

(Published in the Topeka Metro News May 31, 2010)

**ORDINANCE NO. 19423**

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., concerning various boards and commissions, amending § 2-181 and repealing said original section and repealing § 10-91 and § 98-211 in their entirety.

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

Section 1. That section 2-181, Establishment, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**Establishment.**

The following nonstatutory boards, commissions and other plural authorities are hereby established and made a part of the administrative code of the city, as authorized by Charter Ordinance No. 94, § 24 [App. A, § A2-72]: ~~Cereal Malt Beverage License Review Board (TCC 10-91);~~ Human Relations Commission (TCC 86-27); ~~Mobile Home Craftsmen Board of Examiners (TCC 98-211);~~ Board of Electrical Appeals (TCC 26-236 et seq.30-531); Board of Plumbing Examiners (TCC 26-236 et seq.30-531); Board of Mechanical Examiners (TCC 26-236 et seq.30-531); Board of Building and Fire Appeals (TCC 26-138); Board of Zoning Appeals (TCC 48-34.00 et seq.); Golf Course Advisory Board (TCC 102-196 et seq.); Parks and Recreation Advisory Board (TCC 102-51 et seq.); ~~Redistricting Commission (TCC 2-198);~~ Citizen Advisory Council (TCC 42-4); Civil Service Commission (TCC 106-41); Topeka Planning Commission (TCC 110-27); Boards of Trustees of Fire and Police Pension Funds (TCC 106-204); ~~Administrative Review Board for Tax Exemptions (TCC 138-79);~~ City of Topeka Americans with Disabilities Act Advisory Council (TCC 86-200); Sustainability Advisory Board (TCC 66-

25). The council is hereby authorized to promulgate appropriate rules and regulations for such boards, commissions and authorities dealing with their organization and operation. No city employee shall be appointed to any board, commission, or plural authority unless the appointment is specifically authorized by ordinance. Unless otherwise provided, all members appointed to any board, commission, or plural authority shall be residents of the city. The mayor shall notify council members 30 days in advance of vacancies occurring on such bodies, shall solicit nominations from the council for filling such positions, and shall appoint members to such bodies from those nominated by the council. In the event no nominations are forthcoming, the mayor shall make such appointments as is in the best interest of or will best serve the mission of the board, commission, or authority. All appointments must be confirmed by the council. Unless otherwise provided for in this code, members will be appointed for a term of two years and shall not serve beyond the end of their appointed terms. Upon expiration of a term the position shall remain vacant until a successor is appointed.

Section 2. That section 10-91, Board of cereal malt beverage license review; revocation, suspension procedure; initial appeal, of The Code of the City of Topeka, Kansas, is hereby repealed:

~~**Board of cereal malt beverage license review; revocation, suspension procedure; initial appeal.**~~

~~(a) There is hereby created a board of cereal malt beverage license review consisting of three members appointed by the mayor for terms of three years. The board of cereal malt beverage license review shall, upon five days' notice to a retailer of cereal malt beverages licensed under this division, conduct a hearing of record to~~

determine whether to revoke or suspend such license for any one of the following reasons:

(1) If a licensee has fraudulently obtained a license by giving false information in the application or reapplication therefor.

(2) If the licensee has violated any provisions of the laws of the state relating to cereal malt beverages or alcoholic liquors and licenses therefor; or any rule or regulation made pursuant thereto or any ordinance relating to cereal malt beverages adopted by the city.

(3) If the licensee has become ineligible to obtain a license under the provisions of this division.

(4) Drunkenness of the person holding such license while on the licensed premises or the permitting of any intoxicated person to remain in such place.

(5) The sale of cereal malt beverages or alcoholic liquors to any persons under the age of 21 years, or the permitting of such persons to consume any such beverages or liquors on the premises.

(6) The nonpayment of any license fee.

(7) For permitting any illegal gambling in or upon such premises.

(8) For permitting any person to mix drinks containing alcoholic liquors in the licensed premises unless otherwise permitted under this division.

(9) For the employment of persons under 21 years of age in dispensing any cereal malt beverages except as authorized by section 10-55(a).

(10) For employing any person who has been convicted of a felony or of any alcoholic liquor or intoxicating liquor laws of the city, state or of the United

75 ~~States, including laws pertaining to the operation or attempted operation of a~~  
76 ~~motor vehicle while under the influence of intoxicating liquor or drugs.~~

77 ~~(11) For employing any person who has been refused a license to sell~~  
78 ~~cereal malt beverages or alcoholic liquors or any person whose license to sell~~  
79 ~~cereal malt beverages or alcoholic liquors has been revoked within six months of~~  
80 ~~such refusal or revocation.~~

81 ~~(12) For purchasing or displaying a federal retail liquor stamp expiring~~  
82 ~~after June 30, 1937, issued by the United States Treasury Department, except~~  
83 ~~where issued for industrial, mechanical, scientific and medicinal purposes.~~

84 ~~(13) For the sale or possession of alcoholic liquors on the licensed~~  
85 ~~premises or for permitting, knowingly or unknowingly, any person to use or~~  
86 ~~consume upon or in such premises alcoholic liquor.~~

87 ~~(b) The provisions of subsections (a)(8) and (a)(13) shall not apply if such place~~  
88 ~~of business or premises are also currently licensed by the state director of alcoholic~~  
89 ~~beverage control.~~

90 ~~(c) A licensee shall be deemed to be responsible for any act or conduct of any~~  
91 ~~employee on the premises that is in violation of state law or of the ordinances or rules~~  
92 ~~and regulations of the city, if such licensee knew or should have known or had actual or~~  
93 ~~constructive knowledge of such unlawful act or conduct of such employee, and as such~~  
94 ~~the unlawful act of conduct of such employee can be attributed to the licensee for~~  
95 ~~purposes of considering whether to revoke or suspend a license issued under this~~  
96 ~~division.~~

97 ~~(d) The determination of any of the acts listed in subsections (a)(1) through (13)~~

98 ~~of this section shall be made by the cereal malt beverage review board. The board shall~~  
99 ~~consider the facts as presented to them, together with any matters of mitigation, in~~  
100 ~~making its decision to revoke or suspend the license. The board shall render its decision~~  
101 ~~in writing, citing the reasons for such decision, within 30 days of the hearing.~~

102 ~~(e) Within 20 days after any order of the board revoking or suspending any~~  
103 ~~license, the licensee may appeal in writing to the city council, which shall review the~~  
104 ~~findings and reasons for the decision of the board and conduct further hearings if it~~  
105 ~~deems necessary. Within 60 days of receipt of the written notice of appeal, the city~~  
106 ~~council shall issue an order either upholding the decision of the board or reversing it.~~  
107 ~~Any appeal taken from an order of the board suspending or revoking any such license~~  
108 ~~shall not suspend such order or suspension or revocation during the pendency of the~~  
109 ~~appeal to the city council.~~

110 Section 3. That section 98-211, Mobile home craftsmen board of examiners,  
111 of The Code of the City of Topeka, Kansas, is hereby repealed:

112 **~~Mobile home craftsmen board of examiners.~~**

113 ~~(a) There is hereby created a mobile home craftsmen board of examiners to~~  
114 ~~consist of five persons, all of whom shall be appointed by the mayor. Three members so~~  
115 ~~appointed shall be engaged in the business of the plumbing, electrical and mechanical~~  
116 ~~trade, respectively. Two persons so appointed shall be engaged in the business of~~  
117 ~~repair, installation or alteration of mobile homes or their components. Members shall be~~  
118 ~~appointed for a term of one year.~~

119 ~~(b) The ex officio membership of the mobile home craftsmen board of~~  
120 ~~examiners shall consist of the city plumbing, mechanical inspector, and electrical~~

121 inspector.

122 ~~(c) It shall be the duty of the members of the mobile home craftsmen board of~~  
123 ~~examiners, under such rules and regulations as they shall prescribe, to hold meetings~~  
124 ~~as necessary, on days to be announced by the mobile home craftsmen board of~~  
125 ~~examiners, for the purpose of passing upon the qualifications of parties desiring~~  
126 ~~licenses to perform the duties of mobile home craftsmen. In addition, the board shall be~~  
127 ~~empowered to hear and determine interpretations of applicable codes and to permit~~  
128 ~~variances or waivers therefrom, provided such variances or waivers do not endanger~~  
129 ~~life, limb, property or public welfare.~~

130 Section 4. That original § 2-181 of The Code of the City of Topeka, Kansas, is  
131 hereby specifically repealed.

132 Section 5. This ordinance shall take effect and be in force from and after its  
133 passage, approval and publication in the official City newspaper.

134 Section 6. All ordinances, resolutions or rules, or portions thereof, inconsistent  
135 with the provisions of this ordinance are hereby rescinded or repealed.

136 Section 7. Should any section, clause or phrase of this ordinance be declared  
137 to invalid by a court of competent jurisdiction, the same shall not affect the validity of  
138 this ordinance as a whole, or any part thereof, other than the part so declared to be  
139 invalid.

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PASSED AND APPROVED by the City Council May 25, 2010.

CITY OF TOPEKA, KANSAS

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William W. Bunten, Mayor

ATTEST:

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Brenda Younger, City Clerk