43 public employment is vested by law with a duty to maintain public order and to make  
44 arrests for violation of the laws of the State of Kansas or ordinances of any municipality  
45 thereof. For the purposes of signing and serving a uniform complaint and notice to  
46 appear or a subpoena, the term shall also mean the city attorney or an assistant city  
47 attorney, an animal control officer, parking control officer as specifically authorized by  
48 Topeka City Code section 142-429, property maintenance inspector as specifically  
49 authorized by Topeka City Code section 142-355 or a fire department employee with  
50 authority to enforce the ~~Uniform~~-Fire Code.

51           (11) *Notice to appear* is a written notice to a person accused by a complaint of  
52 having violated an ordinance of a city to appear at a stated time and place to answer to  
53 the charge of the complaint.

54           (12) *Subpoena* is a process issued by the court to cause a witness to appear  
55 and give testimony at a time and place therein specified.

56           (13) *Ordinance traffic infraction* is a violation of an ordinance that proscribes or  
57 requires the same behavior as that proscribed or required by a statutory provision that is  
58 classified as a traffic infraction in K.S.A. 1998 Supp. 8-2118 and amendments thereto.

59           (14) *Warrant* is a written order made by a municipal judge directed to any law  
60 enforcement officer commanding the officer to arrest the person named or described in  
61 it.

62           (15) *Ordinance cigarette or tobacco infraction* is a violation of an ordinance that  
63 proscribes the same behavior as proscribed by subsection (43m) or (44n) of K.S.A. 79-  
64 3321 and amendments thereto.

65           Section 2. That section 70-56, Adoption of rules and regulations, of The Code  
66 of the City of Topeka, Kansas, is hereby amended to read as follows:

67           **Adoption of rules and regulations.**

68           The chief of the fire department shall have the authority to promulgate such rules  
69 and regulations as are necessary to carry out the purposes of the ~~Uniform~~ Fire Code  
70 and Life Safety Code, and such rules and regulations shall be effective upon their  
71 approval by the ~~mayer~~ city manager.

72           Section 3. That section 70-71, Complaint, of The Code of the City of Topeka,  
73 Kansas, is hereby amended to read as follows:

74                   **Complaint.**

75                   Whenever any person operating or maintaining any occupancy, premises or  
76                   vehicle subject to the ~~Uniform~~ Fire Code or such other ordinances enforced by the fire  
77                   chief fails to take immediate action when ordered or notified to do so by the fire chief or  
78                   a duly authorized representative to abate a fire hazard existing on premises under the  
79                   person's control, the fire chief or a duly authorized representative shall issue a  
80                   complaint charging the accused person of violating the ~~Uniform~~ Fire Code or such other  
81                   ordinance enforced by the fire chief.

82                   Section 4.     That section 70-86, Uniform Fire Code and standards adopted, of  
83                   The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

84                   ~~**Uniform**~~**Adoption of 2006 International Fire Code and standards adopted.**

85                   ~~(a) There is hereby adopted by reference the Uniform Fire Code, 1997 edition,~~  
86                   ~~of the International Conference of Building Officials, and the Western Fire Chiefs~~  
87                   ~~Association, 300 N. Main Avenue, Suite 25, Fallbrook, California 92028, published by~~  
88                   ~~International Fire Code Institute, 5360 South Workman Mill Road, Whittier, California,~~  
89                   ~~90601-2298, (562) 699-0124. The code shall include all codified supplements to the~~  
90                   ~~Uniform Fire Code, 1997 edition, and the following Uniform Fire Code articles 1, 2, 9,~~  
91                   ~~10, 11, 12, 13, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35, 36, 45, 46, 47, 48, 49, 50, 51,~~  
92                   ~~52, 61, 62, 63, 64, 74, 75, 76, 77, 78, 79, 80, 81, 82, 84, 85, 87, 88, and 90. The code is~~  
93                   ~~made a part of this Code and incorporated herein as if fully set out in this division,~~  
94                   ~~except as hereafter provided.~~

95                   ~~(b) The U.F.C. Standards, Volume 2, which are referred to in various parts of~~  
96                   ~~the fire code shall be the Uniform Fire Code Standards, 1997 edition, and all codified~~

supplements thereto, and said U.F.C. Standards are hereby declared to be a part of the fire prevention code of the city.

~~(c) Adoption of the Uniform Fire Code, 1997 edition, shall include the following appendix:~~

~~Appendix I-C, stairway identification.~~

~~Appendix 2F, protected A-G tanks for motor vehicle fuel dispensing stations outside of building:~~

~~These provisions shall not prohibit the dispensing of Class I and Class II liquids in the open from a fuel dispensing system supplied by the listed protected aboveground tank not to exceed 3,000 gallons, located at commercial, industrial, governmental, or manufacturing establishments, and intended for fueling vehicles used in connection with their business.~~

~~Exception: Motor vehicle fuel dispensing station automotive (public).~~

~~Appendix II J. Storage of flammable and combustible liquids in tanks located below grave vaults.~~

~~Appendix IV B. Christmas trees.~~

~~Appendix V-5. Nationally recognized standards of good practice.~~

There is hereby adopted by reference and incorporated herein as if fully set out in this division, the 2006 International Fire Code, as amended, including Appendices B, C, D and F, except as hereafter provided in Subdivision II.

Section 5. That section 70-87, Copies on file in clerk's office, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**Copies on file in clerk's office.**

At least one copy of the ~~Uniform~~2006 International Fire Code as adopted in this division shall be on file with the city clerk to be available for inspection by the public at all reasonable business hours. The police department, municipal court and all administrative departments of the city charged with the duty of enforcement of this article shall be supplied, at the cost of the city, such number of copies of the code as may be deemed expedient by the fire chief.

Section 6. That The Code of the City of Topeka, Kansas, Chapter 70, Article III, Division 3, Subdivision II, International Fire Code Amendments, is hereby amended by adding a section to be numbered 70-101, which said section reads as follows:

**Generally.**

Amendments to the 2006 International Fire Code adopted by City of Topeka Code § 70-86 shall be as set out in this subdivision. All references to section and chapter numbers in the text of this subdivision shall be construed as if followed by the words "of the fire code" unless clearly indicated to the contrary.

Section 7. That The Code of the City of Topeka, Kansas, Chapter 70, Article III, Division 3, Subdivision II, International Fire Code Amendments, is hereby amended by adding a section to be numbered 70-102, which said section reads as follows:

**Chapter 1, Section 105.1.1 Permits required,** is hereby deleted in its entirety and the following provisions shall be substituted therefore:

The Topeka Fire Department will issue operational permits for the following:

1. Explosives;
2. Flammable and combustible liquids;
3. Liquid or gas fueled vehicles or equipment in assembly buildings;

4. LP gas;
5. Open burning;
6. Pyrotechnic special effects materials;
7. Temporary membrane structures, tents, and canopies; and
8. Waste handling.

Section 8. That The Code of the City of Topeka, Kansas, Chapter 70, Article III, Division 3, Subdivision II, International Fire Code Amendments, is hereby amended by adding a section to be numbered 70-103, which said section reads as follows:

**Chapter 1, Section 105.6.30 Open burning,** is hereby deleted in its entirety and the following provisions shall be substituted therefore:

An operational permit is required for the kindling or maintaining of an open fire or a fire on any public street, alley, road, or other public or private ground. Instructions and stipulations of the permit shall be adhered to.

Section 9. That The Code of the City of Topeka, Kansas, Chapter 70, Article III, Division 3, Subdivision II, International Fire Code Amendments, is hereby amended by adding a section to be numbered 70-104, which said section reads as follows:

**Chapter 1, Section 108 Board of Appeals,** is hereby deleted in its entirety and the following provisions shall be substituted therefore:

The appeals board under this code shall be the board of building and fire appeals created under and governed by TCC § 26-138.

Section 10. That The Code of the City of Topeka, Kansas, Chapter 70, Article III, Division 3, Subdivision II, International Fire Code Amendments, is hereby amended by adding a section to be numbered 70-105, which said section reads as follows:

**Chapter 3, Section 304.1.2 Vegetation**, is hereby deleted in its entirety and the following provisions shall be substituted therefore:

Weeds, grass, vines or other growth that is capable of being ignited and endangering property, shall be cut down and removed by the owner or occupant of the premises. When the fire chief or their designee determines that total removal of growth is impractical due to size or environmental factors, approved fuel breaks shall be established. Designated areas shall be cleared of combustible vegetation to establish fuel breaks. Vegetation clearance requirements in urban-wildland interface areas shall be in accordance with the International Wildland-Urban Interface Code.

Section 11. That The Code of the City of Topeka, Kansas, Chapter 70, Article III, Division 3, Subdivision II, International Fire Code Amendments, is hereby amended by adding a section to be numbered 70-106, which said section reads as follows:

**Chapter 6, Section 603.8 Incinerators**, is hereby deleted in its entirety and the following provisions shall be substituted therefore:

Commercial and industrial incinerators and chimneys shall be constructed in accordance with the International Building Code, the International Fuel Gas Code and the International Mechanical Code.

Section 12. That The Code of the City of Topeka, Kansas, Chapter 70, Article III, Division 3, Subdivision II, International Fire Code Amendments, is hereby amended by adding a section to be numbered 70-107, which said section reads as follows:

**Chapter 6, Section 603.8.1 Residential incinerators**, is hereby deleted in its entirety.



Section 13. That The Code of the City of Topeka, Kansas, Chapter 70, Article III, Division 3, Subdivision II, International Fire Code Amendments, is hereby amended by adding a section to be numbered 70-108, which said section reads as follows:

**Chapter 9, Section 903.2.1.2 Group A-2,** is hereby deleted in its entirety and the following provisions shall be substituted therefore:

An automatic sprinkler system shall be provided for Group A-2 occupancies where one of the following conditions exists:

1. The fire area exceeds 5,000 square feet (465 m<sup>2</sup>);
2. The fire area has an occupant load of 300 or more; or
3. The fire area is located on a floor other than the level of exit discharge.

Section 14. That The Code of the City of Topeka, Kansas, Chapter 70, Article III, Division 3, Subdivision II, International Fire Code Amendments, is hereby amended by adding a section to be numbered 70-109, which said section reads as follows:

**Chapter 9, Section 903.2.7 Group R,** is hereby deleted in its entirety and the following provisions shall be substituted therefore:

An automatic sprinkler system installed in accordance with Section 903.3 shall be provided through-out all buildings with a Group R fire area.

Exceptions:

1. An automatic sprinkler system is not required for a building containing not more than two (2) one- or two-family dwelling units, either individually or in combination with other nonresidential occupancies, provided however, that a fire alarm and detection

211 system shall be installed in the residential units as well as the  
212 nonresidential occupancy areas.

213 2. An automatic sprinkler system is not required for buildings  
214 consisting solely of four (4) dwelling units or less.

215 Section 15. That The Code of the City of Topeka, Kansas, Chapter 70, Article  
216 III, Division 3, Subdivision II, International Fire Code Amendments, is hereby amended  
217 by adding a section to be numbered 70-110, which said section reads as follows:

218 **Chapter 34, Section 3404.2.3.2 Label or placard,** is hereby deleted in its  
219 entirety and the following provisions shall be substituted therefore:

220 Tanks more than 100 gallons (379 L) in capacity, which are permanently installed  
221 or mounted and used for the storage of Class I, II or IIIA liquids, shall bear a label and  
222 placard identifying the material therein. Placards shall be in accordance with NFPA  
223 704.

224 Exception: Tanks located underground.

225 Section 16. That The Code of the City of Topeka, Kansas, Chapter 70, Article  
226 III, Division 3, Subdivision II, International Fire Code Amendments, is hereby amended  
227 by adding a section to be numbered 70-111, which said section reads as follows:

228 **Appendix C, Fire Hydrant Locations and distribution,** is deleted in its entirety  
229 and the following provisions shall be substituted therefore:

230 Fire hydrant locations shall be in accordance with Section 1.5, Water Distribution  
231 Design Criteria, of the City of Topeka Design Criteria and Drafting Standards Manual.  
232 Amendments to or deviations from the Water Distribution Design Criteria related to fire

hydrants shall be approved by the fire chief, the water superintendent and the city engineer.

Section 17. That section 98-171, Application of fire code, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**Application of fire code.**

All mobile home parks shall be subject to the rules and regulations of the Uniform Fire Code as adopted by the city.

Section 18. That original City of Topeka Code §§ 50-48, 70-56, 70-71, 70-86, 70-87 and 98-171 are hereby specifically repealed.

Section 19. This ordinance shall take effect and be in force after its passage, approval and publication in the official City newspaper.

PASSED AND APPROVED by the City Council April 28, 2009.

CITY OF TOPEKA, KANSAS

\_\_\_\_\_  
William W. Bunten, Mayor

ATTEST:

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Brenda Younger, City Clerk