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ORDINANCE NO. 19473

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code § 6.05.010, § 6.05.020, § 6.05.040, § 6.05.080, 6.30.010, § 6.30.050 and § 9.05.080 concerning cruelty to animals, dangerous dogs, feral cats and animal control and specifically repealing said original sections and the U.P.O.C. cruelty to animal ordinance, as well as repealing in its entirety Chapter 6.25 concerning pit bull dogs.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA:

Section 1. That section 6.05.010, Definitions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Definitions.

The following words, terms and phrases, when used in this title, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) "Animal shelter" means any premises designated by city administrative authority for the purpose of impounding and caring for animals held under authority of this title.

(b) Dangerous dog shall mean any of the following:

(1) Any dog with a known propensity tendency or disposition to attack, to cause injury, or otherwise threaten the safety of human beings or domestic animals; or

(2) Any dog which in a vicious or threatening manner, approaches any person in apparent attack upon the person while on the streets, sidewalks, or any

public grounds or places; or on private property other than on the property of the owner; or

(3) Any dog which, unprovoked, attacks or bites, or has attacked or bitten a human being or domestic animal; or

(4) Any dog which was previously determined to be a vicious animal pursuant to the previous Topeka City Code 18.8 or 6.05.080; or

(5) Any dog owned or harbored primarily for the purpose of dogfighting shall only be considered dangerous if the dog is evaluated and dangerousness is concluded by a licensed veterinarian or a dog trainer certified by the Certification Council for Professional Dog Trainers with experience in evaluating dogs seized in similar cruelty cases.

(6) Notwithstanding the definition of a dangerous dog above, no dog may be declared dangerous if any injury or damage is sustained by a person or animal who at the time such injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the dog, or was teasing, tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime.

(7) No dog may be declared dangerous if an injury or damage was sustained by a domestic animal which at the time such injury or damage was sustained was teasing, tormenting, abusing or assaulting the dog. No dog may be declared dangerous if the dog was protecting or defending a human being or if the dog was protecting or defending her litter of offspring or offspring on the

owner's property, within the immediate vicinity of the dog from an attack or assault.

(8) Nothing in this Article shall be deemed to regulate or prohibit the lawful maintenance and use of dogs by law enforcement agencies or include actions by a law enforcement dog while on duty or while performing duties.

(bc) "Exposed to rabies" means an animal which has been bitten by or subjected to danger, attack or harm by any creature known to have been infected with rabies.

(d) "Humane killing" means the painless administration of a lethal dose of an agent or method of euthanasia as prescribed in the Report of the American Veterinary Medical Association Panel on Euthanasia published in the Journal of the American Veterinary Medical Association, March 1, 2001 (or any successor version of that Report), that causes the painless death of an animal. Animals must be handled prior to administration of the agent or method of euthanasia in a manner to avoid undue apprehension by the animal.

(ee) "Humane Society" means the Helping Hands Humane Society in the city or any animal shelter contracted with the City of Topeka which is licensed by the State of Kansas.

(ef) "Owner" means any person owning, keeping, possessing or harboring any animal, or any person operating a kennel. A parent or legal guardian shall be deemed to be an owner of dogs owned or maintained by children upon their premises.

(eg) "Secure enclosure" or "secure six-sided enclosure" shall mean a pen, kennel or structure with secure sides, a secure top attached to the sides and a secure

bottom or floor attached to the sides of the pen or embedded in the ground no less than two feet. The secure enclosure must be at least ~~three~~ six feet from any public sidewalk or street. The secure enclosure, other than a residence, must be locked with a key or combination lock when animals are within the enclosure. If the secured enclosure is a residence, then all doors, windows or other means of egress shall be secured in a manner to prevent an animal from escaping. All secure enclosures must comply with all zoning and building regulations of the city. All secure enclosures must be adequately lighted and ventilated and kept in a clean and sanitary condition.

(h) "Supervision" means within visual and auditory range of the owner.

(i) "Tether." When used as a verb, "tether" or "tethering" shall mean fastening a dog or cat to a stationary object, pulley run line or a stake. When used as a noun, "tether" or "tethers" shall mean a chain, leash, rope, cable, chain, string, leather or nylon strap, or any other material used to fasten a dog or cat to a stationary object, pulley run line or a stake.

(fj) "Vicious" means a cross, ferocious or dangerous disposition or a habit, tendency or disposition to snap, attack or bite any person or ~~other~~ domestic animal.

Section 2. That section 6.05.020, Violations of title, mandatory minimum punishment, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Violations of title, mandatory minimum punishment.

The judge of the municipal court of the city shall, upon a conviction of any section in this title, other than TMC 6.05.080 ~~and 6.25.050~~, sentence the owner, harborer or possessor of such animal as follows:

- 98 (a) Fine. A fine of not less than \$1.00 or more than \$499.00; or
99 (b) Imprisonment. Imprisonment in the city jail for not more than 179 days; or
100 (c) Both Fine and Imprisonment. Both fine and imprisonment not to exceed
101 subsections (a) and (b) of this section.

102 Section 3. That section 6.05.040, Cruelty to animals, of The Code of the City
103 of Topeka, Kansas, is hereby amended to read as follows:

104 **Cruelty to animals.**

105 (a) It shall be unlawful for any person to recklessly or intentionally:

106 (1) ~~Intentionally k~~ Kill, injure, maim, torture, burn or mutilate any animal,
107 ~~except for the hunting of wild or undomesticated animals under the provisions of~~
108 ~~TMC 6.05.070;~~

109 (2) Abandon or leave any animal in any place without ~~making~~ ensuring
110 provisions for its proper care;

111 (3) Have physical custody of any animal and fail to provide such food,
112 potable water, protection from the elements, opportunity for exercise adequate to
113 maintain health, or other care as is needed for the health or well-being of such
114 animal;

115 (i) Food. Food shall be wholesome, free from contamination, and
116 of sufficient quantity and nutritive value to maintain the animal(s) good
117 health. Animals shall be fed at least once a day except as dictated by
118 veterinary treatment, normal fasts or other accepted practices. All food
119 receptacles shall be kept clean.

120 (ii) Potable Water. Adequate fresh water shall be made available
121 to animals on a regular basis.

122 (iii) Protection from the elements. Natural or artificial shelter
123 appropriate to the local climatic conditions for the species concerned shall
124 be provided for all animals kept outdoors to afford them protection and
125 prevent severe discomfort of such animals. When sunlight is likely to
126 cause overheating, sufficient shade by natural or artificial means shall be
127 provided to allow all animals kept outdoors to protect themselves from
128 direct sunlight. Owners of animals kept outdoors or in an unheated
129 enclosure shall provide the animal with the following minimum standards
130 of shelter.

131 (a) It shall include a moisture proof and windproof
132 structure of suitable size to accommodate the animal and allow
133 retention of body heat and shall be made of durable material with a
134 solid floor.

135 (b) It shall be provided with a sufficient quantity of clean,
136 suitable bedding material consisting of hay, straw, cedar shavings,
137 or the equivalent, to promote insulation and protection against cold
138 and dampness and promote retention of body heat.

139 (4) ~~Have custody of an animal, as owner or otherwise, and fail to~~
140 ~~provide such animal with necessary protection from the elements as set forth~~
141 ~~below:~~

~~(i) Shelter from Sunlight. When sunlight is likely to cause overheating, serious bodily injury or death of the animal, sufficient shade shall be provided to allow the vertebrate animals kept outdoors to protect themselves from the direct rays of the sun.~~

~~(ii) Shelter from Cold Weather. Housing facilities shall be provided for all dogs and cats kept outdoors when the atmospheric temperature falls below 40 degrees Fahrenheit. Such structure shall be provided with a sufficient quantity of suitable bedding materials, consisting of hay, straw, cedar shavings or the equivalent, to provide insulation and protection against cold and dampness and promote retention of body heat. Such shelter shall be so constructed to keep the animal dry and retain sufficient body heat to prevent serious bodily injury or death of the animal; or~~ Knowingly leave any animal confined in a vehicle for more than five (5) minutes in extreme weather conditions, defined as more than eighty (80) degrees Fahrenheit or less than thirty (30) degrees Fahrenheit as the heat or cold index taken in the vehicle shall create a legal, rebuttable presumption of violation of this act;

(5) Use of a wire, pole, stick, rope or any other object to cause an equine to lose its balance or fall, for the purpose of sport or entertainment;

(6) Cause, instigate, stage, or train any animal to fight or permit any animal to fight any other animal or human; or

(7) Cause any physical injury other than the acts described in subsection (a)(1).

(5b)(i) It shall be unlawful for any person to Attach chains or other tethers,
restraints or implements directly to a dog or cat without the proper use of a collar,
harness, or other device designed for that purpose and made from a material that
prevents injury to the animal. No person shall:

(ii) ~~No person shall:~~

(A1) Continuously tether a dog or cat for more than fifteen (15) minutes
without supervision; ~~Continuously tether a dog for more than one continuous~~
~~hour, except that tethering of the same dog may resume after a hiatus of three~~
~~continuous hours, for up to three hours total time on tether per day; provided, that~~
~~for the purpose of tethering a dog, a chain, leash, rope or tether shall be at least~~
~~10 feet in length; or~~

(B2) Use a tether or any assembly or attachments thereto to tether a
dog or cat that shall weigh more than one-eighth of the animal's body weight, or
due to weight, inhibit the free movement of the animal within the area tethered; or

(C3) Tether a dog or cat on a choke chain or in such a manner as to
cause injury, strangulation, or entanglement of the dog on fences, trees, or other
manmade or natural obstacles; or

(D4) Tether a dog or cat without access to shade when sunlight is likely
to cause overheating, or appropriate shelter to provide insulation and protection
against cold and dampness when the atmospheric temperature falls below 40
degrees Fahrenheit, or to tether a dog without securing its water supply so that it
cannot be tipped over by the tether; or

(E5) Tether a dog or cat in an open area where it can be teased by persons or an open area that does not provide the dog or cat protection from attack by other animals; or

(F6) Tether ~~an animal~~ a dog or cat in an area where bare earth is present and no steps have been taken to prevent the surface from becoming wet and muddy in the event of precipitation.

~~(iii) The following definitions apply to words used in this section:~~

~~(A) When used as a verb, "tether" or "tethering" shall mean fastening a dog to a stationary object, pulley run line or a stake.~~

~~(B) When used as a noun, "tether" or "tethers" shall mean a chain, leash, rope, cable, string, leather or nylon strap, or any other material used to fasten a dog to a stationary object, pulley run line or a stake.~~

(b~~c~~) Any public health officer, law enforcement officer or licensed veterinarian, or any officer or agent of any duly incorporated humane society, animal shelter or other appropriate facility, may take into custody any animal, upon either private or public property, which clearly shows evidence of cruelty to animals, as defined in subsection (a) of this section and subsections thereto. Such officer, agent or veterinarian may inspect, care for or treat such animal or place such animal in the care of a duly incorporated humane society or licensed veterinarian for treatment, boarding and other care or, if it appears, as determined by an officer of such humane society or by such

209 veterinarian, that the animal is diseased or disabled beyond recovery for any useful
210 purpose, the humane killing thereof.

211 (ed) The owner of an animal killed pursuant to subsection (b) of this section
212 shall not be entitled to recover damages for the killing of such animal unless the owner
213 proves that such killing was unwarranted.

214 (de) Expenses incurred for the care, treatment or boarding of any animal taken
215 into custody pursuant to subsection (b) of this section, pending prosecution of the owner
216 of such animal for the crime of cruelty to animals, as defined in subsection (a) of this
217 section, shall be assessed to the owner as a cost of the case if the owner or custodian
218 is adjudicated guilty of such crime.

219 (ef) If a person is adjudicated guilty of the crime of cruelty to animals, as
220 defined in subsection (a) of this section, and the court is satisfied that an animal owned
221 or possessed by such person would be in the future subjected to such crime, such
222 animal shall not be returned to or remain with such person. Such animal may be turned
223 over to a duly incorporated humane society or licensed veterinarian for sale or other
224 disposition.

225 (g) The provisions of this section shall not apply to:

226 (1) Normal or accepted veterinary practices;

227 (2) Bona fide experiments carried on by any research facility that is in
228 compliance with the Animal Welfare Act (7 USC §2131-2159), and any
229 amendments thereto;

(3) Killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of Chapter 32 or Chapter 47 of the Kansas Statutes Annotated;

(4) Rodeo practices accepted by the Professional Cowboys Rodeo Association;

(5) The humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of domestic animals, by the owner thereof or by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of an incorporated humane society, law enforcement officer, animal control officer, the operator of an animal shelter or pound, a local or state health officer or a licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound;

(6) With respect to farm animals, normal or accepted practices of animal husbandry including the normal and accepted practices for the slaughter of such animals for food or by-products and the careful or thrifty management of one's herd or animals, including animal care practices common in the industry or region;

(7) The killing by any person of any domestic animal which is found outside on private, owned, or rented property on which the domestic animal is trespassing, and which the animal is found injuring, worrying, or posing an immediate threat to any person, domestic animal, or farm animal.

(8) An animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, or trained police officer or animal control officer using a

electronic control device, when such animal is vicious or could not be captured after reasonable attempts using other methods;

(9) Laying an equine down for medical or identification purposes;

(10) Normal or accepted practices of pest control, as defined in subsection (x) of K.S.A. 2-2438a, and amendments thereto;

(11) Accepted practices of animal husbandry pursuant to regulations promulgated by the United States department of agriculture for domestic pet animals under the animal welfare act, public law 89-544, as amended and in effect on July 1, 2006; or

(12) In situations where delay would result in unnecessary and prolonged suffering of an injured or rabid animal, law enforcement officers may utilize alternative means to euthanize such animal.

Section 4. That section 6.05.080, Vicious animals, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

~~Vicious animals~~Dangerous dogs.

~~(a) The animal control officer shall investigate each case of any animal reported as being vicious and, if probable cause exists to believe the animal is vicious, shall seize and impound such animal unless the owner agrees to impound the animal at the owner's expense at any veterinarian in the city until the conclusion of any pending municipal court charge regarding the animal. Impoundment expenses shall be assessed as court costs against a convicted owner.~~

274 ~~(b) — The owner shall report immediately to the public health officer any animal~~
275 ~~which has actually bitten or scratched any person, regardless of the circumstances~~
276 ~~involved.~~

277 ~~(c) — Prohibited. It is unlawful for any owner, harborer, keeper or possessor who~~
278 ~~keeps any animal within the city limits to allow the following, and the same are declared~~
279 ~~to be public nuisances and prohibited:~~

280 ~~(1) — To permit such animal to attack or bite any person or animal that is~~
281 ~~not upon the premises of the owner, harborer, keeper or possessor.~~

282 ~~(2) — To permit such animal to attack or bite any person or animal that is~~
283 ~~upon the premises of the residence of such owner, harborer, keeper or~~
284 ~~possessor. It shall be an affirmative defense to this subsection (c)(2) of this~~
285 ~~section that the use of such animal to attack or bite any person was necessary to~~
286 ~~prevent or apprehend a person engaged in committing an act of violence,~~
287 ~~robbery, criminal trespass or theft upon such property.~~

288 ~~(3) — To permit such animal kept by such owner, harborer, keeper or~~
289 ~~possessor within or upon the premises of any business establishment to attack or~~
290 ~~bite any person or animal upon such premises. It is an affirmative defense to this~~
291 ~~subsection (c)(3) of this section that the use of such animal to attack or bite any~~
292 ~~person was necessary to prevent or apprehend a person engaged in committing~~
293 ~~an act of violence, robbery, criminal trespass or theft upon such property.~~

294 ~~(d) — Exceptions. The provisions of subsection (c) of this section shall not apply~~
295 ~~to any law enforcement officer who uses or employs an animal while engaged in law~~
296 ~~enforcement activities, nor to any owner, harborer, keeper or possessor of any animal~~

which attacks or bites a person engaged in physically attacking or striking such owner, harborer, keeper or possessor.

~~(e) Complaint and Notice to Appear.~~

~~(1) Any person who witnesses or has other personal knowledge that an act made unlawful by the provisions of this section has been committed in violation of such provisions may sign a complaint against the alleged violator.~~

~~(2) Any police officer, reserve police officer or animal control officer of the city is authorized to issue a uniform complaint and notice to appear to any person when such officer personally observes a violation of the provisions of this section or when information is received from any person who has personal knowledge that an act or acts which are made unlawful by the provisions of this section have occurred.~~

~~(f) Ex Parte Hearings and Court Orders. The municipal court of the city is empowered to hold ex parte hearings to determine whether there are reasonable grounds to believe that an animal may constitute a danger to any person if not impounded. After such hearing, if the court finds such reasonable grounds to exist, the court is empowered to enter orders, either on its own motion or on the motion of the city attorney, the city attorney's authorized representative, any police officer, reserve police officer or animal control officer, to seize and impound, or continue the impoundment of such animal until the completion of all trial and legal proceedings held in the municipal court of the city to determine whether there has been a violation of this section. If an animal is ordered to be impounded pursuant to this subsection, the person who owns, harbors, keeps or possesses such animal shall be entitled to a hearing in the municipal~~

320 court within 14 days of such order to review the propriety of such impoundment. Costs
321 of such impoundment shall be assessed to the owner, harborer, keeper or possessor of
322 such animal.

323 (g) — Punishment. Upon a first conviction of a violation of this section, a person
324 shall be fined not less than \$250.00 nor more than \$499.00. The person convicted must
325 pay at least \$250.00 before the person is granted suspension or reduction of sentence.
326 On a second or subsequent conviction of a violation of this section within seven years of
327 the most recent conviction, a person shall be sentenced to not less than five days'
328 imprisonment nor more than 30 days' imprisonment, and shall be fined not less than
329 \$350.00 nor more than \$499.00. The person convicted must serve at least five days'
330 imprisonment and pay at least \$350.00 before the person is granted suspension or
331 reduction of sentence.

332 (h) — Destruction of Animal. Upon an initial conviction of a violation of this
333 section, the judge of the municipal court of the city may order the owner, harborer,
334 keeper or possessor of such vicious animal to destroy such animal. Upon a second or
335 subsequent conviction, the judge shall order the owner, harborer, keeper or possessor
336 to destroy the animal.

337 (i) — Confinement of Animal. Upon conviction of a violation of this section, the
338 judge of the municipal court shall order the owner, harborer, keeper or possessor of
339 such vicious animal to confine such animal in a secure enclosure as defined in TMC
340 6.05.010(e). If the owner, harborer, keeper or possessor takes the vicious animal off the
341 property, the judge shall order the animal to be under the direct physical control of some
342 person by use of a chain, leash or similar device, and the animal shall be muzzled by a

caged muzzle. Failure to comply with any such order shall be deemed a violation of this section and subject the violator to the penalties set forth in subsection (g) of this section.

~~(j) Microchipping of Animal. Upon conviction of a violation of this section, the judge of the municipal court shall order the owner, harborer, keeper or possessor of such animal to have an identification microchip implanted in such animal by the humane society or a licensed veterinarian no later than 15 calendar days after the conviction. The owner, harborer, keeper or possessor shall file proof of microchipping, acceptable to the municipal court, with the clerk of the municipal court no later than 20 calendar days after conviction. Upon receipt, the clerk of the municipal court shall provide a copy of such proof to the city attorney's office. Failure of the owner, harborer, keeper or possessor of such animal to have the microchip implanted in the animal or to file acceptable proof of microchipping with the clerk of the municipal court within 20 days after conviction shall be punished as contempt of court. Upon the commencement of contempt proceedings against the owner, harborer, keeper or possessor of such animal, the municipal court shall issue an ex parte order directing animal control officers to seize the animal, which shall be held and shall not be released until the conclusion of the contempt proceedings.~~

(a) In the event that an animal control officer or law enforcement officer has probable cause to believe that a dog is dangerous, as defined by section 6.05.010, the animal control officer or law enforcement officer may seize and impound such animal at the Humane Society unless the owner agrees to impound the animal at the owner's expense at any veterinarian in the city until the conclusion of any pending municipal court charge regarding the animal. If an animal is ordered to be impounded pursuant to

this subsection, the person who owns, harbors, keeps or possesses such animal shall be entitled to a hearing in the municipal court within 14 days of such impoundment to review the propriety of such impoundment and whether a bond may be posted. Impoundment expenses shall be assessed as court costs against a convicted owner and any bond may be applied to such costs.

(b) Dogs seized in connection with dog fighting shall be housed in a secure enclosure with proper exercise and care and held as evidence in the case until the conclusion of the case and order from the court on the disposition of the dogs. Disposition and release of dogs is determined in accordance to K.S.A. §§ 21-4311, 21-4316 and any amendments thereto.

(c) Any police officer, reserve police officer or animal control officer of the city is authorized to issue a uniform complaint and notice to appear to any person who owns, harbors, keeps or possesses a dangerous dog when such officer has probable cause of an act or acts which are made unlawful by the provisions of this section have occurred.

(d) It shall be unlawful for any person to possess a dangerous dog or violate the provisions of this Title. Any person found guilty of violating the provisions of this Title shall be assessed, fined, and the animal disposed of, as provided below:

(1) If the municipal court judge determines that a dog is dangerous pursuant to this Article, the owner of the dangerous dog shall be required to comply with the following:

(i) Registration and microchipping. The owner shall annually register the dangerous dog with the City, on such forms designated by the

Police Chief, and shall have a microchip inserted into the dog by the Humane Society. The microchip shall detail the dangerous dog registration and such other information as may be appropriate to determine the ownership of the dog. The owner shall pay a \$50.00 annual registration fee and shall pay all costs associated with the microchip procedure and registration of the dog. The owner shall be responsible for maintaining with the Police Department the address of the owner and the dangerous dog. The owner shall notify the Police Department within seven (7) days of a change in address for the owner and dangerous dog.

(ii) Confinement. All dangerous dogs shall be confined in a secured enclosure. It shall be unlawful for any owner to maintain a dangerous dog upon any premises that does not have a secured enclosure. It shall be unlawful for any owner to allow a dangerous dog to be outside of the dwelling of the owner or outside the secured enclosure unless it is necessary for the owner to obtain veterinary care for the dangerous dog or for the limited purposes of allowing said dangerous dog to urinate or defecate or to sell or give away the dangerous dog or respond to such orders of law enforcement officials as may be required. In such event, the dangerous dog shall be securely muzzled and restrained with a leash not exceeding four (4) feet in length, and shall be under the direct control and supervision of the owner of the dangerous dog. The muzzle shall be made and used in a manner that will not cause injury to

411 the dog or interfere with its vision or respiration, but shall prevent it from
412 biting any human or animal.

413 (iii) Sterilization. The owner shall pay for a licensed veterinarian
414 to spay or neuter the dangerous dog before it will be released to the
415 owner.

416 (2) Upon conviction of keeping a dangerous dog, the owner shall
417 comply with the provisions of this Article within fifteen (15) days. The owner shall
418 file proof of sterilization and microchipping, acceptable to the municipal court,
419 with the clerk of the municipal court no later than twenty (20) calendar days after
420 conviction. Upon receipt, the clerk of the municipal court shall provide a copy of
421 such proof to the legal department and the dog may then be released. If the
422 owner fails to comply with the provisions of this Article within the time provided,
423 the dog shall be destroyed. If the owner or keeper of the dog contests the
424 determination, he or she may appeal within fourteen (14) days of the finding to
425 the district court pursuant to law.

426 (e) Dangerous Dog At-Large. Any dog that has been found to be a
427 dangerous dog, or vicious dog under the previous Topeka City Code 18-8 or 6.05.080,
428 that is not confined or registered as required pursuant to this Article shall be impounded
429 by an animal control officer or a law enforcement officer. Upon conviction, in addition to
430 all costs for impoundment, the owner or keeper shall pay a fine of at least two hundred
431 fifty dollars (\$250.00) but not more than four hundred and ninety nine dollars (\$499.00).
432 For a second offense within twenty-four (24) months, in which the dog is not confined or
433 registered as required pursuant to this Section, in addition to all costs for impoundment,

the owner or keeper shall pay a four hundred ninety-nine dollars (\$499.00) fine and the animal control officer or law enforcement officer is empowered to impound the dog, and the dog shall be destroyed. The Municipal Judge shall have no authority to suspend the fine or any portion thereof.

(f) Dangerous Dog - Attack on Human. If any dangerous dog or vicious dog under the previous Topeka City Code 18-8 or 6.05.080, shall attack, assault, wound, bite, or otherwise injure or kill, or assist in such injury or killing, a human being, upon conviction the owner shall pay a fine of at least four hundred and ninety nine dollars (\$499.00) and not more than one thousand dollars \$(1000.00) and the animal control officer or law enforcement officer is empowered to impound the dog, and the dog shall be destroyed. The Municipal Judge shall have no authority to suspend the fine or any portion thereof.

(g) Dangerous Dog - Attack on other animal. If any dangerous dog or vicious dog under the previous Topeka City Code 18-8 or 6.05.080, shall kill or wound, or assist in killing or wounding, any domestic animal, upon conviction the owner shall pay a two hundred fifty dollar (\$250.00) fine, and the animal control officer or law enforcement officer is empowered to impound the dog, and the dog shall be destroyed. The judge shall have no authority to suspend the fine or any portion thereof.

(h) It shall be a an affirmative defense to the above subsections (f) and (g) that the dog was provoked, teased, injured and was protecting itself, its owner, its offspring or another human being.

(i) The impounded dog shall not be destroyed pending any appeals of convictions under the above sections (e), (f) and (g). The dog shall remain impounded

457 pending the determination of the complaint. If the court shall find that there shall not
458 have been a violation, such dog shall be released to the custody of the owner. In
459 addition to the fines provided in this Section, the Municipal Judge shall have the
460 authority to sentence the person adjudicated guilty of this Article to serve up to a
461 maximum of six (6) months in jail.

462 (j) Notwithstanding any other provision of this Article to the contrary and
463 irrespective of whether the dog has been declared dangerous pursuant to this Article,
464 the Municipal Judge may order any dog destroyed if the Municipal Judge determines
465 that the dog is an immediate threat to public health and safety and that confinement and
466 registration of the dog by the owner or keeper of the dog as provided in this Article will
467 not adequately protect public health and safety. No person shall harbor, own, or
468 possess a dog that is an immediate threat to public health and safety. In making such
469 determination the Municipal Judge may consider the severity of the attack and such
470 other relevant information. The Municipal Judge shall have the authority to sentence the
471 person adjudicated guilty of this section to serve up to a maximum of six (6) months in
472 jail and to pay a fine not to exceed \$1,000.00.

473 Section 5. That section 6.25.010, Definitions, of The Code of the City of
474 Topeka, Kansas, is hereby repealed.

475 **Definitions.**

476 ~~The following words, terms and phrases, when used in this chapter, shall have~~
477 ~~the meanings ascribed to them in this section, except where the context clearly~~
478 ~~indicates a different meaning:~~

479 ~~“Pit bull dog” means and includes:~~

~~(a) The Staffordshire bull terrier breed of dogs;~~
~~(b) The American Staffordshire terrier breed of dogs;~~
~~(c) The American pit bull terrier breed of dogs;~~
~~(d) Dogs which have the appearance and characteristics of being predominantly~~
~~of the breeds of dogs known as Staffordshire bull terrier, American pit bull terrier or~~
~~American Staffordshire terrier.~~

~~The registration of a dog with a kennel or dog association at any time as a pit bull~~
~~or any of the dogs listed under this definition shall constitute prima facie evidence the~~
~~animal is regulated by this chapter.~~

Section 6. That section 6.25.020, Exemptions, of The Code of the City of
Topeka, Kansas, is hereby repealed.

Exemptions.

~~The provisions of this chapter shall not apply to the transportation of pit bull dogs~~
~~through this city when such transporter has taken adequate safeguards to protect the~~
~~public and has notified the local law enforcement agency of the proposed route of~~
~~transportation and the time thereof.~~

Section 7. That section 6.25.030, Failure to comply with chapter – Penalty, of
The Code of the City of Topeka, Kansas, is hereby repealed.

Failure to comply with chapter – Penalty.

~~It shall be unlawful for the owner, keeper or harborer of a pit bull dog to fail to~~
~~comply with the requirements and conditions set forth in this chapter. Any dog found to~~
~~be the subject of a violation of this chapter shall be subject to immediate seizure and~~
~~impoundment. In addition, failure to comply will result in the revocation of the license of~~

~~such animal and the permit providing for the keeping of such animal, resulting in the immediate removal of the animal from the city.~~

Section 8. That section 6.25.040, Prohibition, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Prohibition.~~

~~Except as provided in this chapter, no person shall own, keep or harbor any pit bull dog in the city.~~

Section 9. That section 6.25.050, Penalty for violation of division, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Penalty for violation of chapter.~~

~~Any person violating or permitting the violation of any provision of this chapter shall, upon conviction in the municipal court, be fined a sum not less than \$200.00 and not more than \$499.00. In addition to the fine imposed, the court may sentence the defendant to imprisonment in the county jail for a period not to exceed 179 days. In addition, the court shall order the registration and permit for the subject pit bull revoked and the dog removed from the city. Should the defendant refuse to remove the dog from the city, the municipal court judge shall find the defendant owner in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this chapter continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this chapter shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this chapter.~~

525 Section 10. That section 6.25.060, Costs to be paid by responsible persons, of
526 The Code of the City of Topeka, Kansas, is hereby repealed:

527 ~~**Costs to be paid by responsible persons.**~~

528 ~~Any reasonable costs incurred by the animal control officer in seizing,~~
529 ~~impounding, confining or disposing of any pit bull dog, pursuant to the provisions of~~
530 ~~TMC 6.25.070, 6.25.080, 6.25.200 or 6.25.240, shall be charged against the owner,~~
531 ~~keeper or harborer of such animal and shall be collected by the city treasurer.~~

532 Section 11. That section 6.25.070, Notice of keeping dangerous animals, of
533 The Code of the City of Topeka, Kansas, is hereby repealed.

534 ~~**Notice of keeping dangerous animals.**~~

535 ~~Upon the written complaint of any person that a person owns or is keeping or~~
536 ~~harboring a pit bull dog in violation of this chapter in the city, the animal control officer,~~
537 ~~hereinafter ACO, or his authorized designee shall cause the matter to be investigated;~~
538 ~~and if, after investigation, the facts indicate that such person named in the complaint is~~
539 ~~in fact the owner or is keeping or harboring any such pit bull dog in the city, the ACO~~
540 ~~shall forthwith send written notice to such person requiring such person to safely~~
541 ~~remove the dog from the city within five days of the date of the notice. Notice as~~
542 ~~provided in this section shall not be required where such pit bull dog has previously~~
543 ~~caused serious physical harm or death to any person or has escaped and is at large, in~~
544 ~~which case the ACO shall cause the dog to be immediately seized and impounded,~~
545 ~~according to the provisions of TMC 6.25.080, or killed if seizure and impoundment are~~
546 ~~not possible without risk of serious physical harm or death to any person.~~

547 Section 12. That section 6.25.080, Seizure and impounding, of The Code of the
548 City of Topeka, Kansas, is hereby repealed.

549 ~~**Seizure and impounding.**~~

550 ~~(a) The ACO or his authorized designee shall forthwith cause to be seized and~~
551 ~~impounded any pit bull dog where the person owning, keeping or harboring such animal~~
552 ~~has failed to comply with the notice sent pursuant to TMC 6.25.070. Upon its seizure~~
553 ~~and impoundment, the animal shall be delivered to a place of confinement, which may~~
554 ~~be with any organization which is authorized by law to accept, own, keep or harbor pit~~
555 ~~bull dogs.~~

556 ~~(b) If, during the course of seizing and impounding a pit bull dog, the animal~~
557 ~~poses a risk of serious physical harm or death to any person, such person when~~
558 ~~authorized by the ACO may render the dog immobile by means of tranquilizers or other~~
559 ~~safe drugs; or, if that is not safely possible, then the animal may be killed. (~~

560 Section 13. That section 6.25.090, Appeals—Fee – Notice, of The Code of the
561 City of Topeka, Kansas, is hereby repealed.

562 ~~**Appeals—Fees—Notice.**~~

563 ~~(a) Any person aggrieved by or dissatisfied with any of the following decisions,~~
564 ~~rulings, actions or findings may, within 10 days thereafter, file a written notice or~~
565 ~~statement of appeal from such decision, ruling, action or finding to the municipal court~~
566 ~~for an administrative hearing thereon:~~

567 ~~(1) The determination that an animal is a pit bull dog under TMC 6.25.010 and~~
568 ~~6.25.040.~~

569 ~~(2) The denial of a permit under TMC 6.25.210.~~

(3) ~~The denial of a renewal of a previously issued permit under TMC 6.25.270.~~

(4) ~~The revocation of a previously issued permit under TMC 6.25.280.~~

(5) ~~The temporary suspension of any permit or portion thereof under TMC 6.25.280.~~

(b) ~~An administrative fee of \$10.00 shall be paid to the municipal court clerk and is required for each appeal to the municipal court under this section, and no appeal shall be set for hearing until such fee has been paid.~~

(c) ~~The filing of an appeal under this section shall not stay any action taken pursuant to this chapter.~~

Section 14. That section 6.25.100, Appeals—Administrative hearing, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Appeals — Administrative hearing.~~

~~The hearing on the appeal provided for in TMC 6.25.090 shall be conducted by a municipal court judge who will sit as an administrative judge for purposes of this chapter. The sole issue for determination shall be whether decisions, rulings, actions or findings of the ACO and/or the city treasurer were within the scope of their authority, supported by substantial evidence, and not arbitrary or capricious in nature. The court shall make specific findings of fact and conclusions of law in each case.~~

Section 15. That section 6.25.110, Subpoena power, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Subpoena power.~~

~~Pursuant to its role as administrative judge, the court is empowered to hold hearings, subpoena witnesses, take the testimony of any person under oath and, in~~

connection therewith, to require the production of any evidence relating to any matter being heard. In the case of the refusal of any person to comply with any subpoena issued under this section or to testify in any matter regarding which the person may be lawfully questioned, the court may order such person to comply with such subpoena and testify; and failure to obey the court's order may be punished by the court as contempt.

Section 16. That section 6.25.120, Appeal of decision of municipal court judge - District court, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Appeal of decision of municipal court judge - District court.~~

~~Any aggrieved party may appeal the decision and findings of the municipal court judge pursuant to K.S.A. 60-2101(d). However, the filing of an appeal under this section shall not stay any action taken pursuant to this chapter.~~

Section 17. That section 6.25.130, Leash and muzzle, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Leash and muzzle.~~

~~No person shall permit a pit bull dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four feet in length. No person shall permit a pit bull dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts or buildings. In addition, all pit bull dogs on leash outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.~~

615 Section 18. That section 6.25.140, Confinement—Generally, of The Code of the
616 City of Topeka, Kansas, is hereby repealed.

617 **~~Confinement—Generally.~~**

618 ~~All pit bull dogs shall be securely confined indoors or in a secure and locked pen,~~
619 ~~kennel, or structure, except when leashed and muzzled as provided in TMC 6.25.130.~~
620 ~~Such pen, kennel or structure must have secure sides and a secure top attached to the~~
621 ~~sides. All structures used to confine registered pit bull dogs must be locked with a key or~~
622 ~~combination lock when such animals are within the structure. Such structure must have~~
623 ~~a secure bottom or floor attached to the sides of the pen or the sides of the pen must be~~
624 ~~embedded in the ground no less than two feet. All structures erected to house pit bull~~
625 ~~dogs must comply with all zoning and building regulations of the city. All such structures~~
626 ~~must be adequately lighted and ventilated and kept in a clean and sanitary condition.~~

627 Section 19. That section 6.25.150, Confinement – Indoors, of The Code of the
628 City of Topeka, Kansas, is hereby repealed.

629 **~~Confinement—Indoors.~~**

630 ~~No pit bull dog may be kept on a porch, patio or in any part of a house or~~
631 ~~structure that would allow the dog to exit such building on its own volition. In addition, no~~
632 ~~such animal may be kept in a house or structure when the windows are open or when~~
633 ~~screen windows or screen doors are the only obstacle preventing the dog from exiting~~
634 ~~the structure.~~

635 Section 20. That section 6.25.160, Signs, of The Code of the City of Topeka,
636 Kansas, is hereby repealed.

637 **~~Signs.~~**

~~All owners, keepers or harborers of pit bull dogs within the city shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog." In addition, a similar sign is required to be posted on the kennel or pen of such animal.~~

Section 21. That section 6.25.170, Microchipping – Destruction of dog, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Microchipping – Destruction of dog.~~

~~(a) In addition to any other requirements, it shall be unlawful to own, harbor, keep or possess a pit bull dog in the city unless a microchip is implanted in the dog identifying the owner thereof. The owner, harborer, keeper or possessor of any pit bull dog shall have an identification microchip implanted in the dog by the humane society or a licensed veterinarian no later than 10 weeks after the dog is born in the city, or, for dogs exceeding 10 weeks of age, no later than 15 calendar days after the animal is brought into the city. This microchipping requirement shall apply regardless of whether the owner, harborer, keeper or possessor of the dog has obtained a permit for the dog pursuant to TMC 6.25.200. If a pit bull is sold or given away, the new owner, harborer, keeper or possessor of dog shall comply with this section.~~

~~(b) The owner, harborer, keeper or possessor shall file proof of microchipping acceptable to the animal control manager with animal control no later than 20 calendar days after the microchip is implanted in the animal. Failure to comply with this provision shall constitute a misdemeanor. Upon the commencement of a proceeding for violation of this subsection, the municipal court shall issue an ex parte order directing animal control officers to seize the dog, which shall be held and shall not be released until the~~

661 ~~conclusion of the proceedings. The cost of any transportation, impoundment or~~
662 ~~microchipping of the dog shall be assessed to the owner, harborer, keeper or possessor~~
663 ~~of the dog. No animal shall be released from confinement until a microchip has been~~
664 ~~implanted.~~

665 ~~(c) Notwithstanding the provisions of TMC 6.05.080(h), if the owner, harborer,~~
666 ~~keeper or possessor of a pit bull dog is convicted of violating TMC 6.05.080(c) involving~~
667 ~~the dog, the judge shall order the owner, harborer, keeper or possessor to destroy the~~
668 ~~dog within 15 days of the conviction, and to file proof of the destruction of the dog,~~
669 ~~acceptable to the municipal court, with the clerk of the municipal court no later than 15~~
670 ~~days after conviction. Failure of the owner, harborer, keeper or possessor to file~~
671 ~~acceptable proof shall be punished as contempt of court.~~

672 Section 22. That section 6.25.180, identification photographs, of The Code of
673 the City of Topeka, Kansas, is hereby repealed.

674 **~~Identification photographs.~~**

675 ~~All owners, keepers or harborers of pit bull dogs must provide to the city~~
676 ~~treasurer two color photographs of the animal clearly showing the color and~~
677 ~~approximate size of the animal.~~

678 Section 23. That section 6.25.190, Reporting requirements, of The Code of the
679 City of Topeka, Kansas, is hereby repealed.

680 **~~Reporting requirements.~~**

681 ~~All owners, keepers or harborers of pit bull dogs must, within 10 days of the~~
682 ~~incident, report the following information in writing to the city treasurer, as applicable:~~

683 ~~(a) The removal from the city or death of a pit bull dog.~~

684 ~~(b) The birth of offspring of a registered pit bull dog.~~

685 ~~(c) The new address of the pit bull dog owner should the owner move within the~~
686 ~~city limits.~~

687 Section 24. That section 6.25.200, Required – Impoundment of nonpermitted
688 dogs, of The Code of the City of Topeka, Kansas, is hereby repealed.

689 **~~Required – Impoundment of nonpermitted dogs.~~**

690 ~~(a) No person harboring or having the charge, custody or possession of any pit~~
691 ~~bull dog shall allow such dog to remain within the city unless and until he has first~~
692 ~~secured a permit so to do and complies with all terms and conditions of such permit;~~
693 ~~and, in addition thereto, such dog shall at all times be so confined, controlled and~~
694 ~~restrained in such manner that the life, limb or property of any person lawfully entering~~
695 ~~such premises shall not be endangered.~~

696 ~~(b) Failure to obtain a permit when required by subsection (a) of this section after~~
697 ~~written notification by the animal control officer or his authorized designee shall be~~
698 ~~adequate grounds for the officer to impound the pit bull dog until a permit is obtained. If~~
699 ~~no permit is obtained within 10 days, the pit bull dog will be subject to summary~~
700 ~~destruction.~~

701 ~~(c) The provisions of this section shall not apply to persons in possession of pit~~
702 ~~bull dogs otherwise prohibited by city ordinance or regulation.~~

703 ~~(d) The permit required by this section shall be in addition to any other permits or~~
704 ~~licenses required of the person or pit bull dog by city ordinance or state or federal law.~~

705 Section 25. That section 6.25.210, Keeping without a permit prohibited –
706 Restrictions to issuance, of The Code of the City of Topeka, Kansas, is hereby
707 repealed.

708 ~~**Keeping without a permit prohibited – Restrictions to issuance.**~~

709 ~~Except as provided in this subdivision, no person shall have, keep, maintain,~~
710 ~~possess or control within the city any pit bull dog described without first applying to and~~
711 ~~receiving a permit from the city treasurer; provided, that no permit shall be granted~~
712 ~~except with such conditions attached as shall, in the opinion of the person approving~~
713 ~~such permit, reasonably ensure the public health, safety and general welfare, and, in~~
714 ~~any event, no permit shall be granted for any animal at any particular location except~~
715 ~~upon an explicit finding by the ACO or his authorized designee that the issuance thereof~~
716 ~~will not be contrary to the public health, safety and general welfare.~~

717 Section 26. That section 6.25.220, Application, of The Code of the City of
718 Topeka, Kansas, is hereby repealed.

719 ~~**Application.**~~

720 ~~An application for any permit required pursuant to this chapter shall be made to~~
721 ~~the city treasurer in writing and upon a form furnished by the city treasurer. The~~
722 ~~application shall be verified by the person who desires to have, keep, maintain, possess~~
723 ~~or control, in the city, the pit bull dog for which a permit is required, and shall set forth~~
724 ~~the following:~~

725 ~~(a) Name, address and telephone number of the applicant.~~

726 ~~(b) The applicant's interest in such pit bull dog.~~

~~(c) The proposed location, and the name, address and telephone number of the owner of such location, and of the lessee, if any.~~

~~(d) The number and general description of all pit bull dogs for which the permit is sought.~~

~~(e) Any information known to the applicant concerning vicious or dangerous propensities of all such pit bull dogs.~~

~~(f) The housing arrangements for all such pit bull dogs with particular details as to safety of structure, locks, fencing, etc.~~

~~(g) Safety precautions proposed to be taken.~~

~~(h) Noises or odors anticipated in the keeping of such pit bull dogs.~~

~~(i) Prior history of incidents involving the public health or safety involving any of the pit bull dogs.~~

~~(j) Proof of insurance as provided by this chapter to cover those who may be injured or killed by the pit bull dog.~~

~~(k) A statement, signed by the applicant, indemnifying the city and its agents and employees for any and all injuries that may result from the pit bull dog.~~

~~(l) Any additional information required by the ACO at the time of filing such application or thereafter.~~

Section 27. That section 6.25.230, Fee, of The Code of the City of Topeka, Kansas, is hereby repealed.

Fee.

~~The fee for a permit application shall be \$20.00 for one pit bull dog, plus an additional \$5.00 for two or more pit bull dogs. The total fee shall not exceed \$25.00 for~~

any one permit application and is nonrefundable. Such fee shall be payable to the city treasurer at the time of filing the permit application. Accretions by natural birth shall not require additional permits during the period of a valid permit.

Section 28. That section 6.25.240, Temporary permits – Powers of animal control officer, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Temporary permits – Powers of animal control officer.~~

~~The animal control officer may, following application for a permit and pending final disposition of such application, grant a temporary permit for the maintenance within the city of any such pit bull dog upon such conditions as the ACO shall, in the ACO's sole discretion, require when, in the ACO's opinion, there is no reasonable doubt as to the consistency thereof with the public health, safety and general welfare; but no such pit bull dog shall be otherwise kept or maintained within this city or permitted to occupy any premises within this city except while such a regular or temporary permit is in full force and effect. Provided, however, that any law enforcement officer or the ACO, or authorized deputy, shall take possession of any dog described under TMC 6.25.010 for which a permit has not been issued and keep such dog until the proper permit has been secured by the owner or keeper and all fees and costs have been paid and all laws and permit conditions complied with.~~

Section 29. That section 6.25.250, Term and renewal, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Term and renewal.~~

~~No permit required by this chapter shall be granted for a period in excess of one year. An application for renewal of any permit shall be made not less than 45 days prior~~

773 to the expiration thereof, and shall be accompanied by the same fee as required upon
774 making the original application.

775 Section 30. That section 6.25.260, Inspections for renewal, of The Code of the
776 City of Topeka, Kansas, is hereby repealed.

777 **Inspections for renewal.**

778 Prior to the annual renewal of any permit issued under this chapter and at least
779 once not more than six months after the issuance of any such permit or after its
780 renewal, the animal control officer or his designated representative shall inspect the
781 premises subject to such permit to determine whether the person to whom it has been
782 issued is continuing to comply with all of the conditions specified in this chapter. If the
783 ACO determines during any such inspection that any of the conditions therein specified
784 are being violated, the ACO shall recommend denial of a renewal of any such permit, or
785 shall recommend revocation of such permit if such violation is not corrected within the
786 period of time directed.

787 Section 31. That section 6.25.270, Revocation, of The Code of the City of
788 Topeka, Kansas, is hereby repealed.

789 **Revocation.**

790 The city treasurer, upon recommendation of the animal control officer, may, for
791 good cause, revoke any permit or modify any terms or provisions thereof and may, if it
792 is reasonably necessary to protect against an immediate threat or danger to the public
793 health or safety, suspend any permit or portion thereof, without hearing, for a period not
794 to exceed 30 days. Failure to comply with any of the provisions of this chapter shall be
795 sufficient grounds for revocation.

796 Section 32. That section 6.25.280, Commercial establishments, of The Code of
797 the City of Topeka, Kansas, is hereby repealed.

798 **~~Commercial establishments.~~**

799 ~~(a) A commercial establishment possessing pit bull dogs for the purpose of sale~~
800 ~~or display may replace such dogs with others of the same kind, but the number of each~~
801 ~~shall not be in excess of the number thereof allowed by the terms of its permit. Such~~
802 ~~establishments may, in the discretion of the animal control officer, be granted a permit~~
803 ~~for those such numbers which do not exceed the maximum number such establishment~~
804 ~~estimates will be maintained by it in this city at any one time during the period of the~~
805 ~~permit. Such permit shall require the immediate notification of the ACO upon the~~
806 ~~acquisition of any pit bull dog having a prior history of any incident involving the public~~
807 ~~health or safety, or resulting in any bodily injury or property damage.~~

808 ~~(b) Upon the sale of any pit bull dog, the commercial establishment shall~~
809 ~~immediately send notification of the sale along with the name and address of the buyer,~~
810 ~~the method of transporting the dog, the path of travel of such transportation, and the~~
811 ~~destination of such dog to the ACO.~~

812 Section 33. That section 6.30.010, Definitions, of The Code of the City of
813 Topeka, Kansas, is hereby amended to read as follows:

814 **Definitions.**

815 The following words, terms and phrases, when used in this chapter, shall have
816 the meanings ascribed to them in this section, except where the context clearly
817 indicates a different meaning:

818 “Cat” means any domestic or wild cat.

819 “Ear-tipped feral cat” means a cat that is unsocialized to humans and has a
820 temperament of extreme fear or resistance to contact with humans that exhibits a
821 straight-line cutting of the tip of its left ear to indicate that it has been sterilized and
822 vaccinated against rabies.

823 “Neutered male” means any male cat which by operation has been made infertile
824 or one that has been certified by a licensed veterinarian as being naturally infertile.

825 “Owner” means any person owning, keeping, harboring or possessing any cat or
826 any person operating a kennel.

827 “Secure enclosure” means any structure secure on four sides, top and bottom,
828 and equipped with a gate or door that has a lock that secures the gate or door from
829 being opened by anyone other than the owner, harborer, keeper or possessor of the cat
830 as set forth in TMC 6.30.030(a).

831 “Spayed female” means any female cat which has been operated upon to
832 prevent conception.

833 “Veterinary hospital” means any establishment maintained and operated by a
834 licensed veterinarian for the diagnosis and treatment of diseases and injuries of cats.

835 Section 34. That section 6.30.050, Required, of The Code of the City of
836 Topeka, Kansas, is hereby amended to read as follows:

837 **Required.**

838 No person shall own, keep or harbor within the corporate limits of this city any cat
839 over six months of age without first obtaining a permit therefor from the city
840 ~~treasurer~~chief of police, or agent authorized by the city ~~treasurer~~chief of police, who

may issue such permit when proper application is made in writing. This permit requirement shall not apply to ear-tipped feral cats.

Section 35. That section 9.05.080, Uniform Public Offense Code, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Uniform public offense code.

There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the city of Topeka, Kansas, that certain code known as the “Uniform Public Offense Code,” Edition of 2006, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except Sections 4.3 (“Prostitution”), 4.4 (“Promoting Prostitution”), ~~and~~ 4.5 (“Patronizing A Prostitute”), and 11.11 (“Cruelty to Animals”) which are specifically deleted and omitted. No fewer than three copies of said Uniform Public Offense Code shall be marked or stamped “Official Copy as adopted by Ordinance No. 18821,” with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of Ordinance No. 18821 and filed with the city clerk to be open to inspection and available to the public at all reasonable hours.

The Uniform Public Offense Code, Edition of 2006, is hereby further amended by adding the following exception to Section 10.6:

Exception: Operation of a bow and arrow is permitted in accordance with the provisions set forth in TMC 6.05.070.

Section 36. That original § 6.05.010, § 6.05.020, § 6.05.040, § 6.05.080, 6.30.010, § 6.30.050 and § 9.05.080 of The Code of the City of Topeka, Kansas, are hereby specifically repealed.

Section 37. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 38. All ordinances, resolutions or rules, or portions thereof, inconsistent with the provisions of this ordinance are hereby rescinded or repealed.

Section 39. Should any section, clause or phrase of this ordinance be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

PASSED AND APPROVED by the City Council on September 28, 2010.

CITY OF TOPEKA, KANSAS

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk