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ORDINANCE NO. 20106

AN ORDINANCE introduced by the Public Health and Safety Committee, revising Title 6, Animals, of the City of Topeka Code.

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

Section 1. That section 6.05.010 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” means a live, vertebrate creature, domestic or wild, other than humans.

(b) “Amphibian” is an animal that moves in and out of water, (i.e., frogs and toads, newts and salamanders);

(c) “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, excluding wildlife, fowl and livestock.

(d) “At-Large” means when an animal is not on the property of its owner and not under the physical control of the owner by leash or other similar device (voice or remote control only will not be considered adequate control).

(e) “Attack” means any violent or aggressive physical action or contact.

(f) “Bird” is an animal that bears its young in a hard-shelled egg, is covered with feathers and has forelimbs modified into wings, scaly legs and a beak, as opposed

to teeth. See also “Fowl.”

(g) “Cat” is an animal with soft fur, a short snout and retractile claws. A feral cat is a domesticated cat that has returned to the wild, or the offspring of such a cat. A feral cat is unsocialized to humans and has a temperament of extreme fear or resistance to contact with humans. An ear-tipped feral cat is a feral cat that exhibits a straight-line cutting of the tip of its left ear to indicate that it has been sterilized and vaccinated against rabies.

(h) “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~~ dangerous pursuant to the previous ~~Topeka City Code 18-8 or TMC 6.05.080~~ or the current TMC 6.15.170; or

(5) Any dog owned or harbored primarily for the purpose of dog fighting 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 was sustained by a person under any of the following conditions:

- (i) The person was committing a willful trespass or other tort upon the premises occupied by the owner or keeper of the dog;
- (ii) The person was committing or attempting to commit a crime;
- (iii) The person provoked, teased, or injured the dog; or
- (iv) The dog was protecting itself, its owner, its offspring or another human being.

(7) No dog may be declared dangerous if any injury was sustained by a domestic animal under any of the following conditions:

- (i) The domestic animal provoked, teased or injured the dog; ~~or~~
- (ii) The dog was protecting itself, its owner, its offspring or another human being; or
- (iii) The dog injures or kills an animal trespassing on the property of the dog’s owner.

(8) Nothing in this chapter 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.

(i) “Dog” is an animal with a long or short snout, an acute sense of smell and a barking, howling or whining voice. A wild dog is an undomesticated dog that is found

in the wild, (i.e., the African wild dog, the dingo, the hyena and the wolf).

(ej) “Domestic animal” means any vertebrate animal that is kept as a pet. “Domestic animal” includes, but is not limited to, dogs, cats, rabbits, birds and domestic fowl, one that is sufficiently tame to live with or near an individual owner or family, including, but not limited to, pets such as dogs, cats or miniature pot-belly pigs; or one that can be used to contribute to a family’s support, including, but not limited to, cattle, donkeys, goats, mules, poultry, sheep or swine. When something is domesticated, it is converted to domestic use, as in the case of a wild animal that is tamed. See also “Animal,” “Livestock” and “Pet.”

(k) “Exotic animal” means a living mammal or marsupial that is normally found in the wild state, but shall not include a farm animal (livestock).

(dl) “Exposed to rabies” means an animal which~~that~~ has been bitten by, or subjected to danger, attack or harm by, any creature known to have been infected with rabies.

(m) “Ferret” is a small animal, belonging to the weasel family, which usually weighs less than five pounds.

(n) “Fish” is an animal that lives only in water and characteristically has fins, gills and a streamlined body, (i.e., bony fishes, such as catfishes and tunas and cartilaginous fishes, such as sharks and rays).

(o) “Fowl” is a group of animals consisting of waterfowl or wildfowl. “Poultry” is a term typically used when referring to domesticated birds or fowl (i.e., chicken, duck, goose or turkey) that are raised for meat, eggs or feathers. See also “Bird.”

(ep) “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.

(fg) ~~“Humane society” means the Helping Hands Humane Society in the city or~~ any animal shelter contracted with the city of Topeka ~~which~~that is licensed by the state of Kansas.~~-See also “Animal Shelter.”~~

(r) “Invertebrate” is an animal that does not have a backbone or spinal column.

(s) “Livestock” is a group of domesticated animals (i.e., cattle, donkeys, goats, horses, mules, poultry, sheep, swine and similar animals) that are raised in an agricultural setting to produce commodities such as food, fiber and labor. Livestock are often referred to as “useful animals,” which implies a commercial purpose of being reared for financial gain. See also “Domestic Animal” and “Pet.”

(t) “Miniature, Pot-Belly Pig” is a breed of small pig originating in southeastern Asia and having a straight tail, potbelly, swayback and typically having a black, white or black and white coat.

(u) “Neutered Male” is a male animal that by operation has been made infertile to prevent conception or one that has been certified by a licensed veterinarian as being naturally infertile.

(gv) ~~“Owner” means any person owning, keeping, possessing or harboring of~~

120 legal age who keeps, possesses or harbors any animal, or any person operating a
121 kennel. A parent or legal guardian shall be deemed to be an owner of dogsanimals
122 owned or maintained by children upon their premises.

123 (w) "Pet" means a tamed animal cared for by its owner and kept primarily for a
124 person's companionship and not as a food source. See also "Domestic Animal" and
125 "Livestock."

126 (x) "Rabbit" is a rodent-like animal with soft fur, long ears, a divided upper lip
127 and long hind legs, known for burrowing.

128 (y) "Reptile" is an animal with dry, scaly skin (i.e., lizards, snakes and turtles).
129 Lizards have moderately elongated bodies, a tapering tail and two pairs of legs held
130 outward from the body. Snakes are limbless and have elongated bodies; includes
131 venomous and nonvenomous species. Turtles have trunks that are enclosed in a shell.

132 (z) "Restrained" means confined by building, fence, leash, harness or other
133 appropriate means, or is accompanied by a competent person and under the person's
134 immediate control by leash or held in arms.

135 (aa) "Rodent" is a gnawing animal distinguished by strong, constantly-growing
136 incisors and no canine teeth (i.e., hamsters, mice, porcupines, rats and squirrels).

137 ~~(hbb) "Secure enclosure" or "secure six-sided enclosure" shall mean a pen,~~
138 ~~kennel or structure with secure sides, a secure top attached to the sides and a secure~~
139 ~~bottom or floor attached to the sides of the pen or embedded in the ground no less than~~
140 ~~two feet. The secure enclosure must be at least six feet from any public sidewalk or~~
141 ~~street. The secure enclosure, other than a residence, must be locked with a key or~~
142 ~~combination lock when animals are within the enclosure. If the secured enclosure is a~~

143 ~~residence, then all doors, windows or other means of egress shall be secured in a~~
144 ~~manner to prevent an animal from escaping. All secure enclosures must comply with all~~
145 ~~zoning and building regulations of the city. All secure enclosures must be adequately~~
146 ~~lighted and ventilated and kept in a clean and sanitary condition.~~means a six-sided
147 structure, counting the top and bottom, secured to the sides or embedded in the ground
148 two feet or more for purposes of preventing a dangerous dog, as defined in subsection
149 (h) above, from digging out. The structure must be equipped with a gate or door that is
150 secured with a padlock or combination lock for purposes of preventing escape and
151 ensuring that such gate or door cannot be opened by anyone other than the owner,
152 keeper, possessor or harborer of the animal.

153 (cc) "Spayed Female" is a female animal that by operation has been made
154 infertile to prevent conception; or one that has been certified by a licensed veterinarian
155 as being naturally infertile.

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

157 (jee) "Tether"-. When used as a verb, "tether" or "tethering" shall means
158 fastening a dog or cat an animal to a stationary object, pulley run line or a stake. When
159 used as a noun, "tether" or "tethers" shall means a chain, leash, rope, cable, chain,
160 string, leather or nylon strap, or any other material used to fasten a dog or cat an animal
161 to a stationary object, pulley run line or a stake.

162 (ff) "Vertebrate" is an animal that has a backbone or spinal column such as
163 amphibians, birds, cats, dogs, ferrets, fish, fowl, livestock, miniature pigs, rabbits,
164 reptiles and rodents.

165 (gg) "Veterinary hospital" means any establishment maintained and operated

by a licensed veterinarian for the diagnosis and treatment of diseases and injuries of animals.

(khh) "Vicious" means a cross, ferocious or dangerous disposition; or a habit, tendency or disposition to snap, attack or bite any person or domestic animal or pet.

Section 2. That section 6.05.020, 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, sentence the owner, harborer or possessor of such animal as follows:~~

~~(a) Fine. A fine of not less than \$1.00 or more than \$499.00; or~~

~~(b) Imprisonment. Imprisonment in the city jail for not more than 179 days; or~~

~~(c) Both Fine and Imprisonment. Both fine and imprisonment not to exceed subsections (a) and (b) of this section.~~

Animal control office.

(a) There is hereby created an office to be known as animal control, which shall be responsible for the enforcement of ordinances relating to animals.

(b) An animal control supervisor shall be appointed by the city manager or designee. The animal control supervisor shall receive such salary as may be provided by ordinance and shall be responsible to the chief of police or designee.

Section 3. That section 6.05.030 of the Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Transportation and handling charges imposed in certain cases.

189 ~~If a person is convicted of a violation of a section in this title and the animal was~~
190 ~~transported by the city police department to an animal shelter, then the judge of the~~
191 ~~municipal court shall impose and collect \$30.00 for handling and transportation of the~~
192 ~~animal.~~

193 **Authority of police officers.**

194 The police officers of the city are authorized to enforce this title and to aid and
195 assist the animal control supervisor and officers in the enforcement of this title.

196 Section 4. That section 6.05.040 of the Code of the City of Topeka, Kansas, is
197 hereby amended to read as follows:

198 **Cruelty to animals.**

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

200 ~~(1) Kill, injure, maim, torture, burn or mutilate any animal;~~

201 ~~(2) Abandon or leave any animal in any place without ensuring provisions for its~~
202 ~~proper care;~~

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

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

210 ~~(ii) Potable Water. Adequate fresh water shall be made available to animals on a~~
211 ~~regular basis.~~

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

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

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

~~(4) Knowingly leave any animal confined in a vehicle for more than five minutes in extreme weather conditions, defined as more than 80 degrees Fahrenheit or less than 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) of~~

~~this section.~~

~~(b) 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:~~

~~(1) Continuously tether a dog or cat for more than 15 minutes without supervision; or~~

~~(2) 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~~

~~(3) 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~~

~~(4) 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~~

~~(5) 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~~

~~(6) Tether 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.

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

~~(d) The owner of an animal killed pursuant to subsection (c) of this section shall not be entitled to recover damages for the killing of such animal unless the owner proves that such killing was unwarranted.~~

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

~~(f) If a person is adjudicated guilty of the crime of cruelty to animals, as defined in subsection (a) of this section, and the court is satisfied that an animal owned or possessed by such person would be in the future subjected to such crime, such animal shall not be returned to or remain with such person. Such animal may be turned over to~~

~~a duly incorporated humane society or licensed veterinarian for sale or other disposition.~~

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

~~(1) Normal or accepted veterinary practices;~~

~~(2) Bona fide experiments carried on by any research facility that is in compliance with the Animal Welfare Act (7 USC Sections 2131 through 2159), and any amendments thereto;~~

~~(3) Killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of K.S.A. Chapter 32 or 47;~~

~~(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 byproducts 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 an 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 K.S.A. 2-2438a(x), 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.~~

Complaint and notice to appear.

Animal control officers shall have the power to issue a complaint and notice to appear against the owner of animals that are subject to, but not in compliance with, applicable provisions of this title; provided, that no owner charged with violating the provisions of TMC 6.15.010 shall be convicted of violating TMC 6.15.010 if the owner produces in court, or at the office of animal control, a valid permit for the dog, cat or miniature pot-belly pig dated prior to the issuance of the complaint and notice to appear.

Section 5. That section 6.05.050 of the Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Mistreatment of young fowl, rabbits and other animals.

~~(a) It shall be unlawful for any person to possess, display, sell or to give away any ducklings, chicks, fowls or rabbits as pets, playthings, novelties, gifts, for advertising or sales promotional purposes, or to suffer or cause such animals or fowl to be dyed, colored or in any way artificially treated.~~

~~(b) This section shall not be construed to prohibit the display by hatcheries, stores, owners, dealers or persons regularly and continuously engaged in the business of selling such animals or fowl to be raised for food; but no such hatcheries, stores, owners, dealers or persons shall sell or give away baby chicks, ducks, fowls or rabbits as pets, playthings or novelties, nor shall they suffer or cause such animals or fowl to be dyed, colored or in any way artificially treated.~~

Violations of title, mandatory minimum punishment.

Unless otherwise specifically provided herein, the judge of the municipal court of the city shall, upon a conviction of any section in this title, other than TMC 6.15.170, sentence the owner, keeper, possessor or harbinger of such animal as follows:

- (a) Fine. A fine of not less than \$1.00 or more than \$499.00; or
- (b) Imprisonment. Imprisonment in the city jail for not more than 179 days; or
- (c) Both Fine and Imprisonment. A fine and imprisonment, both in accordance with subsections (a) and (b) of this section.

Section 6. That section 6.05.050 of the Code of the City of Topeka, Kansas, is hereby amended to read as follows:

~~Exotic or captive wild animals.~~

~~(a) Keeping, Maintaining. Except as allowed by subsection (d) of this section, it shall be unlawful for any person to own, keep, maintain or have in his possession or under his control, within the city limits, any live mammal, bird or reptile.~~

~~(b) Selling, Trading. Except as allowed by subsection (d) of this section, it shall be unlawful for any person to willfully sell, offer for sale, trade or offer for trade, within the city limits, any live mammal, bird or reptile.~~

~~(c) Buying, Accepting in Trade. Except as allowed by subsection (d) of this section, it shall be unlawful for any person to willfully buy or accept in trade, within the city limits, any live mammal, bird or reptile.~~

~~(d) Exceptions. Persons may buy, own, accept in trade, keep, maintain, possess, sell, offer for sale, trade or offer for trade:~~

~~(1) Domestic dogs.~~

~~(2) Domestic cats.~~

~~(3) Domestic hoofstock.~~

~~(4) Rodents.~~

~~(5) European ferrets.~~

~~(6) Rabbits.~~

~~(7) Birds, except for ostriches, emus, rheas and cassowaries.~~

~~(8) Nonvenomous snakes less than eight feet in length.~~

~~(9) Nonvenomous lizards, except all species of monitor lizards shall be prohibited.~~

~~(10) Turtles, except snapping turtles.~~

372 ~~(11) Amphibians.~~

373 ~~(12) Fish.~~

374 ~~(13) Invertebrates.~~

375 ~~(e) Exemptions.~~

376 ~~(1) The prohibitions in subsections (a) through (c) of this section shall not~~
377 ~~apply to bona fide zoos, as defined by the American Association of Zoological~~
378 ~~Parks and Association of Zoological Parks and Aquariums.~~

379 ~~(2) The prohibitions in subsection (a) of this section shall not apply to:~~

380 ~~(i) Medical institutions.~~

381 ~~(ii) Post-secondary educational institutions.~~

382 ~~(iii) Veterinary clinics in possession of the animals prohibited under~~
383 ~~this section.~~

384 ~~(iv) Circuses, if properly licensed by the city.~~

385 ~~(v) Carnivals, if properly licensed by the city.~~

386 ~~(vi) Persons designated and licensed as animal rehabilitators by the~~
387 ~~state Fish and Game Commission.~~

388 ~~(vii) Disabled persons with permanent mobility impairments who~~
389 ~~qualify to obtain assistance of a service monkey; provided, that:~~

390 ~~(A) The service monkey is Cebus apella (capuchin monkey);~~

391 ~~(B) The service monkey is owned and trained by a registered~~
392 ~~501(c)3 nonprofit organization, Helping Hands Simian Aides~~
393 ~~for the Disabled, Inc., that assists disabled persons living~~
394 ~~with permanent physical disabilities; and~~

395 ~~(C) The service monkey does not leave the residence of the~~
396 ~~qualified disabled person, except for one veterinary~~
397 ~~examination per year or in the event of medical emergency~~
398 ~~to the service monkey.~~

399 ~~(viii) Persons listed in subsections (e)(2)(i) through (vii) of this~~
400 ~~section who are temporarily transporting such animals through the~~
401 ~~city, except that circuses and carnivals need not be licensed by the~~
402 ~~city if merely temporarily transporting an otherwise prohibited~~
403 ~~animal through the city.~~

404 ~~(f) Sanitary Requirements. All persons and institutions listed in subsection (e) of~~
405 ~~this section must ensure that all animals and animal quarters conform to the provisions~~
406 ~~of the nuisance ordinances of the city and are kept in a clean and sanitary condition and~~
407 ~~so maintained as to limit objectionable odors; and shall ensure that all animals are~~
408 ~~maintained in quarters which are adequately constructed so as to prevent their escape.~~

409 ~~(g) Licensing. All persons and institutions listed in subsection (e) of this section~~
410 ~~must be properly licensed, if so required, by any rule or regulation promulgated under~~
411 ~~the authority of federal statute enacted by the United States, or by any statute enacted~~
412 ~~by the state, or by any rule or regulation promulgated by any agency or department as~~
413 ~~authorized by state statute.~~

414 ~~(h) Violations. A violation of any provision of this section shall constitute a new~~
415 ~~and separate offense each calendar day the violation continues to exist.~~

416 ~~(i) Destruction or Removal of Prohibited Animals. Upon conviction of a violation~~
417 ~~of this section, the judge of the municipal court of the city may order the owner,~~

harborer, keeper or possessor to destroy or remove from the city any animal prohibited under this section.

Transportation and handling charges imposed in certain cases.

If a person is convicted of a violation of any section in this title, or of any applicable state or federal law, and the animal was transported by the police department or animal control office to an animal shelter, then the judge of the municipal court shall impose and collect \$30.00 for handling and transportation of the animal.

Section 7. That section 6.05.070 of the Code of the City of Topeka, Kansas, is hereby amended to read as follows:

~~Injuring or killing of wild and undomesticated animals unlawful —~~
Exceptions.

~~(a) It shall be unlawful for any person to injure, kill, maim, molest, torture or destroy any wild or undomesticated animal in the city; provided, that upon complaint to the police department that any wild or undomesticated animal has caused or is causing damage or destruction of property upon any private premises in the city, such animal may be taken into custody and destroyed by an approved pest control firm or company upon the issuance of a permit by the police department; provided, however, that rats, mice and like rodents infesting any private premises may be controlled and destroyed at any time without a permit.~~

~~(b) Notwithstanding the prohibition of subsection (a) of this section, it shall be lawful to kill wild or undomesticated deer or turkeys by bow and arrow provided the bow hunting is done on Kansas Department of Wildlife, Parks and Tourism (KDWPT) owned or managed property or privately owned property posted during the hunting season by a~~

441 ~~person to whom KDWPT has issued a hunting license, hunting permit and special~~
442 ~~access permit for that specific tract of land.~~

443 ~~(c) Notwithstanding the prohibition in subsection (a) of this section, it shall be~~
444 ~~lawful to kill wild or undomesticated migratory birds, game birds and turkeys by shotgun~~
445 ~~provided the hunting is done on Kansas Department of Wildlife, Parks and Tourism~~
446 ~~(KDWPT) owned or managed property during the hunting season by an individual~~
447 ~~participating in a mentor-youth hunting program administered by KDWPT to whom~~
448 ~~KDWPT has issued a hunting license, hunting permit and special access permit for that~~
449 ~~specific tract of land.~~

450 **Keeping or harboring animals.**

451 (a) Allowed. Except as otherwise specifically provided in subsection (d)
452 below, a person may own, keep, possess, harbor, buy, accept in trade, sell or offer for
453 sale or trade any of the following animals within the city limits in compliance with
454 applicable federal, state and local laws; provided, however, that said animals are kept
455 as pets:

456 (i) Amphibians.

457 (ii) Birds.

458 (iii) cats.

459 (iv) Dogs.

460 (v) Ferrets.

461 (vi) Fish.

462 (vii) Fowl.

463 (viii) Livestock.

(ix) Miniature pot-belly pigs.

(x) Rabbits.

(xi) Reptiles.

(xii) Rodents.

(xiii) Invertebrates.

(b) Sanitary Requirements. The owner of any animal(s) listed in subsection (a) of this section must ensure that all animals and animal quarters are in full conformance with the provisions of the nuisance ordinances of the city, kept in a clean and sanitary condition and maintained in a manner that limits objectionable odors; and must further ensure that all animals are maintained in quarters that are adequately constructed so as to prevent their escape. Any area(s) in which an animal(s) is allowed to roam should be cleaned of waste on a regular basis for purposes of preventing disease, accumulation of flies and the emission of objectionable odors. If an animal control officer determines that a particular odor would be considered objectionable to a reasonable, prudent person, this determination may be considered prima facie evidence of a violation of this section.

(c) Compliance. The owner of any animal(s) listed in subsection (a) of this section must ensure that said animal(s) is properly licensed if required by this title and is being kept in accordance with any applicable rule or regulation promulgated under the authority of federal statute enacted by the United States, or by any statute enacted by the state, or by any rule or regulation promulgated by any agency or department as authorized by state statute.

(d) Prohibitions. It shall be unlawful for any person to knowingly own, keep,

possess or harbor any of the following animals within the city limits:

- (i) Venomous snakes and lizards.
- (ii) Nonvenomous snakes if eight feet or more in length.
- (iii) All species of monitor lizards.
- (iv) Cassowaries, emus, ostriches and rheas.
- (v) Snapping turtles.
- (vi) Exotic or captive wild animals; except as otherwise provided in
TMC 6.20.010(d).

Upon conviction of a violation of this subsection (d), the judge of the municipal court of the city may order the owner, keeper, possessor or harborer to destroy or remove from the city any animal prohibited under this section.

Section 8. That section 6.05.080 of the Code of the City of Topeka, Kansas, is hereby amended to read as follows:

~~Dangerous dogs.~~

~~(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 TMC 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. 21-6412 and 21-6414 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 chapter, 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 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 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 the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.

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

(2) Upon conviction of keeping a dangerous dog, the owner shall comply with the provisions of this chapter within 15 days. The owner shall file proof of sterilization and 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 legal department and the dog may then

556 ~~be released. If the owner fails to comply with the provisions of this chapter within the~~
557 ~~time provided, the dog shall be destroyed. If the owner or keeper of the dog contests the~~
558 ~~determination, he or she may appeal within 14 days of the finding to the district court~~
559 ~~pursuant to law.~~

560 ~~(3) The municipal court shall impose a fine of at least \$499.00 and not more than~~
561 ~~\$1,000 on a person who has been convicted of possessing a dangerous dog for an~~
562 ~~attack on a human being pursuant to TMC 6.05.010(b)(3). The municipal court shall~~
563 ~~have no authority to suspend the fine or any portion of the fine.~~

564 ~~(4) The municipal court shall impose a fine of \$250.00 on a person who has been~~
565 ~~convicted of possessing a dangerous dog for an attack on a domestic animal pursuant~~
566 ~~to TMC 6.05.010(b)(3). The municipal court shall have no authority to suspend the fine~~
567 ~~or any portion of the fine.~~

568 ~~(e) Dangerous Dog At Large. Any dog that has been found to be a dangerous~~
569 ~~dog, or vicious dog under the previous Topeka City Code 18-8 or this section, that is not~~
570 ~~confined or registered as required pursuant to this chapter shall be impounded by an~~
571 ~~animal control officer or a law enforcement officer. Upon conviction, in addition to all~~
572 ~~costs for impoundment, the owner or keeper shall pay a fine of at least \$250.00 but not~~
573 ~~more than \$499.00. For a second offense within 24 months, in which the dog is not~~
574 ~~confined or registered as required pursuant to this section, in addition to all costs for~~
575 ~~impoundment, the owner or keeper shall pay a \$499.00 fine and the animal control~~
576 ~~officer or law enforcement officer is empowered to impound the dog, and the dog shall~~
577 ~~be destroyed. The municipal judge shall have no authority to suspend the fine or any~~
578 ~~portion thereof.~~

~~(f) Dangerous Dog — Attack on Human. Upon conviction of this section, a dog may be destroyed if the dog attacks a human being which results in great bodily harm or death. Upon conviction of this section, the court may destroy a dog that has been previously determined to be a dangerous dog as defined at TMC 6.05.010(b).~~

~~(g) Dangerous Dog — Attack on Other Animal. Upon conviction of this section, a dog may be destroyed if the dog attacks a domestic animal which results in great bodily harm or death. Upon conviction of this section, the court may destroy a dog that has been previously determined to be a dangerous dog as defined at TMC 6.05.010(b).~~

~~(h) The impounded dog shall not be destroyed pending appeals of convictions under this chapter. The dog shall remain impounded pending the determination of the complaint. If the court shall find that there shall not have been a violation, such dog shall be released to the custody of the owner. In addition to the fines provided in this section, the municipal judge shall have the authority to sentence the person adjudicated guilty of this chapter to serve up to a maximum of six months in jail.~~

~~(i) Notwithstanding any other provision of this chapter to the contrary and irrespective of whether the dog has been declared dangerous pursuant to this chapter, the municipal judge may order any dog destroyed if the municipal judge determines that the dog is an immediate threat to public health and safety and that confinement and registration of the dog by the owner or keeper of the dog as provided in this chapter will not adequately protect public health and safety. No person shall harbor, own, or possess a dog that is an immediate threat to public health and safety. In making such determination the municipal judge may consider the severity of the attack and such other relevant information. The municipal judge shall have the authority to sentence the~~

602 ~~person adjudicated guilty of this section to serve up to a maximum of six months in jail~~
603 ~~and to pay a fine not to exceed \$1,000.~~

604 **Keeping or harboring animals on property upon which no person resides.**

605 It shall be unlawful for any person to knowingly confine, keep, harbor or maintain
606 any animals on property uninhabited by humans within the city limits; provided,
607 however, that this prohibition shall not apply to bona fide:

608 (a) Zoos, as defined by the American Association of Zoological Parks and
609 Association of Zoological Parks and Aquariums.

610 (b) Medical institutions.

611 (c) Educational institutions.

612 (d) Licensed veterinary clinics.

613 (e) The humane society.

614 (f) Persons or households engaged in the commercial business of buying,
615 selling, training or boarding animals.

616 (g) Animals maintained on nonresidential commercial properties for security
617 purposes.

618 Section 9. That section 6.05.090, Transportation and handling charges
619 imposed in certain cases, of the Code of the City of Topeka, Kansas, is hereby
620 amended to read as follows:

621 **Keeping or harboring animals on property upon which no person resides.**

622 ~~(a) More Than One Animal Prohibited. It shall be unlawful for any person to~~
623 ~~confine, harbor, keep or maintain more than one animal on property uninhabited by~~
624 ~~humans within the city limits.~~

~~(b) Exceptions. The prohibition of this section shall not apply to bona fide:~~

~~(1) Zoos, as defined by the American Association of Zoological Parks and Association of Zoological Parks and Aquariums.~~

~~(2) Medical institutions.~~

~~(3) Educational institutions.~~

~~(4) Licensed veterinary clinics.~~

~~(5) The humane society.~~

~~(6) Persons or households engaged in the commercial business of buying, selling, training or boarding animals.~~

~~(7) Animals maintained on nonresidential commercial properties for security purposes.~~

Running at large prohibited.

It shall be unlawful for any person, with no requirement of a culpable mental state, to allow or permit any dog or miniature pot-belly pig to run or be at large, as defined in TMC 6.05.010 above, at any time in the city. The fact of a dog or miniature pot-belly pig being found at large shall be prima facie evidence of a violation of this section.

Section 10. That section 6.05.100 of the Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Dead animals in public places.

~~(a) It shall be unlawful for any person to put any dead animal in any street, avenue, alley or other public place in the city and it shall be the duty of the owner, possessor and all persons having knowledge of any dead animal in the city to~~

648 immediately report it to the city clerk, giving the kind of animal and the place where such
649 animal may be found.

650 ~~(b) It shall be the duty of the animal control officer, immediately upon the receipt~~
651 ~~of a report under this section, to remove or provide for the removal of the dead animal.~~

652 **Cruelty to animals.**

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

654 (1) Kill, injure, maim, torture, burn or mutilate any animal;

655 (2) Abandon or leave any animal in any place without ensuring provisions
656 for its proper care;

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

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

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

668 (iii) Protection from the Elements. A shelter suitable for the species
669 and/or breed concerned and existing climatic conditions shall be provided
670 for all animals kept outdoors to afford them protection and prevent severe

671 discomfort of such animals.

672 (A) Shelters shall be made of durable material that is
673 moisture and wind-proof, with a solid floor, and of suitable size to
674 accommodate the animal.

675 (B) Shelters shall contain clean, suitable bedding material
676 consisting of a sufficient quantity of hay, straw, cedar shavings or
677 the equivalent to promote insulation and protect the animal against
678 cold and dampness and promote retention of body heat.

679 (C) When sunlight is likely to cause overheating, sufficient
680 shade by natural or artificial means shall be provided to allow all
681 animals kept outdoors to protect themselves from direct sunlight.
682 Keeping an animal in a confined area, such as a garage, shed, or
683 extension of a dwelling, without adequate heating and appropriate
684 ventilation in winter months and adequate cooling and appropriate
685 ventilation in summer months is prohibited.

686 (4) Leave any animal confined in a vehicle for more than five minutes in
687 extreme weather conditions, with no requirement of a culpable mental state.
688 Extreme weather conditions shall be defined as more than 80 degrees
689 Fahrenheit or less than 40 degrees Fahrenheit as the heat or cold index taken in
690 the vehicle and shall create a legal, rebuttable presumption of violation of this
691 act;

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

694 (6) Cause, instigate, stage, or train any animal to fight or permit any
695 animal to fight any other animal or human, in violation of State statute; or

696 (7) Cause any physical injury other than the acts described in subsection
697 (a)(1) of this section.

698 (b) It shall be unlawful for any person, with no requirement of a culpable
699 mental state, to attach chains or other tethers, restraints or implements directly to a dog,
700 cat or miniature pot-belly pig without the proper use of a collar, harness, or other device
701 designed for that purpose and made from a material that prevents injury to the animal.

702 No person shall:

703 (1) Continuously tether a dog, cat or miniature pot-belly pig for more than
704 15 minutes without supervision; or

705 (2) Use a tether or any assembly or attachments thereto to tether a dog,
706 cat or miniature pot-belly pig that shall weigh more than one-eighth of the
707 animal's body weight, or due to weight, inhibit the free movement of the animal
708 within the area tethered; or

709 (3) Tether a dog, cat or miniature pot-belly pig on a choke chain or near
710 stationary objects or fences in a manner that could potentially cause injury,
711 strangulation, or entanglement ; or

712 (4) Tether a dog, cat or miniature pot-belly pig without access to shade
713 when sunlight is likely to cause overheating, or appropriate shelter to provide
714 insulation and protection against cold and dampness when the atmospheric
715 temperature falls below 40 degrees Fahrenheit, or to tether without securing the
716 animal's water supply so that it cannot be tipped over by the tether; or

717 (5) Tether a dog, cat or miniature pot-belly pig in an open area where it
718 can be teased by persons or an open area that does not provide the dog, cat or
719 miniature pot-belly pig protection from attack by other animals; or

720 (6) Tether a dog, cat or miniature pot-belly pig in an area where bare earth
721 is present and no steps have been taken to prevent the surface from becoming
722 wet and muddy in the event of precipitation.

723 (c) Any public health officer, animal control officer, law enforcement officer or
724 licensed veterinarian, or any officer or agent of any duly incorporated humane society,
725 animal shelter or other appropriate facility, may take into custody any animal, upon
726 either private or public property, which clearly shows evidence of cruelty to animals, as
727 defined in subsection (a) of this section and subsections thereto. Such officer, agent or
728 veterinarian may inspect, care for or treat such animal or place such animal in the care
729 of a duly incorporated humane society or licensed veterinarian for treatment, boarding
730 and other care or, if it appears, as determined by an officer of such humane society or
731 by such veterinarian, that the animal is diseased or disabled beyond recovery for any
732 useful purpose, the humane killing thereof.

733 (d) The owner of an animal killed pursuant to subsection (c) of this section
734 shall not be entitled to recover damages for the killing of such animal unless the owner
735 proves that such killing was unwarranted.

736 (e) Expenses incurred for the care, treatment or boarding of any animal taken
737 into custody pursuant to subsection (c) of this section, pending prosecution of the owner
738 of such animal for the crime of cruelty to animals, as defined in subsection (a) of this
739 section, shall be assessed to the owner as a cost of the case if the owner or custodian

740 is adjudicated guilty of such crime.

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

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

748 (1) Normal or accepted veterinary practices;

749 (2) Bona fide experiments carried on by any research facility that is in
750 compliance with the Animal Welfare Act (7 USC Sections 2131 through 2159),
751 and any amendments thereto;

752 (3) Killing, attempting to kill, trapping, catching or taking of any animal in
753 accordance with the provisions of K.S.A. Chapter 32 or 47;

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

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

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

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

772 (8) An animal control officer trained by a licensed veterinarian in the use of
773 a tranquilizer gun, or trained police officer or animal control officer using an
774 electronic control device, when such animal is vicious or could not be captured
775 after reasonable attempts using other methods;

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

777 (10) Normal or accepted practices of pest control, as defined in K.S.A. 2-
778 2438a(x), and amendments thereto;

779 (11) Accepted practices of animal husbandry pursuant to regulations
780 promulgated by the United States Department of Agriculture for domestic pet
781 animals under the Animal Welfare Act, Public Law 89-544, as amended and in
782 effect on July 1, 2006; or

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

Section 11. That section 6.05.110 of the Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Animal fighting.

~~(a) Defined. For purposes of this section, the term “animal fighting” means any fight or wrestling match between cocks or other birds, between dogs, bulls, bears or any other animal, or between any such animal and a person, except at exhibits sponsored by licensed rodeos and circuses.~~

~~(b) Activities Prohibited. A person who engages in any of the following proscribed conduct shall be guilty of a misdemeanor:~~

~~(1) Causing any animal to engage in animal fighting for amusement or financial gain;~~

~~(2) Training any animal under circumstances evincing an intent that such animal engage in animal fighting, for amusement or financial gain;~~

~~(3) Permitting any act described in subsection (b)(1) or (b)(2) of this section to occur on premises under his control;~~

~~(4) Owning, possessing or keeping of any animal under circumstances evincing an intent that such animal engage in animal fighting;~~

~~(5) Attending an exhibition of animal fighting as a spectator;~~

~~(6) Placing or accepting a wager at any place where an exhibition of animal fighting is being conducted.~~

~~(c) Subsections (b)(1) to (b)(4) of this section do not apply to conduct involving dogs.~~

Injuring or killing of wild and undomesticated animals unlawful;

809 **exceptions.**

810 (a) It shall be unlawful for any person to injure, kill, maim, molest, torture or
811 destroy any wild or undomesticated animal in the city; provided, that upon complaint to
812 the police department that any wild or undomesticated animal has caused or is causing
813 damage or destruction of property upon any private premises in the city, such animal
814 may be taken into custody and destroyed by an approved pest control firm or company
815 upon the issuance of a permit by the police department; provided, however, that rats,
816 mice and like rodents infesting any private premises may be controlled and destroyed at
817 any time without a permit.

818 (b) Notwithstanding the prohibition of subsection (a) of this section, it shall be
819 lawful to kill wild or undomesticated deer or turkeys by bow and arrow provided the bow
820 hunting is done on Kansas Department of Wildlife, Parks and Tourism (KDWPT) owned
821 or managed property or privately owned property posted during the hunting season by a
822 person to whom KDWPT has issued a hunting license, hunting permit and special
823 access permit for that specific tract of land.

824 (c) Notwithstanding the prohibition in subsection (a) of this section, it shall be
825 lawful to kill wild or undomesticated migratory birds, game birds and turkeys by shotgun
826 provided the hunting is done on Kansas Department of Wildlife, Parks and Tourism
827 (KDWPT) owned or managed property during the hunting season by an individual
828 participating in a mentor-youth hunting program administered by KDWPT to whom
829 KDWPT has issued a hunting license, hunting permit and special access permit for that
830 specific tract of land.

Section 12. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 6.05.120, which said section reads as follows:

Animal fighting.

(a) Defined. For purposes of this section, the term “animal fighting” means any fight or wrestling match between cocks or other birds, between dogs, bulls, bears or any other animal, or between any such animal and a person, except at exhibits sponsored by licensed rodeos and circuses.

(b) Activities Prohibited. A person who engages in any of the following proscribed conduct shall be guilty of a misdemeanor:

(1) Causing any animal to engage in animal fighting for amusement or financial gain;

(2) Training any animal under circumstances evincing an intent that such animal engage in animal fighting, for amusement or financial gain;

(3) Permitting any act described in subsection (b)(1) or (b)(2) of this section to occur on premises under his control;

(4) Owning, possessing or keeping of any animal under circumstances evincing an intent that such animal engage in animal fighting;

(5) Attending an exhibition of animal fighting as a spectator;

(6) Placing or accepting a wager at any place where an exhibition of animal fighting is being conducted.

Section 13. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 6.05.130, which said section reads as follows:

Deceased animals.

854 (a) It shall be unlawful for any person to put any deceased animal in any
855 street, avenue, alley or other public place in the city and it shall be the duty of any
856 person having knowledge of any deceased animal in the city to immediately report it to
857 the animal control office, giving the type of animal and the place where such animal may
858 be found.

859 (b) It shall be the duty of animal control officers, immediately upon the receipt
860 of a report under this section, to remove or provide for the removal of any deceased
861 domestic pet located on public property and to report the discovery of said animal to the
862 Humane Society. If the owner of a deceased domestic pet, or anyone who discovers a
863 deceased domestic pet on a property, contacts animal control for assistance, an animal
864 control officer or designee will respond and take appropriate action. It shall be the
865 responsibility of animal control or designee to adequately address the removal of any
866 deceased wildlife on public streets or roadways. If deceased wildlife is located on
867 private property, it shall be the responsibility of the property owner to provide for said
868 removal.

869 Section 14. That section 6.10.010 of the Code of the City of Topeka, Kansas, is
870 hereby amended to read as follows:

871 ~~**Authority of police officers and parks and recreation department**~~
872 ~~**employees.**~~

873 ~~The police officers of the city are authorized to enforce this title and to aid and~~
874 ~~assist the animal control officer in the enforcement of this title. Employees of the~~
875 ~~department of parks and recreation are authorized to enforce this title and to aid and~~
876 ~~assist the animal control officer in the enforcement of this title with respect to animals at~~

large in public parks or recreation areas.

Report of certain animals.

Every person shall promptly report to the animal control office:

(a) Any animal which bites a person;

(b) Any rabid animal; or

(c) Any animal suspected of being rabid.

Section 15. That section 6.10.020 of the Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Animal control officer.

~~(a) — There is hereby created an office to be known as animal control officer for the enforcement of ordinances relating to animals.~~

~~(b) — The animal control officer shall be appointed by the city manager or designee. The animal control officer shall receive such salary as may be provided by ordinance and shall be responsible to the chief of police.~~

Demand to produce animal; expense.

An owner, upon demand by the animal control office, shall surrender any rabid animal, any animal which has bitten a human or any animal suspected as having been exposed to rabies, for supervised quarantine or destruction, which expense shall be borne by the owner, and such animal may be reclaimed by the owner if and when adjudged free of rabies and upon compliance with the permit provisions set forth in this title.

Section 16. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 6.10.030, which said section reads as follows:

Killing or removing certain animals restricted.

No person shall kill or cause to be killed any rabid animal, any animal suspected of having been exposed to rabies, or any animal biting a human, except as provided in this chapter, nor remove any such animal from the city limits, without first obtaining written permission from the animal control office.

Section 17. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 6.10.040, which said section reads as follows:

Surrender of animal carcass on demand.

The carcass of any dead animal exposed to rabies shall upon demand be surrendered to the animal control office.

Section 18. That section 6.15.010 of the Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Report of certain animals.

~~Every person shall promptly report to the public health officer:~~

~~(a) Any animal which bites a person;~~

~~(b) Any rabid animal; or~~

~~(c) Any animal suspected of being rabid.~~

Permit.

It shall be unlawful for any person, with no requirement of a culpable mental state, to own, keep, possess or harbor within the corporate limits of this city any dog, cat or miniature pot-belly pig over six months of age without first obtaining a permit therefor from the chief of police or authorized agent, who may issue such permit when proper application is made in writing. This permit requirement shall not apply to ear-tipped feral

cats.

Section 19. That section 6.15.020 of the Code of the City of Topeka, Kansas, is hereby amended to read as follows:

~~Demand to produce animal – Expense.~~

~~An owner, upon demand by the public health officer, shall surrender any rabid animal, any animal which has bitten a human, or any animal suspected as having been exposed to rabies, for supervised quarantine or destruction, which expense shall be borne by the owner, and such animal may be reclaimed by the owner if and when adjudged free of rabies and upon compliance with the permit provisions set forth in this title.~~

When required.

The owner of any dog, cat or miniature pot-belly pig shall be required to have a permit for his or her pet(s) upon the date the pet is brought into the city or attains the age of six months, whichever is later.

Section 20. That section 6.15.030 of the Code of the City of Topeka, Kansas, is hereby amended to read as follows:

~~Killing or removing certain animals restricted.~~

~~No person shall kill or cause to be killed any rabid animal, any animal suspected of having been exposed to rabies, or any animal biting a human, except as provided in this chapter, nor remove any such animal from the city limits, without first obtaining written permission from the public health officer.~~

Exceptions.

(a) The permit and vaccination requirements of this Article shall not apply to

any nonresident dog, cat or miniature pot-belly pig owner who keeps his or her pet(s) within the city for not longer than 30 days; provided, however, that at all times such pet is under restraint.

(b) A person owning, keeping, possessing or harboring (i) a dog that has been retired from the United States armed forces, (ii) a registered seeing-eye dog used by visually or hearing-impaired persons or (iii) police or sheriff's department dogs shall not be required to pay the permit fee; but shall be subject to all other applicable regulations of this title including, but not limited to, the requirement of having the rabies vaccination.

Section 21. That section 6.15.040 of the Code of the City of Topeka, Kansas, is hereby amended to read as follows:

~~Surrender of animal carcass on demand.~~

~~The carcass of any dead animal exposed to rabies shall upon demand be surrendered to the public health officer.~~

Application.

Applications for dog, cat or miniature pot-belly pig permits shall be made with the chief of police or authorized agent upon forms provided by the chief of police or authorized agent, setting forth such information as necessary to properly implement the terms and provisions of this Article. Such forms shall be completed by the applicant and submitted to the chief of police or authorized agent for validation and, after validation and payment of the permit fee, such forms shall serve as the permit.

Section 22. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 6.15.050, which said section reads as follows:

Vaccination certificate prerequisite to issuance.

No permit shall be issued under this Article except upon the presentation of a valid rabies vaccination certificate, which plainly shows that the last vaccination given to the dog, cat or miniature pot-belly pig is currently effective, and payment of the applicable fee under this Article.

Section 23. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 6.15.060, which said section reads as follows:

Fees.

(a) The permit fees required by this Chapter, for each permit year, are as follows:

(1) For each un-spayed female, or non-neutered male \$20.00

(2) For each spayed female, or neutered male \$8.00

(b) No permit fee shall be required of any animal shelter, humane society or veterinary hospital.

(c) Permit fees for kennels, if any, are addressed in State statutes.

Section 24. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 6.15.070, which said section reads as follows:

Term.

The permit term shall be for a period of 12 consecutive months commencing on the date of application for the permit.

Section 25. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 6.15.080, which said section reads as follows:

Obtaining permits after deadline; enforcement procedure.

990 (a) Late Charge. If a person obtains a permit within 30 days after either the
991 expiration of an existing permit term or the date on which a permit is required, no late
992 penalty will be charged; if, however, the applicant fails to make application within such
993 30-day period, a late charge of \$2.00 shall be assessed for each month the applicant is
994 delinquent in making application, not to exceed a total of \$24.00. The late charge shall
995 be added to and collected with the regular permit. Any portion of a month shall be
996 considered as a full month for the purposes of late charge computation.

997 (b) Application and Renewal Forms. The chief of police shall be authorized to
998 mail application forms for permits and reminder notices to any animal owner of which
999 the chief of police has record.

1000 (c) Delinquency Notice. A complaint alleging violation of the renewal
1001 provisions of a permit issued under this article and a notice to appear shall be issued
1002 against the owner of a dog, cat or miniature pot-belly pig subject to, but not in
1003 compliance with, such renewal provisions. A courtesy delinquency notice will be issued
1004 to the owner by electronic mail and/or United States mail, first class, postage prepaid, at
1005 the last known addresses of said owner. This notice shall include at least the following:

1006 (1) A title that it is a delinquency notice;

1007 (2) A statement of late payment charges the owner must pay; and

1008 (3) A warning that failure to purchase the applicable permit will result in
1009 the issuance of a complaint and notice to appear and subject the owner to
1010 potential court costs.

1011 (d) Complaint and Notice to Appear. The complaint and notice to appear as
1012 provided in this section shall charge the owner with violations of the particular applicable

ordinance and order the owner to appear in municipal court at a particular date and time.

(e) Fines. Any person charged with a violation of this Article shall, upon a plea or finding of guilt, be sentenced to a fine of not less than \$50.00. The sentence shall not be subject to a reduction or parole unless the person who is convicted or pleads guilty provides evidence that a permit was purchased prior to plea or finding of guilt. However, in no event shall the sentence be reduced or paroled to a fine of less than \$25.00.

Section 26. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 6.15.090, which said section reads as follows:

Tag.

(a) Upon full compliance with the terms of this Article, the chief of police or authorized agent shall issue a written permit to the applicant together with a durable permit tag stamped with an identifying number and so designed that it may be securely fastened to a collar or harness.

(b) The permit tag issued pursuant to this section shall be securely attached to the collar or harness of the dog, cat or miniature pot-belly pig for which such permit and tag is issued and said collar or harness shall be worn at all times the pet is off the premises of its owner; provided, however, that if a dog, cat or miniature pot-belly pig is not wearing a collar, the owner must be able to timely produce a valid permit tag upon request.

(c) If a permit tag issued for a dog, cat or miniature pot-belly pig is lost, a new tag may be obtained from the chief of police upon payment of a replacement fee of \$1.00.

(d) No person shall attach a permit tag to any dog, cat or miniature pot-belly pig other than the one for which the tag was issued.

Section 27. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 6.15.100, which said section reads as follows:

Unlawful use.

(a) A permit shall be valid only in the permit year for which issued. A new permit shall be obtained for each permit year and a new permit fee paid.

(b) No person shall knowingly use any dog, cat or miniature pot-belly pig permit issued for any other dog, cat or miniature pot-belly pig.

Section 28. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 6.15.110, which said section reads as follows:

When without a tag.

An animal control officer may take into custody and impound any dog, cat or miniature pot-belly pig not wearing a current registration tag.

Section 29. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 6.15.120, which said section reads as follows:

Animals at large; interference.

(a) Any dog or miniature pot-belly pig found to be at large within the city may be impounded at an animal shelter or humane society in a humane manner. It shall be lawful for any animal control officer, in the performance of his or her duty, to pursue and capture any at large dog or miniature pot-belly pig.

(b) It shall be unlawful for any person to knowingly obstruct, hinder or prevent the impounding of any dog or miniature pot-belly pig running at large contrary to the

provisions of this Chapter or to break open, destroy or injure the door, gate or enclosure of any impounding area to take or attempt to take therefrom any dog, cat or miniature pot-belly pig therein impounded.

Section 30. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 6.15.130, which said section reads as follows:

Notification of owner.

If the owner of a dog, cat or miniature pot-belly pig can be identified by a tag or other reasonable means, the animal shelter, humane society or designated agent shall notify said owner of the impoundment as soon as possible by telephone and/or electronic or regular mail.

Section 31. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 6.15.140, which said section reads as follows:

Detention period.

Impounded dogs, cats or miniature pot-belly pigs shall be kept for a period of not less than 72 hours in order to provide a reasonable opportunity to be claimed by their owner.

Section 32. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 6.15.150, which said section reads as follows:

Redemption.

(a) Unless otherwise provided in this section, the owner shall be entitled to take possession of his or her impounded dog, cat or miniature pot-belly pig upon receipt of a citation issued by an animal control officer with instructions to obtain the appropriate permit.

1082 **(b) No owner shall be allowed to redeem any dog, cat or miniature pot-belly**
1083 **pig impounded for being a public nuisance, unless such redemption is authorized by**
1084 **any court having jurisdiction.**

1085 **(c) No owner shall be allowed to redeem any dog, cat or miniature pot-belly**
1086 **pig found to be rabid, or that has been bitten by a rabid animal, unless such redemption**
1087 **is authorized by any court having jurisdiction.**

1088 **(d) No owner shall be allowed to redeem any dog, cat or miniature pot-belly**
1089 **pig when, in the judgment of the animal shelter or humane society, said animal should**
1090 **be destroyed for humane reasons.**

1091 **(e) If a person is adjudicated guilty of the crime of cruelty to animals and the**
1092 **court is satisfied that an animal owned or possessed by such person would be in the**
1093 **future subjected to such crime, such animal shall not be returned to, or remain with,**
1094 **such person. Such animal may be turned over to a duly incorporated humane society or**
1095 **licensed veterinarian for sale or other disposition.**

1096 **Section 33.** That The Code of the City of Topeka, Kansas, is hereby amended
1097 by adding a section, to be numbered 6.15.160, which said section reads as follows:

1098 **Failure to redeem.**

1099 **If an impounded dog, cat or miniature pot-belly pig is not redeemed within the 72-**
1100 **hour detention period set forth in Section 6.20.140 above, then said animal shall be**
1101 **deemed abandoned and title thereto shall pass to the humane society by operation of**
1102 **law.**

1103 **Section 34.** That The Code of the City of Topeka, Kansas, is hereby amended
1104 by adding a section, to be numbered 6.15.170, which said section reads as follows:

Dangerous dogs.

(a) 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 chapter, 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 days of a change in address for the owner and dangerous dog.

(ii) Confinement; Muzzle/Restraint. All dangerous dogs shall be confined within a secure enclosure, which can be either a building (i.e., Morton building, shed or garage) or a dwelling/residence. It shall be unlawful for any owner to maintain a dangerous dog upon any premises that does not have a secure enclosure; unless the owner keeps the

dangerous dog inside his or her dwelling/residence. It shall be unlawful for any owner to allow a dangerous dog to be outside of the dwelling/residence of the owner or outside the secured enclosure unless it is necessary for the owner (1) to obtain veterinary care for the dangerous dog; or (2) for the limited purposes of allowing said dangerous dog to urinate or defecate; or (3) to surrender the dangerous dog to the humane society to be euthanized by a certified veterinarian; or (4) to respond to such orders of law enforcement officials as may be required. In such event, the dangerous dog shall be securely and humanely muzzled and restrained with a leash not exceeding four 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 the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.

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

(iv) Transfer Prohibited. The owner shall not sell or give away the dangerous dog under any circumstances. If the owner no longer wishes to keep the dangerous dog, the dog must be surrendered to the humane society to be euthanized by a certified veterinarian.

(2) Upon conviction of keeping a dangerous dog, the owner shall comply with the provisions of this chapter within 15 days. The owner shall file proof of sterilization and microchipping, acceptable to the municipal court, with the clerk

1151 of the municipal court no later than 20 calendar days after conviction. Upon
1152 receipt, the clerk of the municipal court shall provide a copy of such proof to the
1153 legal department and the dog may then be released. If the owner fails to comply
1154 with the provisions of this chapter within the time provided, the dog shall be
1155 destroyed. If the owner or keeper of the dog contests the determination, he or
1156 she may appeal within 14 days of the finding to the district court pursuant to law.

1157 (3) The municipal court shall impose a fine of at least \$499.00 and not
1158 more than \$1,000.00 on a person who has been convicted of possessing a
1159 dangerous dog for an attack on a human being pursuant to TMC 6.05.010(h)(3).
1160 The municipal court shall have no authority to suspend the fine or any portion of
1161 the fine.

1162 (4) The municipal court shall impose a fine of \$250.00 on a person who
1163 has been convicted of possessing a dangerous dog for an attack on a domestic
1164 animal pursuant to TMC 6.05.010(h)(3). The municipal court shall have no
1165 authority to suspend the fine or any portion of the fine.

1166 (b) In the event that an animal control officer or law enforcement officer has
1167 probable cause to believe that a dog is dangerous, as defined by TMC 6.05.010, the
1168 animal control officer or law enforcement officer may seize and impound such animal at
1169 the animal shelter or humane society. If an animal is ordered to be impounded pursuant
1170 to this subsection, the person who owns, harbors, keeps or possesses such animal
1171 shall be entitled to a hearing in the municipal court within 14 days of such impoundment
1172 to review the propriety of such impoundment and whether a bond may be posted.
1173 Impoundment expenses shall be assessed as court costs against a convicted owner

and any bond may be applied to such costs. If the owner is personally served with the citation and fails to make an appearance to answer the charges within 72-hours after the failure to appear, the court shall release the animal to the Humane Society or a proper holding facility. If the citation is mailed to a presumed owner, and the presumed owner fails to appear before the court to answer the charges, the court shall release the animal to the Humane Society or a proper holding facility twenty days after the failure to appear.

(c) 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. 21-6412 and 21-6414 and any amendments thereto.

(d) 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.

(e) Dangerous Dog At-Large. Any dog that has been found to be a dangerous dog, or vicious dog under the previous Topeka City Code 18-8 or this section, that is not confined or registered as required pursuant to this chapter shall be impounded by an animal control officer or a law enforcement officer. Upon conviction, in addition to all costs for impoundment, the owner or keeper shall pay a fine of at least \$250.00 but not more than \$499.00. For a second offense within 24 months, in which the dog is not

1197 confined or registered as required pursuant to this section, in addition to all costs for
1198 impoundment, the owner or keeper shall pay a \$499.00 fine and the animal control
1199 officer or law enforcement officer is empowered to impound the dog, and the dog shall
1200 be destroyed. The municipal judge shall have no authority to suspend the fine or any
1201 portion thereof.

1202 (f) Dangerous Dog – Attack on Human. Upon conviction of this section, a dog
1203 may be destroyed if the dog attacks a human being which results in great bodily harm or
1204 death. Upon conviction of this section, the court may destroy a dog that has been
1205 previously determined to be a dangerous dog as defined at TMC 6.05.010.

1206 (g) Dangerous Dog – Attack on Other Animal. Upon conviction of this section,
1207 a dog may be destroyed if the dog attacks a domestic animal which results in great
1208 bodily harm or death. Upon conviction of this section, the court may destroy a dog that
1209 has been previously determined to be a dangerous dog as defined at TMC 6.05.010.

1210 (h) The impounded dog shall not be destroyed pending appeals of convictions
1211 under this chapter. The dog shall remain impounded pending the determination of the
1212 complaint. If the court shall find that there shall not have been a violation, such dog shall
1213 be released to the custody of the owner. In addition to the fines provided in this section,
1214 the municipal judge shall have the authority to sentence the person adjudicated guilty of
1215 this chapter to serve up to a maximum of six months in jail.

1216 (i) Notwithstanding any other provision of this chapter to the contrary and
1217 irrespective of whether the dog has been declared dangerous pursuant to this chapter,
1218 the municipal judge may order any dog destroyed if the municipal judge determines that
1219 the dog is an immediate threat to public health and safety and that confinement and

registration of the dog by the owner or keeper of the dog as provided in this chapter will not adequately protect public health and safety. No person shall harbor, own, or possess a dog that is an immediate threat to public health and safety. In making such determination the municipal judge may consider the severity of the attack and such other relevant information. The municipal judge shall have the authority to sentence the person adjudicated guilty of this section to serve up to a maximum of six months in jail and to pay a fine not to exceed \$1,000.00.

Section 35. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 6.15.180, which said section reads as follows:

Confinement of certain dogs required.

(a) The owner of any dangerous dog shall confine the animal in the manner set out in 6.15.170(d)(1)(ii) above.

(b) The owner of any un-spayed female dog in heat shall confine the animal within a building or dwelling/residence where the scent of the female cannot be emitted and in such a manner that the female dog cannot come into contact with another dog except for planned breeding. It shall be unlawful for the owner of any un-spayed female dog to knowingly keep such dog in a manner that might cause a nuisance by attracting male dogs to the premises of such owner.

Section 36. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 6.15.190, which said section reads as follows:

Confinement of certain cats required.

(a) The owner of any un-spayed female cat in heat shall confine the animal within a building or dwelling/residence where the scent of the female cannot be emitted

and in such a manner that such female cat cannot come into contact with another cat
except for planned breeding.

(b) It shall be unlawful for the owner of any unaltered male or un-spayed
female cat to knowingly keep such cat in a manner that might cause a nuisance by
attracting other cats to the premises of such owner.

Section 37. That The Code of the City of Topeka, Kansas, is hereby amended
by adding a section, to be numbered 6.15.200, which said section reads as follows:

Specific requirements and restrictions.

(a) It shall be unlawful for any person, with no requirement of a culpable
mental state, to keep or harbor a miniature pot-belly pig unless the following
requirements are met:

(1) The pig has undergone a blood test upon initial application for the
permit required by TMC 6.15.010 of this chapter and received a corresponding
health certificate; and

(2) The pig weighs less than 150 pounds;

(3) The pig's height is less than 24 inches, measured at the shoulder;

(4) The pig has been vaccinated against rabies;

(5) The pig has been neutered or spayed upon reaching maturity (6
months).

(b) No more than two miniature pot-bellied pigs are kept or harbored within
any one household or premises.

Section 38. That The Code of the City of Topeka, Kansas, is hereby amended
by adding a section, to be numbered 6.15.210, which said section reads as follows:

Shelter.

Miniature pot-belly pigs shall be confined inside the owner's dwelling/residence; or in a shelter with its sides embedded at least two feet into the ground or an underlayment that will prevent the animal from digging out of the pen and/or running-at-large. The animal shall be provided with sufficient bedding during the winter season and a water source of sufficient size and quantity that will allow them to cool themselves during the summer season. There shall be compliance with all requirements set out in TMC 6.05.100(a)(3)(iii) above.

Section 39. That section 6.20.010 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 chapter and Chapter 6.25 TMC, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~At Large. An animal shall be deemed to be "at large" when it is not on the property of its owner and not under the physical control of the owner by leash or other similar device; voice control only will not be considered adequate control.~~

~~"Attack" means any violent or aggressive physical action or contact.~~

~~"Dog" means any domestic or wild dog.~~

~~"Kennel" means any person engaged in the business of breeding, buying, selling or boarding dogs.~~

~~"Neutered male" means any male dog which by operation has been made infertile or one that has been certified by a licensed veterinarian as being naturally~~

infertile.

~~“Owner” means any person owning, keeping, harboring or possessing any dog or any person operating a kennel.~~

~~“Restraint” means confined by building, fence, leash or other appropriate means, or if accompanied by a competent person and under the person’s immediate control.~~

~~“Secure enclosure” means any structure secure on four sides, top and bottom, equipped with a gate or door that has a lock that secures such gate or door from being opened by anyone other than the owner, harborer, keeper or possessor of the dog, as set forth in TMC 6.20.040(a).~~

~~“Spayed female” means any female dog which has been operated upon to prevent conception.~~

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

~~Exotic or captive wild animals.~~

Exotic or captive wild animals.

(a) Owning, Keeping, Maintaining. Except as allowed by subsection (d) of this section, it shall be unlawful for any person, with no requirement of a culpable mental state, to own or keep in his or her possession or under his or her control or maintain any live exotic or captive wild animal within the city limits.

(b) Buying, Accepting in Trade. Except as allowed by subsection (d) of this section, it shall be unlawful for any person to knowingly buy or accept in trade any live exotic or captive wild animal within the city limits.

(c) Selling, Offering for Sale or Trade. Except as allowed by subsection (d) of

1312 this section, it shall be unlawful for any person to knowingly offer for sale or trade or to
1313 sell or trade any live exotic or captive wild animal within the city limits.

1314 (d) Exceptions.

1315 (1) The prohibitions in subsections (a) through (c) of this section shall not
1316 apply to bona fide zoos, as defined by the American Association of Zoological
1317 Parks and Association of Zoological Parks and Aquariums.

1318 (2) The prohibitions in subsection (a) of this section shall not apply to:

1319 (i) Medical institutions.

1320 (ii) Post-secondary educational institutions.

1321 (iii) Veterinary clinics in possession of the animals prohibited under
1322 this section.

1323 (iv) Circuses.

1324
1325 (v) Persons designated and licensed as animal rehabilitators by the
1326 state Fish and Game Commission.

1327 (vi6.) Persons listed in subsections (e)(2)(i) through (vii) of this
1328 section who are temporarily transporting such animals through the city,
1329 except that circuses and carnivals need not be licensed by the city if
1330 merely temporarily transporting an otherwise prohibited animal through the
1331 city.

1332 (e) Secure and sanitary quarters. All persons and institutions listed in
1333 subsection (d) of this section must ensure that all animal enclosures are secure, as
1334 defined in TMC 6.05.010, so as to prevent their escape, conform to the provisions of the

nuisance ordinances of the city and are maintained in a clean and sanitary condition for purposes of limiting objectionable odors.

(f) Licensing. All persons and institutions listed in subsection (d) of this section must be properly licensed, if so required, by any rule or regulation promulgated under the authority of federal statute enacted by the United States, or by any statute enacted by the state, or by any rule or regulation promulgated by any agency or department as authorized by state statute.

(g) Violations. A violation of any provision of this section shall constitute a new and separate offense each calendar day the violation continues to exist.

(h) Destruction or Removal of Prohibited Animals. Upon conviction of a violation of this section, the judge of the municipal court of the city may order the owner, keeper, possessor or harbinger to destroy or remove from the city any animal prohibited under this section.

Section 40. That section 6.20.020 of the Code of the City of Topeka, Kansas, is hereby repealed.

Complaint and notice to appear.

~~The animal control officer shall have the power to issue a complaint and notice to appear against the owner of a dog subject to, but not in compliance with, this chapter and Chapter 6.25 TMC; provided, that no owner charged with violating the provisions of TMC 6.20.060 shall be convicted of violating TMC 6.20.060 if the owner produces in court, or at the offices of the animal control officer, a valid permit for the dog, issued prior to the issuance of the complaint and notice to appear.~~

1357 Section 41. That section 6.20.030 of the Code of the City of Topeka, Kansas, is
1358 hereby repealed.

1359 ~~**Running at large prohibited.**~~

1360 ~~It shall be unlawful for the owner, keeper or harborer of any dog to permit such~~
1361 ~~dog to run at large. The fact of a dog being found at large shall be prima facie evidence~~
1362 ~~of a violation of this section.~~

1363 Section 42. That section 6.20.040 of the Code of the City of Topeka, Kansas, is
1364 hereby repealed.

1365 ~~**Confinement of certain dogs required.**~~

1366 ~~(a) The owner shall confine within a building or secure enclosure:~~
1367 ~~(1) Every fierce, dangerous or vicious dog;~~
1368 ~~(2) Every dog having a natural propensity to be fierce, dangerous or vicious; and~~
1369 ~~(3) Every unspayed female dog in heat, in such a manner that such female~~
1370 ~~cannot come into contact with another dog except for planned breeding.~~

1371 ~~(b) It shall be unlawful for the owner of any unspayed female dogs to keep such~~
1372 ~~dogs in such manner as to cause a nuisance by attracting male dogs to the premises of~~
1373 ~~such owner.~~

1374 Section 43. That section 6.20.050 of the Code of the City of Topeka, Kansas, is
1375 hereby repealed.

1376 ~~**Breeding.**~~

1377 ~~Any business, individual, organization or entity engaged in the practice or~~
1378 ~~business of breeding and/or selling dogs, with or without monetary compensation, shall~~
1379 ~~provide the city treasurer the following information within 10 days after ownership of any~~

~~dog is transferred:~~

~~(a) The date of the sale or transfer of ownership.~~

~~(b) The name and address of the new owner.~~

~~(c) A description of the dog sufficient for identification by an animal control officer.~~

~~(d) Approximate age of the dog.~~

Section 44. That section 6.20.060 of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Required.~~

~~No person shall own, keep or harbor within the corporate limits of this city any dog over six months of age without first obtaining a permit therefor from the city treasurer, or agent authorized by the city treasurer, who may issue such permit when proper application is made in writing.~~

Section 45. That section 6.20.070 of the Code of the City of Topeka, Kansas, is hereby repealed.

~~When required.~~

~~The owner of a dog shall be required to have a permit for the dog upon the date it is brought into the city or attains the age of six months, whichever is later.~~

Section 46. That section 6.20.080 of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Exception — Nonresidents.~~

~~The permit and vaccination requirements of this article shall not apply to a nonresident dog owner who keeps the dog within the city for not longer than 30 days; provided, that at all times such dog is under restraint.~~

1403 Section 47. That section 6.20.090 of the Code of the City of Topeka, Kansas, is
1404 hereby repealed.

1405 ~~**Exception — Seeing-eye dogs, military and police dogs.**~~

1406 ~~A person owning, keeping or harboring a dog that has been retired from the~~
1407 ~~United States armed forces, a registered seeing-eye dog used by visually or hearing-~~
1408 ~~impaired persons, or police or sheriff's department dogs shall not be required to pay the~~
1409 ~~permit fee but shall be subject to all other regulations of this article, including but not~~
1410 ~~limited to the requirement of having the rabies vaccination.~~

1411 Section 48. That section 6.20.100 of the Code of the City of Topeka, Kansas, is
1412 hereby repealed.

1413 ~~**Application.**~~

1414 ~~Applications for dog permits shall be made with the city treasurer or authorized~~
1415 ~~agent upon forms provided by the city treasurer, setting forth such information as~~
1416 ~~necessary to properly implement the terms and provisions of this article. Such forms~~
1417 ~~shall be completed by the applicant and submitted to the city treasurer or authorized~~
1418 ~~agent for validation and, after validation and payment of the permit fee, such forms shall~~
1419 ~~serve as the dog permit.~~

1420 Section 49. That section 6.20.110 of the Code of the City of Topeka, Kansas, is
1421 hereby repealed.

1422 ~~**Vaccination certificate prerequisite to issuance.**~~

1423 ~~No permit shall be issued under this article except upon the presentation of a~~
1424 ~~valid rabies vaccination certificate plainly showing the dog's last vaccination is currently~~
1425 ~~effective and payment of the applicable fee under this article.~~

Section 50. That section 6.20.120 of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Fees.~~

~~(a) The fees for permits required by this chapter for each permit year are as follows:~~

~~(1) For each unspayed or nonneutered dog \$20.00~~

~~(2) For each spayed or neutered dog \$8.00~~

~~(3) For any kennel or pet shop covering all dogs kept during the year \$80.00~~

~~(b) No fee shall be required of any humane society or veterinary hospital.~~

Section 51. That section 6.20.130 of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Term.~~

~~The permit term shall be for a period of 12 consecutive months commencing on the date of application for the permit.~~

Section 52. That section 6.20.140 of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Obtaining permits after deadline – Enforcement procedure.~~

~~(a) Late Charge. If a person obtains a permit within 30 days after either the expiration of an existing permit term or the date on which a permit is required, no late penalty will be charged; if, however, the applicant fails to make application within such 30-day period, a late charge of \$2.00 shall be assessed for each month the applicant is delinquent in making application, not to exceed a total of \$24.00. The late charge shall~~

1449 ~~be added to and collected with the regular permit. Any portion of a month shall be~~
1450 ~~considered as a full month for the purposes of late charge computation.~~

1451 ~~(b) Application and Renewal Forms. The city treasurer shall be authorized to mail~~
1452 ~~application forms for permits and reminder notices to any animal owner of which the~~
1453 ~~treasurer has record.~~

1454 ~~(c) Delinquency Notice. A complaint alleging violation of the renewal provisions of~~
1455 ~~a permit under this article and a notice to appear shall be issued against the owner of a~~
1456 ~~dog subject to but not in compliance with such renewal provisions; provided, that the~~
1457 ~~city treasurer has issued at least 10 days in advance thereof a delinquency notice by~~
1458 ~~United States mail, first class, postage prepaid, to the owner at the last known address~~
1459 ~~of the owner. The complaint and notice to appear will be served as provided by Charter~~
1460 ~~Ordinance No. 37, Section 2 (Appx. A, Section A10-25). A delinquency notice shall~~
1461 ~~include at least the following:~~

1462 ~~(1) A title that it is a delinquency notice;~~

1463 ~~(2) A statement of late payment charges the owner must pay; and~~

1464 ~~(3) A warning that failure to purchase the applicable permit will result in~~
1465 ~~the issuance of a complaint and notice to appear and subject the owner to~~
1466 ~~potential court costs.~~

1467 ~~(d) Complaint and Notice to Appear. The complaint and notice to appear as~~
1468 ~~provided in this section shall charge the owner with violations of the particular applicable~~
1469 ~~ordinance and order the owner to appear in municipal court at a particular date and~~
1470 ~~time.~~

1471 ~~(e) Fines. Any person charged with a violation of TMC 6.20.060 shall, upon a~~

plea or finding of guilt, be sentenced to a fine of not less than \$50.00. The sentence shall not be subject to a reduction or parole unless the person who is convicted or pleads guilty provides evidence that a permit was purchased prior to plea or finding of guilt. However, in no event shall the sentence be reduced or paroled to a fine of less than \$25.00.

Section 53. That section 6.20.150 of the Code of the City of Topeka, Kansas, is hereby repealed.

Tag.

(a) Upon full compliance with the terms of this article, the city treasurer or authorized agent shall issue a written permit to the applicant together with a durable permit tag stamped with an identifying number and so designed that it may be securely fastened to a collar or harness.

(b) The tag issued pursuant to this section shall be securely attached to the collar or harness of the dog for which such permit and tag is issued and shall be worn at all times the dog is off the premises of the owner.

(c) If a tag issued for a dog is lost, a new tag may be obtained from the city treasurer upon payment of a replacement fee of \$1.00.

(d) No person shall attach a tag to any dog other than the one for which the tag was issued.

Section 54. That section 6.20.160 of the Code of the City of Topeka, Kansas, is hereby repealed.

Unlawful use.

(a) A permit shall be valid only in the permit year for which issued. A new permit

shall be obtained for each permit year and a new permit fee paid.

(b) No person shall use any dog or kennel permit issued for another dog or kennel.

Section 55. That section 6.20.170 of the Code of the City of Topeka, Kansas, is hereby repealed.

~~When at large.~~

~~Any dog found to be at large within the city may be impounded in the animal shelter in a humane manner.~~

Section 56. That section 6.20.180 of the Code of the City of Topeka, Kansas, is hereby repealed.

~~When without a tag.~~

~~The animal control officer may take into custody and impound all dogs not wearing a current registration tag.~~

Section 57. That section 6.20.190 of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Killing of dog when unable to capture.~~

~~It shall be lawful for the animal control officer or an assistant, in the performance of duty, to pursue and capture any dog or to kill any dog if they cannot capture such dog.~~

Section 58. That section 6.20.200 of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Notification of owner.~~

~~If, by a tag or other reasonable means, the owner can be identified, the animal~~

shelter or its designated agent shall, as soon as possible upon impoundment, notify the owner by telephone or mail of the impoundment of the dog.

Section 59. That section 6.20.210 of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Detention period.~~

~~Impounded dogs shall be kept for a period of not less than 72 hours unless sooner claimed by the owner.~~

Section 60. That section 6.20.220 of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Redemption.~~

~~(a) The owner shall be entitled to take possession of any impounded dog, except as provided in this section, upon compliance with the permit provisions of this chapter and payment of the impoundment fees.~~

~~(b) No owner shall be allowed to redeem any dog impounded for being a public nuisance, unless such redemption is authorized by any court having jurisdiction.~~

~~(c) No owner shall be allowed to redeem any dog found to be rabid or any dog which has been bitten by a rabid animal, unless such redemption is authorized by any court having jurisdiction.~~

~~(d) No owner shall be allowed to redeem any dog when, in the judgment of the animal shelter or humane society, the dog should be destroyed for humane reasons.~~

~~(e) If a person is adjudicated guilty of the crime of cruelty to animals and the court is satisfied that an animal owned or possessed by such person would be in the future subjected to such crime, such animal shall not be returned to or remain with such~~

1541 ~~person. Such animal may be turned over to a duly incorporated humane society or~~
1542 ~~licensed veterinarian for sale or other disposition.~~

1543 Section 61. That section 6.20.230 of the Code of the City of Topeka, Kansas, is
1544 hereby repealed.

1545 **~~Failure to redeem.~~**

1546 ~~If an impounded dog is not redeemed within the detention period set forth in TMC~~
1547 ~~6.20.210, then the dog shall be deemed abandoned and title thereto shall pass to the~~
1548 ~~humane society by operation of law.~~

1549 Section 62. That section 6.20.240 of the Code of the City of Topeka, Kansas, is
1550 hereby repealed.

1551 **~~Interference.~~**

1552 ~~It shall be unlawful for any person to obstruct, hinder or prevent the impounding~~
1553 ~~of any dog running at large contrary to the provisions of this chapter and Chapter 6.25~~
1554 ~~TMC or to break open, destroy or injure the door, gate or enclosure of any impounding~~
1555 ~~area to take or attempt to take therefrom a dog therein impounded.~~

1556 Section 63. That section 6.30.010 of the Code of the City of Topeka, Kansas, is
1557 hereby amended to read as follows:

1558 **~~Definitions.~~**

1559 ~~The following words, terms and phrases, when used in this chapter, shall have~~
1560 ~~the meanings ascribed to them in this section, except where the context clearly~~
1561 ~~indicates a different meaning:~~

1562 ~~“Cat” means any domestic or wild cat.~~

1563 ~~“Ear tipped feral cat” means a cat that is unsocialized to humans and has a~~

~~temperament of extreme fear or resistance to contact with humans that exhibits a straight-line cutting of the tip of its left ear to indicate that it has been sterilized and vaccinated against rabies.~~

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

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

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

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

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

Restrictions applicable to domestic fowl; poultry.

It shall be unlawful for any person, with no requirement of a culpable mental state, to keep or maintain any domestic fowl or poultry upon any private premises in the city (when such keeping is lawful under other ordinances of the city) within 50 feet of any dwelling other than that of the owner or tenant of the premises on which such fowl are kept or maintained, or to keep or maintain such fowl at any time on any premises in a manner or condition constituting a public nuisance.

Section 64. That section 6.30.020 of the Code of the City of Topeka, Kansas, is hereby amended to read as follows:

~~Complaint – Notice to appear.~~

~~The animal control officer shall have the power to issue a complaint and notice to appear against the owner of a cat subject to, but not in compliance with, this chapter; provided, that no owner charged with violating the provisions of TMC 6.30.050 shall be convicted of a violation of TMC 6.30.050 if the owner produces in court, or at the offices of the animal control officer, a valid permit for the cat, issued prior to the issuance of the complaint and notice to appear.~~

Enclosure required; running at large prohibited.

It shall be unlawful for any person, with no requirement of a culpable mental state, to allow or permit domestic fowl or poultry to run or be at large at any time in the city. Fowl must be kept on the owner's property, within a fenced area and inside a fully enclosed pen. The fact of any domestic fowl being found at large shall be prima facie evidence of a violation of this section.

Section 65. That section 6.30.030 of the Code of the City of Topeka, Kansas, is hereby amended to read as follows:

~~Confinement of female cats in heat.~~

~~(a) The owner shall confine within a building or secure enclosure every unspayed female cat in heat, in such a manner that such female cannot come into contact with another cat except for planned breeding.~~

~~(b) It shall be unlawful for the owner of any unaltered male or unspayed female cat to keep such cat in such a manner as to cause a nuisance by attracting other cats.~~

Destruction of birds and birds' nests prohibited; exceptions.

It shall be unlawful for any person to knowingly shoot, kill, maim or injure in any manner any bird or fowl of the air in the city, or to destroy the nest of any such bird or fowl, except that:

(a) English sparrows and starlings or the nests thereof may be destroyed at any time by any person or approved pest control firm or company when such destruction may be done without the use of firearms or other weapons or devices;

(b) Pigeons or other birds of the air that have become public nuisances by reason of their nesting or roosting on any private premises in the city may, upon complaint to animal control, be destroyed by an approved pest control firm or company in accordance with the terms of any required permit issued by the appropriate state or local agency.

Section 66. That section 6.30.040 of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Sale or transfer by certain persons – Disclosures.~~

~~Any business, individual, organization or entity engaged in the practice or business of breeding and/or selling cats, with or without monetary compensation, shall provide the city treasurer the following information within 10 days after ownership of any cat is transferred:~~

~~(a) The date of the sale or transfer of ownership.~~

~~(b) Name and address of the new owner.~~

~~(c) Description of the cat sufficient for identification by an animal control officer.~~

~~(d) Approximate age of the cat.~~

Section 67. That section 6.30.050 of the Code of the City of Topeka, Kansas, is hereby repealed.

~~5Required.~~

~~No person shall own, keep or harbor within the corporate limits of this city any cat over six months of age without first obtaining a permit therefor from the chief of police, or agent authorized by the 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 68. That section 6.30.060 of the Code of the City of Topeka, Kansas, is hereby repealed.

~~When required.~~

~~The owner of a cat shall be required to have a permit for the cat upon the date it is brought into the city or attains the age of six months, whichever is later.~~

Section 69. That section 6.30.070 of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Exception for nonresidents.~~

~~The permit and vaccination requirements of this article shall not apply to a nonresident cat owner who keeps the cat within the city for not longer than 30 days; provided, that at all times such cat is under restraint.~~

Section 70. That section 6.30.080 of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Application.~~

~~Applications for cat permits shall be made with the city treasurer or authorized~~

~~agent upon forms provided by the city treasurer, setting forth such information as necessary to properly implement the terms and provisions of this article. Such forms shall be completed by the applicant and submitted to the city treasurer or authorized agent for validation, and after validation and payment of the permit fee, such forms shall serve as the cat permit.~~

Section 71. That section 6.30.090 of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Vaccination certificate prerequisite to issuance.~~

~~No permit shall be issued under this article except upon the presentation of a valid rabies vaccination certificate plainly showing the cat's last vaccination is currently effective and payment of the applicable fee under this article.~~

Section 72. That section 6.30.100 of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Fees.~~

~~(a) The fees for the permit required by this article, for each permit year, are as follows:~~

~~(1) For each nonneutered cat \$20.00~~

~~(2) For each neutered cat \$8.00~~

~~(3) For any pet shop, covering all cats kept during the year
\$80.00~~

~~(b) No fee under this article shall be required of any humane society or veterinary hospital.~~

Section 73. That section 6.30.110 of the Code of the City of Topeka, Kansas, is hereby repealed.

Term.

~~The permit term shall be for a period of 12 consecutive months commencing on the date of application for the permit.~~

Section 74. That section 6.30.120 of the Code of the City of Topeka, Kansas, is hereby repealed.

Tags.

~~(a) Upon full compliance with the terms of this article, the city treasurer or authorized agent shall issue a written permit to the applicant together with a durable permit tag stamped with an identifying number and so designed that it may be securely fastened to a collar.~~

~~(b) The tag issued under this section, or an engraved tag provided by the owner carrying the same information as set out in subsection (a) of this section, shall be securely attached to the collar of the cat for which such permit and tag is issued and shall be worn at all times the cat is off the premises of the owner.~~

~~(c) If a tag issued for a cat is lost, a new tag may be obtained from the city treasurer upon payment of a replacement fee of \$1.00.~~

~~(d) No person shall attach a tag to any cat other than the one for which the tag was issued.~~

Section 75. That section 6.30.130 of the Code of the City of Topeka, Kansas, is hereby repealed.

Validity – Renewal.

~~A permit shall be valid only in the permit year for which issued. A new permit shall be obtained for each permit year and a new permit fee paid.~~

Section 76. That section 6.30.140 of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Obtaining permit after deadline — Enforcement procedure.~~

~~(a) Late Charge. If a person obtains a permit within 30 days after either the expiration of an existing permit term or the date on which a permit is required, no late penalty will be charged; if, however, the applicant fails to make application within such 30-day period, a late charge of \$2.00 shall be assessed for each month the applicant is delinquent in making application, not to exceed a total of \$24.00. The late charge shall be added to and collected with the regular permit fee. Any portion of a month shall be considered as a full month for the purposes of late charge computation.~~

~~(b) Application and Renewal Forms. The city treasurer shall be authorized to mail application forms for permits and reminder notices to any cat owner of which the treasurer has record.~~

~~(c) Delinquency Notice. A complaint alleging violation of the renewal provisions of the permit issued under this article and a notice to appear shall be issued against the owner of a cat subject to, but not in compliance with, the renewal provisions of this section; provided, that the city treasurer has issued at least 10 days in advance thereof a delinquency notice by United States mail, first class, postage prepaid, to the owner at the last known address of the owner. The complaint and notice to appear will be served as provided by Charter Ordinance No. 37, Section 2 (Appx. A, Section A10-25). A delinquency notice shall include at least the following:~~

1723 ~~(1) A title that it is a delinquency notice.~~

1724 ~~(2) A statement of late payment charges the owner must pay.~~

1725 ~~(3) A warning that failure to purchase the applicable permit will result in~~
1726 ~~the issuance of a complaint and notice to appear and subject the owner to~~
1727 ~~potential court costs.~~

1728 ~~(d) Complaint and Notice to Appear. The complaint and notice to appear issued~~
1729 ~~under this section shall charge the owner with violations of the particular applicable~~
1730 ~~ordinance and order the owner to appear in municipal court at a particular date and~~
1731 ~~time.~~

1732 ~~(e) Fines. Any person charged with violation of this article shall, upon a plea or~~
1733 ~~finding of guilt, be sentenced to a fine of not less than \$50.00. The sentence shall not be~~
1734 ~~subject to a reduction or parole unless the person who is convicted or pleads guilty~~
1735 ~~provides evidence that a permit was purchased prior to the plea or finding of guilt.~~
1736 ~~However, in no event shall the sentence be reduced or paroled to a fine of less than~~
1737 ~~\$25.00.~~

1738 Section 77. That section 6.30.150 of the Code of the City of Topeka, Kansas, is
1739 hereby repealed.

1740 **~~Cats without current tag.~~**

1741 ~~The animal control officer may take into custody and impound all cats not bearing~~
1742 ~~a current registration tag.~~

1743 Section 78. That section 6.30.160 of the Code of the City of Topeka, Kansas, is
1744 hereby repealed.

1745 **~~Notification of owner.~~**

~~If, by a tag or other reasonable means, the owner can be identified, the animal shelter or its designated agent shall, as soon as possible upon impoundment, notify the owner by telephone or mail of the impoundment of the cat.~~

Section 79. That section 6.30.170 of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Detention period.~~

~~Impounded cats shall be kept for a period of not less than 72 hours unless sooner claimed by the owner.~~

Section 80. That section 6.30.180 of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Redemption.~~

~~(a) The owner shall be entitled to take possession of any impounded cat, except as provided in this section, upon compliance with the permit provisions of this chapter and payment of the impoundment fees.~~

~~(b) No owner shall be allowed to redeem any cat impounded for being a public nuisance, unless such redemption is authorized by any court having jurisdiction.~~

~~(c) No owner shall be allowed to redeem any cat found to be rabid or any cat which has been bitten by a rabid animal, unless such redemption is authorized by any court having jurisdiction.~~

~~(d) No owner shall be allowed to redeem any cat when, in the judgment of the animal shelter or humane society, the cat should be destroyed for humane reasons.~~

~~(e) If a person is adjudicated guilty of the crime of cruelty to animals and the court is satisfied that an animal owned or possessed by such person would be in the~~

~~future subjected to such crime, such animal shall not be returned to or remain with such person. Such animal may be turned over to a duly incorporated humane society or licensed veterinarian for sale or other disposition.~~

Section 81. That section 6.30.190 of the Code of the City of Topeka, Kansas, is hereby repealed.

~~Failure to redeem.~~

~~If an impounded cat shall not be redeemed within the detention period set forth in TMC 6.30.170, then the cat shall be deemed abandoned and title thereto shall pass to the humane society by operation of law.~~

Section 82. That section 6.35.010 of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

~~Keeping near residences or businesses.~~

~~It shall be unlawful for any person to keep cattle, sheep, goats or other food-producing animals in the city in a building or lot within 200 feet of any existing residence or other existing main use structure other than that of the owner of such animals.~~

Keeping near residences or businesses.

It shall be unlawful for any person, with no requirement of a culpable mental state, to keep livestock inside the city limits if in a building or lot that is located within 200 feet of his or her property line. Such building or lot shall comply with all applicable building, property maintenance, planning, zoning, and utility code provisions, in addition to any health and sanitation requirements that may be required by state or local law.

Section 83. That section 6.35.020 of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

~~To be kept in sanitary buildings.~~

~~It shall be unlawful for any person to keep cattle, sheep, goats, equine or any such animals in the city unless such animals are kept in a barn, stable or building which is constructed or equipped with sewer connections, watertight floors approved by the director of environmental code services, flyproof windows and doors and such other sanitary requirements as may be ordered by the director of environmental code services.~~

Swine prohibited.

It shall be unlawful for any person, with no requirement of a culpable mental state, to rear or keep any swine in the city. This prohibition against swine shall not apply to miniature pot-belly pigs kept as pets, which are considered domestic animals pursuant to TMC 6.05.010(j); provided, however, that each pig meets the requirements set out in TMC 6.15.200 of this title.

Section 84. That section 6.35.030 of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

~~Swine prohibited.~~

~~It shall be unlawful for any person to rear or keep any swine in the city.~~

Exceptions to restrictions on keeping livestock.

The provisions of TMC 6.35.010 through 6.35.020 shall not apply to any person engaged in the packinghouse business, or in selling or shipping cattle, sheep, goats, horses or swine insofar as it may be necessary for such parties to bring such livestock into the city and keep such livestock in the city in the legitimate transaction and carrying on of business; provided, that TMC 6.35.010 shall not apply to the keeping of horses on

any parcel of land within the city if there is an intensity of no more than two horses on a minimum of three acres; and, provided, further, that each additional horse shall require an additional one and one-half acres of land to the minimum required.

Section 85. That section 6.35.040 of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Exceptions to restrictions on keeping livestock.

~~The provisions of TMC 6.35.010 through 6.35.030 shall not apply to any person engaged in the packinghouse business, or in selling or shipping cattle, sheep, goats, equine or swine insofar as it may be necessary for such parties to bring such livestock into the city and keep such livestock in the city in the legitimate transaction and carrying on of business; provided, that TMC 6.35.010 and 6.35.020 shall not apply to the keeping of equine on any parcel of land within the city, provided there is an intensity of no more than two horses on a minimum of three acres; and, provided further, that each additional equine shall require an additional one and one-half acres of land to the minimum required.~~

Running at large or driving herds prohibited.

It shall be unlawful for any person to allow or permit any livestock owned or controlled by such person to run or be at large at any time within the city; or to drive any herd of cattle, horses, mules or swine, or any flock of sheep, upon any street within the city.

Section 86. That section 6.35.050 of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Nonconforming keeping of livestock.

~~The lawful use of a building or a lot for keeping livestock and which was existing at the time of the annexation of the building or lot to the city may be continued although such use does not conform with the provisions in this chapter. If a nonconforming use of any building or lot for keeping livestock is discontinued for a period of one year, the use of such building or lot shall thereafter conform to the provisions of this chapter.~~

Additional restrictions; exceptions.

It shall be unlawful for any person to allow any livestock or other similar-type animals to graze or go upon or across any street, avenue, sidewalk, alley, or public park or lot within the city or any premises adjacent thereto, or for such person to restrain or tether such animals at said locations within the city; unless the animals are present upon said property:

(a) as part of a special event for which an appropriate special event permit including a designated time frame is required and subsequently issued; or

(b) for a period of time not to exceed two (2) hours, if no special event permit is required.

Section 87. That section 6.35.070 of The Code of the City of Topeka, Kansas, is hereby repealed.

Running at large or driving herds prohibited.

~~It shall be unlawful for any person to suffer or permit any livestock owned or controlled by such person to run at large, or to drive any herd of cattle, horses, mules or hogs, or any flock of sheep, upon any street in the city.~~

Section 88. That section 6.35.080 of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Grazing in public prohibited.~~

~~It shall be unlawful for any person to graze or permit to be grazed any horses, mules, cattle or other livestock upon any street, avenue, alley, public park or the parking of any street or avenue, or to picket out or fasten any such animal upon any such street, avenue, public park or parking of any street or avenue, or upon premises adjoining thereto, in such manner as to permit such stock to go upon or across any street, avenue, sidewalk, public park or parking of any street or avenue in the city.~~

Section 89. That section 6.40.010 of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Keeping of domestic fowl regulated.~~

~~It shall be unlawful for any person to keep or maintain any domestic fowl upon any private premises in the city (when such keeping is lawful under other ordinances of the city) within 50 feet of any dwelling other than that of the owner or tenant of the premises on which such fowl are kept or maintained, or to keep or maintain such fowl at any time on any premises in a manner or condition constituting a public nuisance.~~

Section 90. That section 6.40.020, Running at large prohibited, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Running at large prohibited.~~

~~It shall be unlawful for any person to allow or permit domestic fowl to run or be at large at any time in the city. For the purpose of this section, the term "at large" shall be defined to include those times during which any domestic fowl shall not be confined or kept in pens sufficiently strong or constructed to keep such fowl on the premises of their owner or keeper.~~

Section 91. That section 6.40.030 of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Destruction of birds and bird's nests prohibited — Exceptions.~~

~~It shall be unlawful for any person to shoot, kill, maim or injure in any manner any bird or fowl of the air in the city, or to destroy the nest of any such bird or fowl, except that:~~

~~(a) English sparrows and starlings or the nests thereof may be destroyed at any time by any person or approved pest control firm or company when such destruction may be done without the use of firearms or other weapons or devices;~~

~~(b) Pigeons or other birds of the air that have become public nuisances by reason of their nesting or roosting on any private premises in the city may, upon complaint to the environmental code services division, be destroyed by an approved pest control firm or company under the conditions of the permit issued by the environmental code services division.~~

Section 92. That original § 6.05.010, § 6.05.020, § 6.05.030, § 6.05.040, § 6.05.050, § 6.05.070, § 6.05.080, § 6.05.090, § 6.05.100, § 6.05.110, § 6.10.010, § 6.10.020, § 6.15.010, § 6.15.020, § 6.15.030, § 6.15.040, § 6.20.010, § 6.30.010, § 6.30.020, § 6.30.030, § 6.35.010, § 6.35.020, § 6.35.030, § 6.35.040 and § 6.35.050 of The Code of the City of Topeka, Kansas, are hereby specifically repealed.

Section 93. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 94. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 95. 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 December 19, 2017.

CITY OF TOPEKA, KANSAS

ATTEST:

Larry E. Wolgast, Mayor

Brenda Younger, City Clerk