



## City of Topeka City Council Agenda

City Council Chambers  
214 SE 8th Street  
Topeka, Kansas 66603  
[www.topeka.org](http://www.topeka.org)

April 5, 2016  
6:00 PM

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### Mayor: Larry E. Wolgast Councilmembers

Karen A. Hiller	District No. 1	Brendan Jensen	District No. 6
Sandra Clear	District No. 2	Elaine Schwartz	District No. 7
Sylvia E. Ortiz	District No. 3	Jeff Coen	District No. 8
Jonathan Schumm	District No. 4	Richard Harmon	District No. 9
Michelle De La Isla	District No. 5		

### City Manager: Jim Colson

**Addressing the Council:** No person shall address the Council during a Council Meeting, unless they have notified the City Clerk at (785)368-3940 by 5:00 P.M. on the day of any Council Meeting of their desire to speak on a specific matter on the published meeting agenda or during the public comment portion of the Council Meeting. This limitation shall not apply to items added during the course of a meeting. The Council does not take action with respect to any subject not on the agenda unless added to the agenda by a two-thirds vote of the Council.

*Persons addressing the City Council will be limited to four (4) consecutive minutes of public address on a particular agenda item. Debate, question/answer dialogue or discussion between Councilmembers will not be counted towards the four (4) minute time limitation. The Chair may extend time with the unanimous consent of the Council or the Council by affirmative vote of five (5) members may extend the four (4) minute limitation.*

*Persons will be limited to addressing the City Council one (1) time on a particular matter unless otherwise allowed by an affirmative vote of five (5) members of the City Council.*

To make arrangements for special accommodations please call 785-368-3940. A 48-hour advance notice is preferred.

The Federal Communications Commission (FCC) has adopted use of the 711 dialing code for access to Telecommunications Relay Services (TRS). TRS permits persons with a hearing or speech disability to use the telephone system via a text telephone (TTY) or other device to call persons with or without such disabilities. To reach the City Clerk's office using the TRS, please dial 711.

(Agendas are available on Thursday afternoon in the City Clerk's office, 215 SE 7th - Room 166 and on the City's web site at <http://www.topeka.org>)

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**CALL TO ORDER:**

**INVOCATION:**

**PLEDGE OF ALLEGIANCE:**

**1. MAYORAL PROCLAMATIONS:**

**"Autism Awareness Month"**  
**"National Service Recognition Day"**  
**"Child Abuse Awareness Month"**

**2. PRESENTATIONS:**

**"None scheduled at this time."**

**3. ROLL CALL:**

**4. CONSENT AGENDA:**

**A. Resolution - Brass Rail Tavern - Noise Exception**

**A RESOLUTION** introduced by Councilmember Sandra Clear, granting Brass Rail Tavern an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions. *(Council District No. 2)*

*(City of Topeka Code Section 9.45.170, et seq., authorizes the City Council to grant noise exceptions. Approval would allow for live bands/amplified music on April 9 and 24, 2016, and May 14 and 29, 2016, at specified times at 401 NE Emmett Street.)*

**B. MINUTES of the regular meeting of March 15, 2016**

**C. APPLICATIONS:**

**5. ACTION ITEMS:**

**A. Election - Deputy Mayor**

**ELECTION of a Deputy Mayor.**

*(The Deputy Mayor shall serve in the absence or temporary disability of the Mayor. The term of office ends on January 3, 2017.)*

**B. Election - Joint Economic Development Organization (JEDO) Board**

**ELECTION of two City Council voting representatives to serve a one-year term on the Joint Economic Development Organization (JEDO) Board.**

*(City of Topeka Resolution No. 7206 establishes a process to elect two Councilmembers to serve as voting JEDO Board members for a one-year term.)*

**C. Public Hearing and Ordinance - D.L. Rogers Corporation (V16/2)**

**PUBLIC HEARING and AN ORDINANCE** introduced by City Manager Jim Colson, relating to the vacation of a 14-foot wide north-south utility easement on property located at 1221 SW Gage

**Boulevard, within the city of Topeka, Shawnee County, Kansas. (V16/2) (Council District No. 9)**  
*(Allows the applicant to construct a new 1,809 square foot fast food drive-through restaurant, parking and outdoor play area on the property.)*

**D. Ordinance - 2015 Uniform Public Offense Code**

**AN ORDINANCE introduced by Jim Colson, City Manager, amending City of Topeka Code Section 9.05.080, concerning adoption of the 2015 Uniform Public Offense Code and specifically repealing said original section.**

*(Approval would update the current 2013 version of the Uniform Public Offense Code to the 2015 version.)*

**E. Ordinance - 2015 Standard Traffic Ordinance**

**AN ORDINANCE introduced by City Manager Jim Colson, amending City of Topeka Code Sections 10.15.010 and 10.15.020, specifically repealing said original sections concerning the adoption of the 2015 Standard Traffic Ordinance and amendments.**

*(Approval would update the current 2013 version of the Standard Traffic Ordinance to the 2015 version.)*

**F. Ordinance - Expungement of Convictions**

**AN ORDINANCE introduced by City Manager Jim Colson, concerning expungement of certain convictions in municipal court, amending City of Topeka Code Section 2.110.660 and repealing original section.**

*(Approval would make the expungement ordinance consistent with the state law by reducing the waiting time for expungements for: (1) convictions for ordinance violations regarding knives (now 3 years); and (2) convictions for first time DUI or test refusals (to determine the presence of alcohol/drugs) (now 10 years for DUI).)*

**G. Ordinance - Loaned Executives**

**AN ORDINANCE introduced by City Manager Jim Colson, concerning department heads and assistance from employees of other governmental entities, amending City of Topeka Code Section 2.25.090 and repealing the original section.**

*(Approval would continue to require governing body approval for employment agreements with department heads and severance agreements with employees; but would clarify that such approval is not required for short term contracts with employees from other governmental entities.)*

**6. NON-ACTION ITEMS:**

**A. Discussion - City of Topeka Health and Wellness Center**

**DISCUSSION for the purpose of providing an update on the City of Topeka Health and Wellness Center.**

*(Overview of the Health Risk Assessment and Biometric Screen Event, Flu Shot Event and initial services the Health and Wellness Center has provided beginning in October 2015.)*

**B. Discussion - Request for Extension of Time - Constitution Hall, Historic Jayhawk Theatre and Downtown Plaza**

**DISCUSSION regarding consideration of an extension of time for submission of development agreements from Constitution Hall, Historic Jayhawk Theatre and Downtown Plaza to receive transient guest tax funding.**

*(Letters requesting a 90-day extension of time from the governing body was submitted for consideration.)*

**7. ANNOUNCEMENTS:**

**PRELIMINARY AGENDA**

*(The City Clerk will provide a brief summary of items on the next scheduled Council meeting agenda. Also during this time, the City Manager and Governing Body Members may offer comments regarding City business and announce upcoming events.)*

**8. PUBLIC COMMENT:**

**9. EXECUTIVE SESSION:**

**Executive Sessions are closed meetings held in accordance with the provisions of the Kansas Open Meetings Act.**

*(Executive sessions will be scheduled as needed and may include topics such as personnel matters, considerations of acquisition of property for public purposes, potential or pending litigation in which the city has an interest, employer-employee negotiations and any other matter provided for in K.S.A. 75-4319.)*

**10. ADJOURNMENT:**



**City of Topeka  
Council Action Form  
Council Chambers  
214 SE 8th Street  
Topeka, Kansas 66603  
www.topeka.org  
April 5, 2016**

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**DATE:** April 5, 2016  
**CONTACT PERSON:** Councilmember Sandra Clear **DOCUMENT #:**  
**SECOND PARTY/SUBJECT:** Tammi Lopez **PROJECT #:**  
**CATEGORY/SUBCATEGORY** 020 Resolutions / 005 Miscellaneous  
**CIP PROJECT:** No  
**ACTION OF COUNCIL:** **JOURNAL #:**  
**PAGE #:**

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**DOCUMENT DESCRIPTION:**

**A RESOLUTION** introduced by Councilmember Sandra Clear, granting Brass Rail Tavern an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions. (*Council District No. 2*)

(*City of Topeka Code Section 9.45.170, et seq., authorizes the City Council to grant noise exceptions. Approval would allow for live bands/amplified music on April 9 and 24, 2016, and May 14 and 29, 2016, at specified times at 401 NE Emmett Street.*)

**POLICY ISSUE:**

Brass Rail Tavern has requested that a noise exception be granted for live bands and amplified music to take place during specified dates and times.

**STAFF RECOMMENDATION:**

Staff recommends the Governing Body move to approve the resolution.

**BACKGROUND:**

Brass Rail Tavern is requesting the noise exception due to live bands and amplified music.

**BUDGETARY IMPACT:**

There is no budgetary impact to the City.

**SOURCE OF FUNDING:**

Not Applicable

**ATTACHMENTS:**

**Description**

Resolution

1 RESOLUTION NO.  
2

3 A RESOLUTION introduced by Councilmember Sandra Clear, granting Brass  
4 Rail Tavern an exception to the provisions of City of Topeka  
5 Code Section 9.45.150, et seq. concerning noise prohibitions.  
6

7 WHEREAS, City of Topeka Code Section 9.45.150, et seq. makes it  
8 unlawful for any person to make, continue or cause to be made or continued any  
9 loud, unnecessary or unusual noise or any noise which either annoys, disturbs,  
10 injures or endangers the comfort, repose, health or safety or others within the  
11 limits of the city; and

12 WHEREAS, City of Topeka Code Section 9.45.170, et seq. authorizes the  
13 City Council to grant exceptions to the prohibitions of this code section upon  
14 request and a showing that the proposed activity does not offend the spirit of the  
15 findings of City of Topeka Code Section 9.45.150, et seq.; and

16 WHEREAS, Brass Rail Tavern has requested that it be granted an  
17 exception to the provisions of City of Topeka Code Section 9.45.150, et seq. for  
18 the purposes, dates and times described herein, and

19 WHEREAS, upon review of the application of Brass Rail Tavern, the  
20 Council of the City of Topeka does hereby find that the requested activity does  
21 not offend the spirit of the findings of City of Topeka Code Section 9.45.150, et  
22 seq.

23 NOW, THEREFORE, BE IT RESOLVED by the Council of the City of  
24 Topeka that Brass Rail Tavern is hereby granted an exception from the  
25 provisions of City of Topeka Code Section 9.45.150, et seq. for a live band and

26 amplified music on the patio at 401 NE Emmett Street. The dates and times for  
27 the events are as follows:

28 April 9, 2016, 8:00 p.m. to 11:59 p.m.; April 24, 2016, 7:00 p.m. to 11:00  
29 p.m.; May 14, 2016, 8:00 p.m. to 11:59 p.m.; and May 29, 2016, 8:00 p.m. to  
30 11:59 p.m.

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32 ADOPTED and APPROVED by the Governing Body \_\_\_\_\_.  
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34 CITY OF TOPEKA, KANSAS  
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38 Larry E. Wolgast, Mayor

39 ATTEST:

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43 Brenda Younger, City Clerk





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April 5, 2016

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<b>DATE:</b>	<b>April 5, 2016</b>	
<b>CONTACT PERSON:</b>	<b>Jim Colson</b>	<b>DOCUMENT #:</b>
<b>SECOND PARTY/SUBJECT:</b>	<b>Election of Deputy Mayor</b>	<b>PROJECT #:</b>
<b>CATEGORY/SUBCATEGORY</b>	<b>006 Communication / 005 Other</b>	
<b>CIP PROJECT:</b>	<b>No</b>	
<b>ACTION OF COUNCIL:</b>		<b>JOURNAL #:</b>
		<b>PAGE #:</b>

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**DOCUMENT DESCRIPTION:**

**ELECTION of a Deputy Mayor.**

*(The Deputy Mayor shall serve in the absence or temporary disability of the Mayor. The term of office ends on January 3, 2017.)*

**POLICY ISSUE:**

Topeka Municipal Code A2-26 states in April of each year, the Council shall elect a councilmember to serve as Deputy Mayor in the absence or temporary disability of the mayor.

**STAFF RECOMMENDATION:**

Staff recommends the Governing Body move to nominate and elect a Deputy Mayor.

**BACKGROUND:**

Topeka Municipal Code A2-26 requires the Council to elect a councilmember in April of each year to serve as Deputy Mayor. The Deputy Mayor serves in the absence or temporary disability of the Mayor along with other duties including budget committee chair. While current code provides for a one-year term, Charter Ordinance No. 117 (effective April 23, 2016) amends the code by reducing this year's deputy mayor term to 9 months, expiring January 3, 2017. This one-time term reduction accommodates other municipal election changes recently mandated by the State of Kansas. Beginning in January 2017, all subsequent deputy mayors will be elected for one-year terms expiring in January of each year.

**BUDGETARY IMPACT:**

There is no budgetary impact to the City.

**SOURCE OF FUNDING:**

Not Applicable

**ATTACHMENTS:**

**Description**

Charter Ordinance No. 117

Topeka Municipal Code Section A2-26

(Published in the Topeka Metro News February 15, 2016 and February 22, 2016)

## CHARTER ORDINANCE NO. 117

A CHARTER ORDINANCE introduced by City Manager Jim Colson, amending Charter Ordinances codified at TMC Sections A2-1, A2-22 A2-26, A2-29, and A2-30, creating new Section A2-21.5, and repealing in its entirety Section A2-25.5, all concerning the form of government.

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

Section 1. Charter Ordinance 102, § 1 codified at TMC § A2-1, Statutes made inapplicable, is hereby amended to read as follows:

### **Statutes made inapplicable.**

The City of Topeka, Kansas, by the power vested in it by article 12, section 5, of the Constitution of the State of Kansas, hereby elects to exempt itself from and make inapplicable to it the provisions of K.S.A. ~~12-3002, 12-3003, 13-103, 13-502, 13-506 through 13-516, 13-518, 13-527, 13-907, 13-1011, 13-1013, 13-1410, 25-2107, 25-2108a, 25-2110, 25-2110a, and 25-2117,~~ and provide substitute and additional provisions as hereinafter set forth in this Charter Ordinance. Such referenced provisions are either enactments or a part thereof which are applicable to this city but are not applicable uniformly to all cities.

Section 2. The Code of the City of Topeka, Kansas, are hereby amended by adding a section, to be numbered A2-21.5, which said section reads as follows:

### **Eligibility for Office**

Effective January 1, 2017, any person desiring to become a candidate for Mayor or Councilmember shall comply with the filing deadlines and process established in state law. Any ordinance that is in conflict with state law shall no longer be effective.

Section 3. Charter Ordinance 102, § 2 codified at TMC § A2-22, Election and terms, is hereby amended to read as follows.

**Election and terms.**

~~(a) Time of primary and general elections. The primary city election for the Mayor and district Councilmembers shall be held on the Tuesday preceding by five (5) weeks the first Tuesday in April of odd numbered years, and the general city election shall be held on the first Tuesday in April of odd numbered years, both elections to be conducted in the manner prescribed in this Charter Ordinance and applicable state law.~~

~~(b) Primary elections. In each year in which the term of the Mayor expires, if there are more than two (2) candidates who have filed for the office of Mayor, a primary city election at large shall be held for the nomination of two (2) candidates for the office. Each qualified elector of the city shall be entitled to vote for one (1) candidate. The two (2) candidates receiving the greatest number of votes cast shall be placed on the general city election ballot as the candidates nominated for election as Mayor.~~

~~In each year in which the term of a district Councilmember expires, if there are more than two (2) candidates who have filed for the office to be filled, a primary city election shall be held within each such district for the nomination of two (2) candidates from that district. Each qualified elector who is a resident of the district shall be entitled to vote for one (1) candidate from his or her district. The two (2) candidates from each such district receiving the greatest number of votes cast shall be placed on the general city election ballot as the candidates nominated for election from the district.~~

~~(c) General eElections. In the general city mayoralprimary and general elections all qualified electors of the city shall be entitled to vote on the election of the~~

54 Mayor. Of the two (2) candidates nominated for the office of Mayor, the candidate  
55 receiving the highest number of votes in the general election shall be elected Mayor.

56 ~~In each year in which the term of a district Councilmember expires, In primary~~  
57 ~~and general elections for district Councilmembers, each qualified elector who is a~~  
58 ~~resident of the district shall be entitled to vote in the city general election for the~~  
59 ~~Councilmember from his/her respective district. The candidate receiving the highest~~  
60 ~~number of votes in the general city election of the two (2) candidates nominated from~~  
61 ~~those districts shall be elected as Councilmember from those districts.~~

62 (db) Terms of office. The Mayor shall be elected to a four (4) year term. The  
63 district Councilmembers shall be elected to staggered four (4) year terms. Terms of  
64 office that would have expired in April of 2017 shall expire on January 8, 2018. Terms of  
65 office that would have expired in April of 2019 shall expire on January 13, 2020.

66 Section 4. Charter Ordinance 98, § 3 codified at TMC § A2-25.5, Powers of  
67 the City Council, is hereby repealed.

68 **Powers of the City Council.**

69 ~~In addition to any other grant of authority under the Constitution of the State of~~  
70 ~~Kansas, applicable state law, or Charter Ordinance No. 94, as amended, the Council~~  
71 ~~shall have the following duties, powers and responsibilities including, but without~~  
72 ~~limitation thereto:~~

73 ~~The ability to override a mayoral veto of any council legislation whether by resolution or~~  
74 ~~ordinance by a two thirds (2/3) vote of the entire council, that number being six (6).~~

75 Section 5. Charter Ordinance 112, § 1 codified at TMC § A2-26, Meetings –  
76 Deputy Mayor, is hereby amended to read as follows:

77           **Meetings – Deputy Mayor.**

78           (a)    The ~~Council~~governing body shall establish, by ordinance, a meeting  
79    schedule for each calendar year, with a minimum of two meetings each month.

80           (b)    ~~In April of each year, the Council~~The governing body shall elect a  
81    ~~Councilmember to serve as deputy mayor in the absence or temporary disability of the~~  
82    ~~mayor. The deputy mayor shall serve for one (1) year. The deputy mayor elected in April~~  
83    ~~of 2016 shall serve until a successor is elected at the first governing body meeting in~~  
84    ~~January of 2017 to serve a term that expires on January 8, 2018. Thereafter, a deputy~~  
85    ~~mayor shall be elected at the third meeting in January for a one year term.~~

86           Section 6.    Charter Ordinance 96, § 4 codified at TMC § A2-29, Vacancies –  
87    Forfeiture of office – Filling of vacancies, is hereby amended to read as follows:

88           **Vacancies – Forfeiture of office – Filling of vacancies.**

89           (a)    Vacancies. The office of district Councilmember or Mayor shall become  
90    vacant upon death, resignation, recall, removal from office in any manner authorized by  
91    ~~law, failure of the electorate to elect an officeholder as provided for in Article II herein, or~~  
92    ~~by forfeiture of office pursuant to K.S.A. 60-1205, as it may be amended.~~

93           ~~(b) Forfeiture of office. A district Councilmember or Mayor shall ipso facto forfeit~~  
94    ~~his or her office if he or she at any time during the term of office lacks any qualification~~  
95    ~~for the office prescribed by this Charter Ordinance or other applicable law, or if he or~~  
96    ~~she violates any other provision of this Charter Ordinance. A forfeiture does not occur if~~  
97    ~~a district Councilmember no longer resides in his or her elected district as a result of~~  
98    ~~redistricting.~~

(eb) Filling of vacancies. A vacancy in the offices of Mayor or district Councilmember shall be filled by appointment of an elector qualified to fill the vacant position by a majority vote of the remaining members of the governing body, including the Mayor. If such the vacancy occurs before January 1 of an odd-numbered year leaving an unexpired term of more than one (1) year June 1 in an election year, such the unexpired term shall be filled at the next regular city primary and general election in the same manner as if the term were expiring and the term of the appointed member shall end upon election of a member for the unexpired term on the second Monday in January following certification of the election.

Section 7. Charter Ordinance 112, § 2 codified at TMC § A2-30, Council rules of procedure, is hereby amended to read as follows:

**Council Governing body rules of procedure.**

(a) Meetings. The Council governing body shall meet at least twice in every month at times and places as the Council may be prescribed by ordinary ordinance. Special meetings may be held on the call of the Mayor or of four (4) or more district Councilmembers in the manner prescribed by rules of the Council governing body.

(b) Rules and journal. The Council governing body shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings.

(c) Voting; Quorum.

(1) Five (5) Six (6) members of the Council governing body shall constitute a quorum.

(2) All actions by the Council governing body shall be taken by the an affirmative vote of five (5) six (6) or more members of the Council, unless a

greater or lesser number of votes is required by this ~~Charter Ordinance, by the~~  
~~Statutes of Kansas, or by the Constitution of Kansas. The votes of all~~  
~~Councilmembers shall be recorded in the journal~~ordinance or state law.

(3) All actions by the Council with regard to ordinances enacted  
pursuant to Article 12, § 5(b) of the Kansas Constitution (ordinary ordinances)  
shall be taken by an affirmative vote of five (5) or more Councilmembers.

(d) ~~Form. Proposed ordinary ordinances and resolutions shall be introduced~~  
~~in the Council only in written or printed form. No ordinary ordinance shall contain more~~  
~~than one subject which shall be clearly expressed in its title. The enacting clause of all~~  
~~ordinary ordinances shall be: "Be it Ordained by the Council of the City of Topeka,~~  
~~Kansas:."~~ Any ordinary ordinance which repeals or amends an existing ordinary  
ordinance or part of the Code of Ordinances of the city shall set out in full the sections  
or subsections to be repealed or amended, and shall indicate matter to be omitted by  
enclosing it in brackets or by strikeout type and shall indicate new matter by  
underscoring or by italics.

(e) ~~Procedure. All ordinances shall be considered at a Council~~governing body  
meeting. Persons interested in a proposed ordinance shall be given an opportunity to be  
heard ~~before the Council~~ in accordance with such rules and regulations as the  
~~Council~~governing body may adopt.

(f) ~~Emergency ordinances. An ordinary ordinance may be passed as an~~  
~~emergency measure on the day of its introduction if it contains a declaration describing~~  
~~in clear and specific terms the facts and reasons constituting the emergency. Neither an~~



~~ordinance granting, reviewing, or extending a franchise, nor a Charter Ordinance, shall be passed as an emergency ordinance.~~

~~(gf) Publication. The City Clerk or such other city officer as the Council governing body may designate shall cause all ordinary ordinances, as soon as practicable after they have been passed and signed, to be published once in the official city newspaper, unless Kansas Statutes or other applicable law require more publications. In lieu of publication of the entire ordinance, the City Clerk may publish a summary of the ordinance provided all of the following requirements are met in accordance with state law:~~

~~(1) The publication is identified as a "summary" and contains notice that the complete text of the ordinance may be obtained or viewed free of charge at the City Clerk's office or on the city's website.~~

~~(2) The City Attorney certifies the summary of the ordinance prior to publication to ensure that the summary is legally accurate and sufficient.~~

~~(3) The publication contains the city's official website address where a reproduction of the original ordinance is available for at least ninety days following the summary publication in the newspaper.~~

~~(4) If an ordinance is subject to a petition pursuant to state law, the summary shall contain a statement to that effect.~~

~~(h) Effective date. Except in the case of emergency ordinances, and except where Kansas Statutes otherwise specify, every adopted ordinary ordinance shall become effective upon its publication pursuant to subsection (g) or at any later date~~

specified therein. ~~Emergency ordinances shall become effective upon passage or at any later date specified therein.~~

(ig) Signature, authentication and recording. All ~~ordinary ordinances and resolutions passed or adopted by the Council~~ shall be authenticated by the signatures of the Mayor and City Clerk or such other appointive officer as the Council governing body may designate. ~~The City Clerk or such other appointive officer as the Council may designate shall record in a properly indexed "Ordinance Book" kept for the purpose of every ordinary ordinance, immediately after its publication, or in the case of emergency ordinances immediately after passage.~~

Section 8. That original sections of Charter Ordinances codified as § A2-1, § A2-22, § A2-26, § A2-29, and § A2-30 of the Code of the City of Topeka, Kansas, are hereby specifically repealed.

Section 9. This Charter Ordinance shall be published once each week for two (2) consecutive weeks in the official City newspaper.

Section 10. This Charter Ordinance shall take effect sixty-one (61) days after final publication unless a sufficient petition for a referendum is filed and a referendum held on this Charter Ordinance as provided in Article 12, Section 5, Subdivision (c)(3), of the Kansas Constitution, in which case this Charter Ordinance shall become effective if approved by a majority of the electors voting therein.

Section 11. Upon the effective date of this Charter Ordinance, this Charter Ordinance shall be recorded by the City Clerk in a book maintained for such purposes with a statement of the manner of adoption and a certified copy shall be filed with the Secretary of State of the State of Kansas.

189 PASSED AND APPROVED by the Governing Body on February 9, 2016.

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196 ATTEST:

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CITY OF TOPEKA, KANSAS

*Larry E. Wolgast*  
Larry E. Wolgast, Mayor

*Brenda Younger*  
Brenda Younger, City Clerk

203 **STATEMENT OF MANNER OF ADOPTION OF FOREGOING**

204  
205 The foregoing Charter Ordinance No. 117 was passed on the 9th day of February,  
206 2016, as shown by the minutes, Book 2016 Page 43, by a vote of 10 for and 0 against,  
207 being not less than two-thirds (2/3) of the members-elect of the governing body,  
208 published in the Topeka Metro News, the official city newspaper, on the 15th day of  
209 February, 2016, and on the 22nd day of February, 2016, being once each week for two  
210 (2) consecutive weeks, and there being no petition demanding a referendum filed with  
211 the City Clerk within sixty (60) days after the final publication, said Charter Ordinance  
212 took effect on the 23rd day of April, 2016.

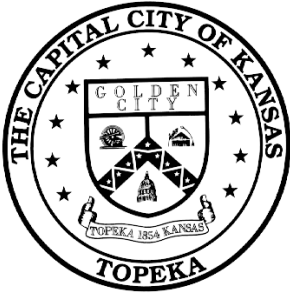
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216 Brenda Younger, City Clerk  
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227 CERTIFICATE

228 CITY OF TOPEKA )  
229 COUNTY OF SHAWNEE ) ss:  
230 STATE OF KANSAS )  
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232 I, Brenda Younger, City Clerk of the City of Topeka, County of Shawnee, State of  
233 Kansas, do hereby certify that the above and foregoing, consisting of 10 typewritten  
234 pages, including the page upon which this Certificate is written, is a full true and correct  
235 copy of Charter Ordinance No. 117 of the said City of Topeka, that all acts and things  
236 required by Article 12, Section 5 of the Constitution of the State of Kansas were done  
237 and performed in the manner and within the time prescribed and that said Charter  
238 Ordinance became effective on the 23rd day of April, 2016.

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240  
241 \_\_\_\_\_  
242 Brenda Younger, City Clerk



# CITY OF TOPEKA

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City Clerk's Office  
215 SE 7<sup>th</sup> Street, Room 166  
Topeka, KS 66603-3914  
Tel: (785) 368-3940  
Fax: (785) 368-3943

## **Topeka Municipal Code Section A2-26. Meetings – Deputy Mayor.**

- (a) The Council shall establish, by ordinance, a meeting schedule for each calendar year, with a minimum of two meetings each month.
- (b) In April of each year, the Council shall elect a councilmember to serve as deputy mayor in the absence or temporary disability of the mayor. The deputy mayor shall serve for one (1) year. (C.O. 112 § 1, 1-14-14.)



**ATTACHMENTS:**

**Description**

Resolution 7206-Procedure for voting councilmembers for JEDO Board  
Interlocal Agreement

RESOLUTION NO. 7206

A RESOLUTION introduced by Councilmember Duane Pomeroy establishing a procedure for the selection of the voting Councilmember representatives to the Joint Economic Development Organization as established by an interlocal agreement between Shawnee County and the City of Topeka.

WHEREAS, the Mayor and Deputy Mayor represent the City on the Joint Economic Development Organization (JEDO) board; and

WHEREAS, the City will also be represented by the eight Councilmembers, two of whom shall be voting members; and

WHEREAS, there is a need for the City Council to establish a process for the selection of its voting representatives to the JEDO board.

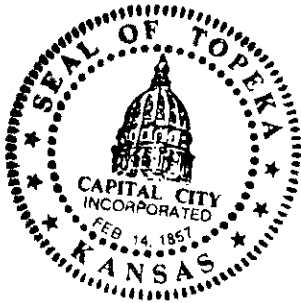
NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Topeka, Kansas, that the method of selecting the two voting City Councilmember representatives to the JEDO board shall be as follows:

1. At the second City Council meeting in December 2001, two voting City Councilmembers will be elected by the City Council as provided herein, to serve until the second City Council meeting in April 2002.
2. There will be an election of the JEDO board representatives at the City Council meeting on the second Tuesday in April 2002 and all subsequent years immediately following election of the deputy mayor. The voting City Council representatives to the JEDO board elected at these meetings shall serve a one-year term.
3. Each voting City Councilmember wishing to be considered for the position of the JEDO board representative shall self nominate or be nominated.

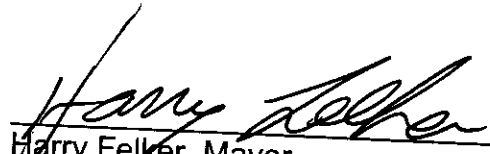


29 Following the nominations, each Councilmember shall be allowed two votes  
30 on each ballot. However, only one vote may be used for any single  
31 candidate. The two Councilmembers receiving the highest number of votes  
32 will be elected, providing they have a minimum of five votes. Should a tie  
33 exist or a position not be filled due to an insufficient number of votes, balloting  
34 shall continue until the above minimum requirements are met. If one position  
35 is filled, Councilmembers will be allocated only one vote per ballot.

36 ADOPTED and APPROVED by City Council NOV 28 2001

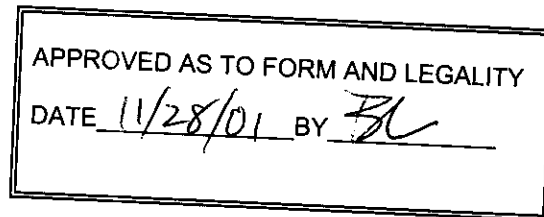


CITY OF TOPEKA, KANSAS

  
Harry Felker, Mayor

45 ATTEST:

46   
47  
48 Iris E. Walker, City Clerk  
49  
50  
51  
52



## INTERLOCAL AGREEMENT

(Shawnee County Contract No. C 334 -2004)

(City of Topeka Contract No. 34790)

### **AN INTERLOCAL AGREEMENT RELATING TO FINANCING COUNTYWIDE INFRASTRUCTURE DEVELOPMENT AND ECONOMIC DEVELOPMENT TO BE FUNDED BY A ONE-HALF OF ONE CENT COUNTYWIDE RETAILERS' SALES TAX**

THIS AGREEMENT is entered into this 9<sup>th</sup> day of December, 2004, by and between THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF SHAWNEE, KANSAS, a governmental subdivision of the State of Kansas, hereinafter referred to as the "County," and THE CITY OF TOPEKA, KANSAS, a duly organized municipal corporation hereinafter referred to as the "City."

WHEREAS, on the August 3, 2004 election, the voters of Shawnee County approved a countywide retailers' sales tax in the amount of one-half of one cent to be levied in Shawnee County, Kansas and to take effect on January 1, 2005 and expire on December 31, 2016, to provide revenue to finance economic development and countywide infrastructure development and replacing the existing one-quarter of one cent retailer's sales tax; and

WHEREAS, economic development is defined as the implementation of the economic development priorities established on a yearly basis by the Joint Economic Development Organization (JEDO), guided by the Topeka/Shawnee County Economic Development Plan to the extent such a plan has been adopted by both parties. For purposes of this agreement, economic development includes research, target marketing, existing business retention and expansion, new business recruitment, infrastructure development, site acquisition, incentive funds, workforce training and expansion, and other such activities; and

WHEREAS, countywide infrastructure improvements include all the projects listed on the August 3, 2004 ballot question; and

WHEREAS, the County and City desire to enter into an interlocal agreement, pursuant to K.S.A. 12-2901 *et seq.*, relating to financing countywide infrastructure improvements and economic development to be funded by a one-half of one cent countywide retailers' sales tax and that shall rescind the existing interlocal agreement regarding the same; and

WHEREAS, the County and the City agree to a joint countywide economic development program as authorized by K.S.A. 12-2901 *et seq.*;

NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS CONTAINED HEREIN, THE PARTIES AGREE AS FOLLOWS:

1. The County and City hereby desire to continue the Joint Economic Development Organization, hereinafter referred to as "JEDO", a separate legal entity created by Shawnee County Contract No. C261-2001 and City of Topeka Contract No. 31439, and authorize said JEDO to provide the economic development program for the County and the City. This agreement shall rescind Shawnee County Contract No. C261-2001 and City of Topeka Contract No. 31439. All other contracts and resolutions approved by JEDO prior to this agreement shall remain in full force and effect. JEDO shall be organized according to the following provisions:

- a) The JEDO shall be composed of a seven (7) member board containing the three (3) County Commissioners, the Mayor, Deputy Mayor, and two (2) City Council members. If the Deputy Mayor or other voting City Council member of the board cannot be present at a meeting, an alternate may be

appointed to serve at that meeting, with full voting rights. The alternate shall be a City Council member of the absent member's choice. The Chair of said JEDO shall rotate between the County and the City on a yearly basis with each municipality having sole discretion to designate its Chairperson. The County shall have the Chair in even numbered years. The remaining six (6) City Council members shall be ex-officio (non-voting) members of the JEDO; and

- b) The JEDO shall establish its own operational policies and procedures. The JEDO may employ such staff as is necessary for the performance of the functions and purposes of this agreement (see K.S.A. 12-2904a); and
- c) This contract shall be operative upon final approval of this Interlocal Agreement by the County and the City as well as the Attorney General's Office and shall be in existence for the life of the retailers' sales tax plus one (1) year. The JEDO shall have the authority to own and hold property. Any property held by the JEDO at its termination shall revert jointly to the County and City; and
- d) The JEDO shall be subject to the provisions of the Kansas Open Meetings Act, K.S.A. 75-6101, and the Kansas Open Records Act, K.S.A. 45-221; and
- e) There shall be an annual audit of the JEDO completed in accordance with approved accounting standards. Such audit and report shall be provided to the City and County and filed with the City Clerk and County Clerk and at the Topeka-Shawnee County Public Library. Both the City Clerk and the

County Clerk shall be authorized agents for the purpose of obtaining information about this one-half of one cent countywide retailers' sales tax from the Kansas Department of Revenue.

2. On or before November 1<sup>st</sup> of each year, the City Council, the Mayor, and the County Commission shall meet for purposes of considering the economic development priorities for the coming year. Thereafter, but not later than January 1<sup>st</sup>, the JEDO shall establish the economic development priorities for the next year based on the input received from the joint meeting of the City Council, the Mayor, and the County Commission. If for any reason priorities are not established by the JEDO for the next year, the priorities as established for the previous year shall remain in effect.

3. There is hereby created the JEDO Finance Committee. This Committee shall be composed of the Shawnee County Public Works Director, the Topeka Public Works Director, the Shawnee County Financial Administrator, and the Topeka City Manager or a designee. The City and County shall transfer all of the sales tax receipts into an account created and maintained by the Committee. Such account will be the holding account for all the money needed to complete the economic development program and infrastructure improvements. When money is needed for the economic development program or to further any of the infrastructure improvements, this account shall be drawn upon by the signatures of two members of the Committee, one from the City and one from the County. The actions of the JEDO and the JEDO Finance Committee with respect to the completion of the infrastructure improvements and the economic development program contained in the ballot question shall be ministerial and not discretionary.

- a) Upon the later of the expiration or termination of the sales tax and the completion of and payment for the projects described/listed in Attachment A and the Topeka Boulevard Bridge project, the committee shall inform the City and County of any money remaining in the account. Unless otherwise agreed to by the parties, these excess monies, less any economic development (as provided by paragraph five of this agreement) or county bridge (as provided by paragraph six of this agreement) commitments, shall be distributed to the City and County in the proportional rates as provided by Kansas law at the time of the excess monies determination.

4. The County dedicated one (1) mill of *ad valorem* taxes in fiscal year 2002 to JEDO for economic development. This money was considered a loan to the economic development program and was to be repaid within four (4) years with no interest to the County from the one-quarter of one cent countywide retailers' sales tax. Such loan shall continue to be repaid in equal installments over the remainder of the four (4) year collection period using revenue collected from the one-half of one cent countywide retailers' sales tax. There are no changes to the terms and conditions of this loan.

5. Beginning in fiscal year 2005 and continuing throughout the life of the retailers' sales tax, the JEDO shall dedicate on an annual basis Five Million Dollars (\$5,000,000) of funds collected by the retailers' sales tax to the economic development program. Such dedication shall be made in equal monthly installments of \$416,666.66. Said monthly installments shall begin once the January 2005 collections are distributed by the Kansas Department of Revenue to the City and County. Any economic

development entity that contracts with JEDO will understand this lag in collection payments may result in receiving its initial payments late.

6. After each monthly distribution of funds as described in paragraph five, all sales tax receipts collected shall be dedicated to County bridges until such time as One Million Five Hundred Thousand Dollars (\$1,500,000) has been collected each year of the sales tax.

7. Beginning in 2007 and continuing through 2016, payments to cover the debt service of the Topeka Boulevard Bridge project shall be made. Such dedication shall occur after the payments as described in paragraphs four through six are made. The Topeka Boulevard Bridge project shall include, but not be limited to, the planning and construction projects previously approved by the Council of the City of Topeka pursuant to Ordinance Nos. 17701, 17814, 18041 and 18317.

8. All money collected in excess of the amounts set forth in paragraphs four through seven shall be distributed monthly to the JEDO Finance Committee account. JEDO shall be required to expend sufficient money to complete all of the remaining infrastructure improvements as specified in the August 3, 2004 primary election ballot question. The governing bodies and JEDO shall adhere as closely as possible to the project and payment schedule as set forth in attachment A, subject to formal approval of the projects by the appropriate governing body. Nothing in this agreement shall be construed as precluding the sales tax ballot projects being completed earlier than scheduled.

9. The JEDO shall have the authority to contract with an independent contractor to direct the economic development program. Any such contract shall

endeavor to use an amount not less than ten percent (10%) of the funds received to support economic development for socially and economically disadvantaged individuals and/or business enterprises. Any such contract shall be limited to one (1) year and subject to an annual review by the JEDO. In addition, any such contracts shall include a requirement that the contractor respond promptly to inquiries from both voting and non-voting members of the board.

10. This agreement may not be terminated by either party as it is expressly acknowledged that this agreement is time limited, revenue specific, and funded with dedicated retailers' sales tax receipts. Unless required by elector petition as provided by K.S.A. 12-187(b)(1), neither the County or City shall submit the question of repeal of the countywide retailers' sales tax approved on August 3, 2004 to the voters during the term of this agreement unless such question contains an enhancement of the countywide retailers' sales tax.

11. The parties acknowledge and agree that this agreement for the distribution of sales tax revenues is a commitment for the protection of the public property, interests, and affairs being administered. Consequently, this agreement is expressly intended by the parties to be binding on future JEDO Boards, Boards of Shawnee County Commissioners, and Topeka City Councils.

12. This agreement is solely for the benefit of the parties hereto and no third party shall be entitled to claim or enforce any rights hereunder.

13. This agreement contains all of the agreements and understandings between the parties concerning its subject matter. The parties acknowledge and agree that this agreement supersedes all prior agreements and understandings, whether or not written.



IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed as of the date first above written.



BOARD OF COUNTY COMMISSIONERS  
SHAWNEE COUNTY, KANSAS

Theodore D. Ensley  
Theodore D. Ensley, Chairman

ATTEST:

Cynthia A. Beck  
Cynthia A. Beck, Shawnee County Clerk

APPROVED AS TO FORM AND LEGALITY  
BY THE SHAWNEE COUNTY COUNSELOR'S OFFICE  
DATE 12/9/04 BY [Signature]

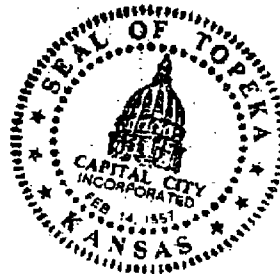
CITY OF TOPEKA, KANSAS

James A. McClinton  
James McClinton, Mayor

ATTEST:

Iris E. Walker  
Iris E. Walker, Topeka City Clerk

APPROVED AS TO FORM AND LEGALITY  
BY THE CITY ATTORNEY'S OFFICE  
DATE 12/8/04 BY [Signature]



## ATTACHMENT A

## SALES TAX INFRASTRUCTURE PROJECT SCHEDULE

PROJECT	CONSTRUCTION YEAR	PROJECT ADMINISTRATION AGENCY
SW Wanamaker Road & 53rd Intersection	2007	County
SW 21st Street & Urish Road Intersection	2007	City
SE Croco Road: SE 21st to SW 29th	2008	County
SW 29th Street: SW Wanamaker Road to SW Urish Road	2008	City
SW Wanamaker Road: SW 41st Street to SW 53rd Street	2009	County
SW Wanamaker Road & SW 61st Intersection	2010	County
SE Croco Road: SE 6th Street to Sycamore (I-70)	2010	County
SW Wanamaker Road: 61st Street to 53rd Street	2011	County
SE 45th Street: S. Topeka Blvd to SE Adams	2012	County
SW 21st Street: City Limits to Urish Road	2013	City
SE 45th Street: SE Adams to SE California	2014	County
SW 21st Street: SW Urish Road to SW Indian Hills Road	2015	City
N. Topeka Blvd & 46th Intersection	2016	County



**City of Topeka**  
**Council Action Form**  
**Council Chambers**  
**214 SE 8th Street**  
**Topeka, Kansas 66603**  
**[www.topeka.org](http://www.topeka.org)**  
April 5, 2016

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<b>DATE:</b>	<b>April 5, 2016</b>	<b>DOCUMENT #:</b>	<b>V16/2</b>
<b>CONTACT PERSON:</b>	<b>Bill Fiander</b>	<b>PROJECT #:</b>	<b>N/A</b>
<b>SECOND PARTY/SUBJECT:</b>	<b>D.L. Rogers Corporation</b>		
<b>CATEGORY/SUBCATEGORY</b>	<b>018 Public Hearings / 010 Vacations</b>		
<b>CIP PROJECT:</b>	<b>No</b>		
<b>ACTION OF COUNCIL:</b>		<b>JOURNAL #:</b>	
		<b>PAGE #:</b>	

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**DOCUMENT DESCRIPTION:**

**PUBLIC HEARING and AN ORDINANCE introduced by City Manager Jim Colson, relating to the vacation of a 14-foot wide north-south utility easement on property located at 1221 SW Gage Boulevard, within the city of Topeka, Shawnee County, Kansas. (V16/2) (Council District No. 9)**  
*(Allows the applicant to construct a new 1,809 square foot fast food drive-through restaurant, parking and outdoor play area on the property.)*

**POLICY ISSUE:**

Approval would allow the applicant to re-locate their existing Sonic fast food restaurant and construct a new 1,809 square Sonic foot fast food restaurant building with a drive-through window, parking and outdoor play area.

**STAFF RECOMMENDATION:**

Staff recommends the Governing Body move to adopt the ordinance.

**BACKGROUND:**

The vacation request by D.L. Rogers Corporation is to vacate a 14 foot wide north-south utility easement on property located at 1221 SW Gage Boulevard on the northwest corner of SW Huntoon Street and Gage Boulevard. The easement was granted to the City and accepted by the Governing Body at the time the former alley right-of-way in this location was vacated in 1986. Therefore, further action by the Governing Body is required to vacate the utility easement.

The vacation of the easement allows the applicant to re-locate their existing Sonic fast food restaurant currently located at 1151 SW Gage Boulevard to the property. The vacation is necessary to allow the property owner to construct a new 1,809 square foot fast food restaurant building with a drive-through window, parking and outdoor play area. The building is proposed to be constructed over the utility easement and to do so requires

the easement be vacated. The applicant will re-route the sanitary sewer line currently lying in the easement around the new building. They will grant a new utility easement for sanitary sewer to the City.

A neighborhood meeting was not required since the proposed vacation does not affect adjacent property owners. The vacation request has been reviewed by all City departments and public utility agencies and there are no objections. The vacation has been advertised two consecutive weeks prior to the public hearing according to TMC 12.60.010(B) and 20 days prior to the public hearing according to State Law.

**BUDGETARY IMPACT:**

There is no budgetary impact to the City.

**SOURCE OF FUNDING:**

Not applicable

**ATTACHMENTS:**

**Description**

Ordinance

Summary Report

Department Review Summary

Aerial Map

D.L. Rogers Subdivision Final Plat

Legal Notice

(Published in the Topeka Metro News \_\_\_\_\_ )

**ORDINANCE NO.**

AN ORDINANCE introduced by Jim Colson City Manager, relating to the vacation of a north-south 14' wide utility easement located at 1221 SW Gage Blvd in the City of Topeka, Shawnee County, Kansas (V16/2) (Council District No. 9)

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

Section 1. That pursuant to the requirements of K.S.A. 12-504 as amended, a petition by D.L. Rogers Corporation as property owners, has been filed with the office of the City Clerk, requesting the vacation of the following described utility easement located within the City of Topeka, Shawnee County, Kansas:

Beginning at the southwest corner of Lot 77 on Gage Boulevard in Boynton's Addition to the City of Topeka, Shawnee County, Kansas; thence North along the east line of the alley to the Northwest corner of Lot 53 on Gage Boulevard in said subdivision; thence West to the Northeast corner of Lot 54 on Mission Avenue in said subdivision; thence South along the West line of said alley to the Southeast corner of Lot 78 on Mission Avenue in said subdivision; thence East to point of beginning.

Section 2. That said petition has been duly published for two (2) consecutive weeks in a newspaper of general circulation and on April 5, 2016, the petition is ready for determination by the Governing Body of the City of Topeka, Kansas.

Section 3. That the Governing Body of the City of Topeka, after being duly informed and hearing the evidence presented finds that:

- a. Legal notice was given as required by K.S.A. 12-504 as amended.
- b. No private rights will be injured or endangered by such vacation.
- c. The public will suffer no loss or inconvenience by such vacation.

Section 4. That the Governing Body of the City of Topeka does hereby find that justice requires the petition of vacation be granted and does hereby order the vacation of the below described utility easement located within the City of Topeka, Kansas:

Beginning at the southwest corner of Lot 77 on Gage Boulevard in Boynton's Addition to the

City of Topeka, Shawnee County, Kansas; thence North along the east line of the alley to the Northwest corner of Lot 53 on Gage Boulevard in said subdivision; thence West to the Northeast corner of Lot 54 on Mission Avenue in said subdivision; thence South along the West line of said alley to the Southeast corner of Lot 78 on Mission Avenue in said subdivision; thence East to point of beginning.

Section 5. The City Clerk is hereby directed to certify a copy of this ordinance to the Shawnee County Register of Deeds Office for appropriate recording.

Section 6. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper.

PASSED AND APPROVED by the Governing Body of the City of Topeka \_\_\_\_\_,  
2016.

\_\_\_\_\_  
Larry E. Wolgast, Mayor

ATTEST:

\_\_\_\_\_  
Brenda Younger, City Clerk

# **CITY OF TOPEKA PLANNING DEPARTMENT**

## **SUMMARY REPORT**

**Re: V16/2 By: D.L. Rogers Corporation**

V16/1 is a request by D.L. Rogers Corporation to vacate (i.e. remove) a 14 ft. wide north-south utility easement on property at 1221 SW Gage Blvd located at the northwest corner of SW Huntoon Street and Gage Blvd. The easement was granted to the City and accepted by the Governing Body at the time the former alley right-of-way in this location was vacated in 1986. Therefore, further action by the Governing Body is required to vacate this utility easement.

The vacation of the easement allows the applicant to re-locate their existing Sonic fast food restaurant currently located at 1151 SW Gage Blvd to this property.

The vacation is necessary to allow the property owner to construct a new 1,809 sq. ft. fast food restaurant building with a drive-through window, parking and outdoor play area. The building is proposed to be constructed over the utility easement and to do so requires the easement be vacated. The applicant will re-route the sanitary sewer line currently lying in this easement around the new building. They will grant a new utility easement for sanitary sewer to the City that will be recorded by separate instrument.

A neighborhood meeting was not required since the proposed vacation does not affect adjacent property owners. The vacation request has been reviewed by all City departments and public utility agencies and there are no objections. The vacation has been advertised two consecutive weeks prior to the public hearing according to TMC 12.60.010(B) and 20 days prior to the public hearing according to State Law. Planning staff recommends approval of the ordinance and request.

## DEPARTMENTAL COMMENTS:

Case: V16/2 By: D.L. Rogers Corporation

Location: A 14 ft. wide utility easement running north-south and located at 1221 SW Gage Blvd.

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### DEPARTMENTS:

- **Water Division:**          X   No Objection               Objection  
Comments:
- **Engineering:**          X   No Objection               Objection  
Comments: Provided an easement by separate instrument is granted to the City for the new sanitary sewer and recorded with the County Register of Deeds.
- **Parks Department:**      X   No Objection               Objection  
Comments:
- **County Refuse:**          X   No Objection               Objection
- **Fire Department:**       X   No Objection               Objection
- **Police Department:**     X   No Objection               Objection  
Comments:

### UTILITY COMPANIES:

- **AT&T:**          X   No Objection               Objection  
Comments: AT&T used the vacated easement to provide telecom service to the old Grover's. My records indicate that the old fabric store was fed aerial off of the pole line at the rear of the property. We can vacate the current easement, however, I will need an easement to place copper and fiber to the new restaurant. Our copper will come off of the pole line and the fiber from the cell tower, 4100 SW 12<sup>th</sup> St.
- **Westar:**          X   No Objection               Objection  
Comments:
- **Kansas Gas Service:**     X   No Objection               Objection  
Comments:
- **Cox Communications:**     X   No Objection               Objection  
Comments:

Annie Driver, Planner II  
Prepared: February 24, 2016





SW 12th ST

SW Gage BLVD

Utility easement request  
to be vacated

SW Huntoon ST

SW Gage Center DR

V16/2 By: D.L. Rogers Corporation





# FINAL PLAT D.L. ROGERS SUBDIVISION

A MINOR RE-PLAT OF LOTS 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77 AND 78 AND THE WEST HALF OF THE VACATED 14 FOOT ALLEY  
VACATED BY CITY ORDINANCE NO. 9050 LYING EAST OF AND ADJACENT TO SAID LOT 54, AND ALL OF SAID VACATED ALLEY LYING EAST OF SAID LOTS 56, 58, 60, 62, 64, 66, 68, 70, 72, 74,  
76 AND 78, PART OF LOTS 79, 81, 83, 85, 87, 89, 91, AND 93 AND PART OF VACATED MISSION AVENUE ALL IN BOYNTON'S ADDITION TO THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS

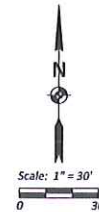
2015R23066

SHAWNEE COUNTY, KANSAS  
REGISTER OF DEEDS  
REBECCA J. NIOCE  
DATE RECORDED:  
12/03/2015 2:35:47 PM  
BY 816

1696 BOOK 53 PAGE 36  
DATE 12-3-15 TIME 2:35 PM

## LEGEND

- FOUND CORNER AS NOTED
- (M) MEASURED
- (P) PLAT
- (D) DESCRIBED
- R/W RIGHT-OF-WAY
- RESTRICTED ACCESS



Scale: 1" = 30'  
BASIS OF BEARING:  
Bearings are based on assumed datum.

## LEGAL DESCRIPTION:

A Minor re-plat of Lots 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77 and 78 and the West half of the vacated 14 foot alley vacated by City Ordinance No. 9050 lying East of and adjacent to said Lot 54, and all of said vacated alley lying East of said Lots 56, 58, 60, 62, 64, 66, 68, 70, 72, 74, 76 and 78, part of Lots 79, 81, 83, 85, 87, 89, 91, and 93 and part of vacated Mission Avenue all in Boynton's Addition to the City of Topeka, Shawnee County, Kansas all being more particularly described as follows: Beginning at a point on the North line of said Lot 55, said point being 30 feet West of the Northeast corner of said Lot and on the West right of way line of SW Gage Boulevard; thence South along the West right of way line of said SW Gage Boulevard on the deed bearing of S00°50'47"W, 272.46 feet; thence S39°25'52"W, 32.06 feet (S39°15'09"W, 32.23 Measured) feet to a point on the South line of said Lot 77, said point being 50.0 feet West of the Southeast corner of said Lot 77; thence S90°00'00"W, 236.67 feet (236.48 feet Measured) to the Southwest corner of said Lot 78; thence N00°38'30"E (N00°42'11"E Measured), 10.00 feet along the West line of said Lot 78; thence S50°00'00"W, 40.00 feet to a point on the East line of said Lot 79; thence S00°38'30"W (S00°41'54"W Measured), 10.00 feet to the Southeast corner of said Lot 79; thence S90°00'00"W along the South line of said Lot 79, 18.00 feet; thence N00°42'11"E, parallel to the West line of said vacated Mission Street, 156.97 feet; thence N45°42'11"E, 31.83 feet; thence N00°42'11"E, 142.79 feet to a point on the North line of said Lot 54 extended; thence N80°00'00"E, (N89°59'14"E Measured), 178.92 feet along the North line of said Lot 54 and it's extension thereof, to the centerline of said vacated Alley; thence S00°46'31"W, 24.72 feet (S00°38'39"W, 24.76 feet Measured) along the centerline of said Alley to a point on the North line extended of said Lot 55; thence N00°00'00"E, 113.64 feet (N89°55'56"E, 113.80 Measured) to the Point of Beginning. Containing 2.17 acres more or less.

DEDICATION: The undersigned proprietor of the above described tract of land has caused the same to be subdivided in the manner shown on the accompanying plat which subdivision shall be known as "D.L. ROGERS SUBDIVISION".

NOTICE: In the event there are other owners or those holding any proprietary interest in any land contained in this subdivision whom do not appear and duly acknowledge this plat prior to the time of recording in the Office of the Register of Deeds, the plat shall be null and void.

EASEMENTS: Easements are hereby granted to the public as follows: "Utility Easements" or "U.E.", to allow public utility providers, contractors, and authorized agents to locate, construct, and maintain facilities to provide utility service to the public. All public utilities specifically including but not limited to water, gas, sewer, stormwater, and telecommunications may place or locate their facilities over, under, and along the strips marked as "Utility Easements", or "U.E.". A temporary construction easement of 12 feet adjacent to the side of the utility easement is dedicated for the use of the public utilities while initial construction of the public utility's facilities are in progress.

STREETS: The public ways (streets and roads) not heretofore dedicated, are hereby dedicated to the public. Temporary turn-around easements are hereby established as shown on the accompanying plat and shall be automatically vacated when streets are extended.

FLOOD PLAIN NOTE: According to "FIRM" Map Community Panel Number 20177C0215E, effective date September 29, 2011, this tract is in flood zone Zone X.

RESTRICTED ACCESS: Restricted access line defines portions of the subdivision boundary in which the public is not allowed to cross in order to gain access to the subdivision other than in an emergency situation or for temporary access during construction activities. Temporary access requires prior approval from the Director of Public Works.

## CERTIFICATE OF SURVEYOR:

I hereby certify that the details of this plat to be correct to the best of my knowledge and belief, that all boundary corners of this subdivision of land have been monumented and that iron pins are set as shown on the attached plat this 5<sup>TH</sup> day of November, 2015.



RICHARD T. SCHMIDT, P.S. 919  
SCHMIDT, BECK & BOYD ENGINEERING, LLC  
1415 SW TOPEKA BLVD.  
TOPEKA, KS 66612

IN TESTIMONY WHEREOF, the owner, DL Rogers Corp., has caused these presents to be signed this 9<sup>th</sup> day of November, 2015.

Shawn Rogers Cather  
Shawn Rogers Cather, President

STATE OF Texas  
COUNTY OF Tarrant, SS:

Be it remembered that on this 9<sup>th</sup> day of November, 2015, before me, the undersigned, a notary public in and for the County and State aforesaid came Shawn Rogers Cather, President of DL Rogers Corp., who is personally known to me to be the same persons who executed, the within instrument of writing.

IN WITNESS WHEREOF: I have hereunto set my hand and affixed my notarial seal the day and year last written above.

Notary Public  
My Commission Expires: 12-19-2016



Schmidt, Beck & Boyd  
Engineering, LLC

1415 SW Topeka Blvd.  
Topeka, KS 66612  
Ph: (785) 215-8630

SBB Proj. No.:	15-132
Drawn by:	JEM
Checked by:	RS
Date:	11/5/2015
Scale:	1" = 30'
Drawing No.:	Sh. 1 of 1

## GENERAL NOTES:

- Property owners shall be admonished from placing any permanent or semi-permanent obstruction in permanent sewer, or utility easements. This includes, but is not limited to, trees, shrubs, fences, retaining walls, buildings or other miscellaneous obstructions that interfere with access or egress of maintenance vehicles or equipment for the operation and maintenance of the utilities or pipe lines located in the easement. Any permanent or semi-permanent obstruction located in the permanent sewer or utility easement may be removed by City of Topeka, its employees or agents to provide for the proper operation and maintenance of that utility line, without cost or obligation for replacement, cost of removal, and/or replacement shall be the responsibility of the property owner.
- Minimum opening elevations shall be 1ft above the adjacent 100-year water surface elevation.
- No building permits shall be issued until arrangements for the installation of water mains and/or connection charges have been made with the City of Topeka Water Department.
- All utilities shall be placed underground pursuant to the City's right-of-way management standards.
- A Shared Access Agreement exists for shared access to SW Huntoon Street between subject property and the abutting property to the West.
- No building permit(s) shall be issued until all Stormwater Management requirements set forth in the Topeka Municipal Code (TMC) are met including: approval of Stormwater Management Plan and granting of any necessary Stormwater Management Easements.

ENTERED ON THE TRANSFER RECORD OF SHAWNEE COUNTY, KANSAS,  
THIS 3 DAY OF December, 2015.

Cynthia A. Beck, County Clerk

FILED FOR RECORD IN THE OFFICE OF THE SHAWNEE COUNTY  
REGISTER OF DEEDS THIS 3 DAY OF December, 2015,  
AT 2:35 O'CLOCK P.M.

Rebecca J. Niocce, Register of Deeds



APPROVED BY THE CITY OF TOPEKA PLANNING DIRECTOR, THIS 13<sup>TH</sup> DAY OF November, 2015.  
Bill Flander, Planning Director

APPROVED BY THE CITY OF TOPEKA PUBLIC WORKS DIRECTOR, THIS 13<sup>TH</sup> DAY OF November, 2015.  
Don Wilacre, Public Works Director

REVIEWED BY SHAWNEE COUNTY SURVEYOR, THIS 12<sup>TH</sup> DAY OF November, 2015  
for compliance with KSA Chapter 58 Article 20.

Deborah J. Thomas, County Surveyor, LSN 1461

**Please have the attached published in the Topeka Metro News in the Legal Advertising Section on March 14, 2016 and March 21, 2016.**

**IN THE MATTER OF THE PROPOSED VACATION OF:**

The vacation of a 14' wide utility easement running north-south on property located at 1221 SW Gage Blvd., in the City of Topeka, Shawnee County, Kansas (V6/2) (Council District No. 9)

**NOTICE OF PUBLIC HEARING**  
(Pursuant to K.S.A. 12-504 et seq.)

**To Whom It May Concern:**

**Public notice is hereby given that a petition has been filed by D.L. Rogers Corporation to vacate property described as follows:**

**Beginning at the southwest corner of Lot 77 on Gage Boulevard in Boynton's Addition to the City of Topeka, Shawnee County, Kansas; thence North along the east line of the alley to the Northwest corner of Lot 53 on Gage Boulevard in said subdivision; thence West to the Northeast corner of Lot 54 on Mission Avenue in said subdivision; thence South along the West line of said alley to the Southeast corner of Lot 78 on Mission Avenue in said subdivision; thence East to point of beginning.**

The petition will be presented to the Council of the City of Topeka for hearing **April 5, 2016** at 6:00 P.M. or as soon thereafter as the same may be heard in the City Council Chambers, Municipal Building, 2<sup>nd</sup> Floor, 8<sup>th</sup> and Monroe Streets, Topeka, Kansas, at which time and place all interested persons may appear and be heard, either for or against granting the prayer of said Petition.

**BY THE GOVERNING BODY,  
CITY OF TOPEKA, KANSAS**



**City of Topeka  
Council Action Form  
Council Chambers  
214 SE 8th Street  
Topeka, Kansas 66603  
www.topeka.org  
April 5, 2016**

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<b>DATE:</b>	<b>April 5, 2016</b>	
<b>CONTACT PERSON:</b>	<b>Chuck Kitt, City Prosecutor</b>	<b>DOCUMENT #:</b>
<b>SECOND PARTY/SUBJECT:</b>	<b>2015 UPOC</b>	<b>PROJECT #:</b>
<b>CATEGORY/SUBCATEGORY</b>	<b>013 Ordinances - Codified / 054 Criminal Code</b>	
<b>CIP PROJECT:</b>	<b>No</b>	
<b>ACTION OF COUNCIL:</b>		<b>JOURNAL #:</b>
		<b>PAGE #:</b>

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**DOCUMENT DESCRIPTION:**

**AN ORDINANCE** introduced by Jim Colson, City Manager, amending City of Topeka Code Section 9.05.080, concerning adoption of the 2015 Uniform Public Offense Code and specifically repealing said original section.

*(Approval would update the current 2013 version of the Uniform Public Offense Code to the 2015 version.)*

**POLICY ISSUE:**

The League revises the UPOC annually in order to remain consistent with state law. The governing body adopted the 2013 version in 2014. The 2015 version is now available for review and adoption.

**STAFF RECOMMENDATION:**

Staff recommends the Governing Body adopt the ordinance.

**BACKGROUND:**

The UPOC is a codification of state misdemeanor criminal laws published in book format by the League of Kansas Municipalities and is designed to provide cities with a comprehensive misdemeanor criminal code which can be adopted and incorporated by reference. A city may delete articles or sections which are unnecessary for the city and may modify sections provided those modifications do not conflict with an equivalent state statute. Currently, the City utilizes the 2013 Uniform Public Offense Code published by the League of Kansas Municipalities.

**BUDGETARY IMPACT:**

There is no budgetary impact to the City.

**SOURCE OF FUNDING:**

Not Applicable

**ATTACHMENTS:**

**Description**

UPOC Ordinance

UPOC Memo

(Published in the Topeka Metro News \_\_\_\_\_)

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE introduced by Jim Colson, City Manager, amending City of Topeka Code § 9.05.080, concerning adoption of the 2015 Uniform Public Offense Code and specifically repealing said original section.

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

Section 1. That section 9.05.080, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**Uniform Public Offense Code.**

(a) Adoption. There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the city of Topeka, Kansas, the Uniform Public Offense Code for Kansas Cities, ~~29<sup>th</sup>~~ 31<sup>st</sup> Edition (~~2013~~2015), prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, (hereinafter referred to as "UPOC ~~2013~~2015") except for ~~10.1.1(a)(5) ("Transporting firearms"),~~ 10.24 ("Smoking Prohibited"), 10.25 ("Smoking; Posting Premises"), 10.26 ("Smoking Prohibited; Penalties") and 11.11 ("Cruelty to Animals"), which are specifically deleted and omitted. ~~No fewer than three copies~~ One copy of said Uniform Public Offense Code shall be marked or stamped "Official Copy as adopted by Ordinance No. ~~49880~~ \_\_\_\_\_," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of said ordinance and filed with the city clerk to be open to inspection and available to the public at all reasonable hours.

(b) Amendments.

(1) Section 10.6 of UPOC ~~2013~~2015, relating to bows and arrows, is

29 hereby amended by adding the following exception:

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

32 ~~(2) Section 10.4(a) of UPOC 2013, relating to confiscation of weapons,~~  
33 ~~is deleted and the following shall be substituted:~~

34 ~~(a) Upon conviction for any violation described in~~  
35 ~~Sections 10.1, 10.1.1, 10.2, 10.3, 10.3.1, and 10.5 of this article, any~~  
36 ~~weapon seized in connection therewith shall remain in the custody of the~~  
37 ~~trial court.~~

38 Section 2. That original § 9.05.080 of The Code of the City of Topeka, Kansas,  
39 is hereby specifically repealed.

40 Section 3. This ordinance shall take effect and be in force from and after its  
41 passage, approval and publication in the official City newspaper.

42 Section 4. This ordinance shall supersede all ordinances, resolutions or rules,  
43 or portions thereof, which are in conflict with the provisions of this ordinance.

44 Section 5. Should any section, clause or phrase of this ordinance be declared  
45 invalid by a court of competent jurisdiction, the same shall not affect the validity of this  
46 ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

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PASSED AND APPROVED by the Governing Body on \_\_\_\_\_.

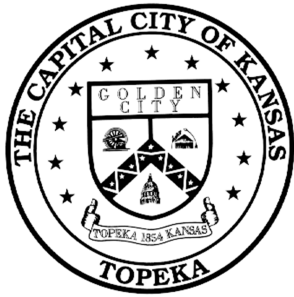
CITY OF TOPEKA, KANSAS

\_\_\_\_\_  
Larry E. Wolgast, Mayor

ATTEST:

\_\_\_\_\_  
Brenda Younger, City Clerk





# CITY OF TOPEKA

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Legal Department  
215 SE 7<sup>th</sup> St., Room 260  
Topeka, KS 66603-3914  
Tel: (785) 368-3910  
Fax: (785) 368-3104

Lisa Robertson, City Attorney

Charles F. Kitt  
Chief of Prosecution  
ckitt@topeka.org

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## MEMORANDUM

To: City Councilmembers, Mayor Wolgast  
From: Charles F. Kitt, Chief of Prosecution  
Re: 2015 edition of the Uniform Public Offense Code  
Date: February 10, 2016

The purpose of this memo is to explain the proposed adoption of the 2015 edition of the Uniform Public Offense Code (UPOC). The UPOC is a codification of state misdemeanor criminal laws published in book format by the League of Kansas Municipalities and is designed to provide cities with a comprehensive misdemeanor criminal code which can be adopted and incorporated by reference.

The UPOC, in large part, parallels state criminal statutes. A city may delete articles or sections which are unnecessary for the city and may modify sections provided those modifications do not conflict with an equivalent state statute.

The adoption of the 2015 edition of the UPOC with the following deletions and/or changes is recommended:

1. Continue to delete Section 10.24, 10.25 and 10.26 relating to smoking prohibited, and Section 11.11 relating to cruelty to animals. These sections are historically deleted by the City with substitute provisions already in place.
2. Continue to amend Section 10.6, relating to air guns, air rifles, bow and arrow, slingshots, BB guns or paintball guns, providing an exception allowing operation of a bow and arrow for acts described in TMC 6.05.070 relating to the injuring or killing of wild and undomesticated animals. It is recommended that this modification continue and be left in place.

A summary of changes from the 2013 UPOC is provided below.

## **CHANGES FROM 2013-2015 U.P.O.C.**

### **Modified *mens rea* required (consistent w/ Courts & Legislature)**

- 1.2 Liability for Offenses of Another
- 1.3 Individual Liability for Corporate Offenses
- 3.1 Battery
- 3.5 Unlawful Interference with Firefighter
- 3.7 Mistreatment of Confined Person
- 3.13 Stalking
- 5.1 Contributing to a Child's Misconduct or Deprivation
- 5.2 Furnishing Alcoholic Liquor or Cereal Malt Beverage to a Minor
- 5.3 Unlawfully Hosting Minors Consuming Alcoholic Liquor or Cereal Malt Beverage
- 5.4 Endangering a Child
- 6.6 Criminal Damage to Property
- 6.9 Tampering with a Landmark
- 6.10 Tampering with a Traffic Signal
- 6.19 Equity Skimming
- 6.20 Unlawful Acts Concerning Computers (also changed name of crime)
- 6.22 Criminal Hunting
- 7.1 Interference with the Judicial Process
- 7.10 False Signing of petition
- 7.12 Interference; Conduct, Public Business in Public Building
- 9.1 Disorderly Conduct
- 9.2 Unlawful Assembly; Remaining at Unlawful Assembly
- 9.8 Criminal Desecration
- 9.13 Unlawful Posting of Political Pictures & Advertisements
- 10.11 Creating a Hazard
- 10.12 Unlawful Failure to Report a Wound
- 10.16 Throwing Objects
- 10.22 Alcohol Without Liquid Machine
- 11.1 Promoting Obscenity
- 11.9 Commercial Gambling (also changed name of crime)
- 11.10 Possession of a Gambling Device

### **Other Substantive changes**

- 3.2 Battery Against Law Enforcement Officer
  - Creates subcategories specific to profession (Judge, Attorney, Corrections Officer, etc...)
- 3.2.2 Battery Against a School Employee
  - New offense created by KSA 21-5413
- 3.8 Violation of a Protective Order
  - Clarifies elements of offense

- 3.9 Criminal Defamation
  - Name changed to Criminal False Communication
  - Clarifies elements of offense
- 3.10 Eavesdropping
  - Deleted (amended into 3.12)
- 3.12 Breach of Privacy
  - Amended to include conduct previously covered by 3.10
- 5.2 Furnishing Alcoholic Liquor or Cereal Malt Beverage to a Minor
  - Creates an exception for religious services; clarifies minor as person under 21
- 6.7.1 Trespassing on Railroad Property
  - Provides additional elements for recklessly derailing railroad equipment
- 6.8 Littering
  - Deleted (deleted from UPOC 2014)
- 6.22 Criminal Hunting
  - Enhanced penalty if suspect had previously been told to leave
- 6.24 Unlawfully Selling Scrap Metal
  - Deleted – state statute now calls for civil penalties
- 6.25 Unlawfully Buying Scrap Metal
  - Deleted – state statute now calls for civil penalties
- 7.1 Compounding an Offense
  - Deleted – included now within 7.4
- 7.2 Interference with Law Enforcement
  - Offense now includes falsely reporting misconduct by an officer
- 7.4 Interference with the Judicial Process
  - Name changed from “Interference; Administration of Justice”
  - 7.1 Compounding an Offense added to this section
- 9.1 Disorderly Conduct
  - Offensive language limited to “fighting words” pursuant to Court decision
- 10.1.1 Criminal Carrying of a Weapon
  - Removes prohibition on transporting a loaded firearm in a vehicle
- 10.3.1 Criminal Possession of Firearm
  - Deleted – conduct already prohibited by 10.1
- 10.4 Confiscation, Disposition of Weapons
  - Deleted – covered by other rules of procedure
- 10.14 Operation of a Motorboat or Sailboat
  - Definitions added
  - Creates exception for persons over 21 years of age (boater safety certificate)
- 11.2 Promoting Obscenity to Minors
  - Completely re-written to clarify elements; same conduct covered
- 11.8 Gambling
  - Exceptions added for charitable raffles and fantasy sports

### **Minor changes in wording**

- 1.3 Individual Liability for Corporate Offenses
- 3.2.1 Sexual Battery
- 3.5 Unlawful Interference with Firefighter
  - Provides authority for prosecuting battery and assault as well as this offense.
- 5.5 Watercraft; Lifesaving Devices Required
  - Definition added
- 5.7 Selling, Giving or Furnishing Cigarettes or Tobacco Products to Minor
  - adds definition of “sale”
- 6.1 Theft
- 6.2 Intent; Permanently Deprive
  - Provides additional definitions of what constitutes evidence of intent to deprive
- 6.7 Criminal Trespass
- 6.10 Tampering with a Traffic Signal
  - Provides authority for charging Theft as well
- 6.11 Unlawful Manufacture or Disposal of False Tokens
- 6.16 Giving a Worthless Check
  - Additional definitions added
- 6.17 Criminal Use of a Financial Card
- 6.18 Motor Vehicle Dealers
- 6.21 Taking Wildlife w/o Permission on Land Posted
  - Name changed from “Posting Land”
- 7.3 Escape from Custody
  - Definitions added
- 7.14 Electioneering
  - Definition removed
- 9.4 Riot
- 9.7 Giving False Alarm
  - Provides authority for charging Interference as well
- 9.10 Harassment by Telecommunications Device
  - Provides authority for charging Promoting Obscenity
- 9.11 Unlawful Public Demonstration at a Funeral
  - Name changed from “Funeral Picketing”
- 10.1 Criminal Use of Weapons
- 10.3 Criminal Distribution of Firearms to a Felon
  - Name changed from “Criminal Disposal of Firearms”
- 10.15 Operating a Vessel Under the Influence of Alcohol or Drugs
  - Name changed from “Operating a Vessel Under the Influence of Intoxicating Liquor or Drugs”
  - Definitions added
- 10.17 Tattooing or Body Piercing; Persons under Age 18
- 10.20 Unlawfully Obtaining a Prescription-Only Drug

Definitions added

- 11.7 Material Harmful to Minors
- 11.12 Cockfighting

Provides authority for also charging cruelty to animals



**City of Topeka  
Council Action Form  
Council Chambers  
214 SE 8th Street  
Topeka, Kansas 66603  
www.topeka.org  
April 5, 2016**

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<b>DATE:</b>	<b>April 5, 2016</b>	
<b>CONTACT PERSON:</b>	<b>Chuck Kitt, City Prosecutor</b>	<b>DOCUMENT #:</b>
<b>SECOND PARTY/SUBJECT:</b>	<b>2015 STO</b>	<b>PROJECT #:</b>
<b>CATEGORY/SUBCATEGORY</b>	<b>013 Ordinances - Codified / 054 Criminal Code</b>	
<b>CIP PROJECT:</b>	<b>No</b>	
<b>ACTION OF COUNCIL:</b>		<b>JOURNAL #:</b>
		<b>PAGE #:</b>

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**DOCUMENT DESCRIPTION:**

**AN ORDINANCE** introduced by City Manager Jim Colson, amending City of Topeka Code Sections 10.15.010 and 10.15.020, specifically repealing said original sections concerning the adoption of the 2015 Standard Traffic Ordinance and amendments.

*(Approval would update the current 2013 version of the Standard Traffic Ordinance to the 2015 version.)*

**POLICY ISSUE:**

The League of Kansas Municipalities revises the STO annually in order to remain consistent with state law. The governing body adopted the 2013 version in 2014. The 2015 version is now available for review and adoption.

**STAFF RECOMMENDATION:**

Staff recommends the Governing Body adopt the ordinance.

**BACKGROUND:**

The STO is a codification of state traffic laws published in book format by the League of Kansas Municipalities and is designed to provide cities with a comprehensive traffic code which can be adopted and incorporated by reference. A city may delete articles or sections which are unnecessary for the city and may modify sections provided those modifications do not conflict with an equivalent state statute. Currently, the City utilizes the 2013 Standard Traffic Ordinance published by the League of Kansas Municipalities.

**BUDGETARY IMPACT:**

There is no budgetary impact to the City.

**SOURCE OF FUNDING:**

Not Applicable

**ATTACHMENTS:**

**Description**

2015 STO Ordinance

STO Memo

(Published in the Topeka Metro News \_\_\_\_\_)

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE introduced by Jim Colson, City Manager, amending City of Topeka Code § 10.15.010 and § 10.15.020, specifically repealing said original sections concerning the adoption of the 2015 Standard Traffic Ordinance and amendments.

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

Section 1. That section 10.15.010, Incorporation of Standard Traffic Ordinance, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**Incorporation of Standard Traffic Ordinance.**

(a) Generally – Copies. There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the city of Topeka, Kansas, the Standard Traffic Ordinance for Kansas Cities, ~~41st Edition (2013)~~ 43rd Edition (2015), prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles, sections or parts or portions as are hereafter omitted, deleted, modified or changed. ~~No fewer than three copies~~ One copy of the Standard Traffic Ordinance shall be marked or stamped “Official Copy as Adopted by Ordinance No. ~~49862~~ \_\_\_\_\_,” with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of the ordinance codified in this chapter and filed with the city clerk to be open to inspection and available to the public at all reasonable hours.

(b) Traffic Infractions and Traffic Offenses.

(1) A traffic infraction is a violation of any section of this title or of the



Standard Traffic Ordinance that prohibits or requires the same behavior as that prohibited or required by a statutory provision that is classified as a traffic infraction in K.S.A. 8-2118, and amendments thereto.

(2) All traffic violations which are included within this title and which are not traffic infractions as defined in subsection (b)(1) of this section shall be considered traffic offenses.

Section 2. That section 10.15.020, Amendments, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**Amendments.**

The ~~current~~2015 edition of the Standard Traffic Ordinance for Kansas Cities, as adopted by reference, shall be amended as follows:

(a) Section 33 of the Standard Traffic Ordinance, relating to maximum speed limits, is hereby declared to be and is omitted and deleted and the provisions set forth at TMC 10.20.060 shall be substituted therefor.

(b) Section 50 of the Standard Traffic Ordinance, relating to right, left and U-turns at intersection – obedience to, is hereby declared to be and is omitted and deleted and the provisions set forth at TMC ~~10.20.200~~10.20.180, 10.20.190, and 10.20.210, 10.20.220 shall be substituted therefor.

(c) Section 67 of the Standard Traffic Ordinance, relating to pedestrians to use right half of crosswalks, is hereby declared to be and is omitted and deleted.

(d) Section 104 of the Standard Traffic Ordinance, relating to inattentive driving, is hereby declared to be and is omitted and deleted and the provisions set forth at TMC 10.20.100 shall be substituted therefor.

53           (e)     Section 107 of the Standard Traffic Ordinance, relating to unattended  
54     motor vehicles, is hereby declared to be and is omitted and deleted and the provisions  
55     set forth at TMC 10.20.125 shall be substituted therefor.

56           (f)     Section 116 of the Standard Traffic Ordinance, relating to driving upon  
57     sidewalks, is hereby declared to be and is omitted and deleted and the provisions set  
58     forth at TMC 10.20.127 shall be substituted therefor.

59           (g)     Section 119 of the Standard Traffic Ordinance, relating to parades and  
60     processions, is hereby declared to be and is omitted and deleted and the provisions set  
61     forth in Chapter 10.50 TMC shall be substituted therefor.

62           (h)     Section 194(b) and (c) of the Standard Traffic Ordinance, relating to  
63     driving while license canceled, suspended or revoked, is hereby declared to be and is  
64     omitted and deleted.

65           (i)     Section 195.1 of the Standard Traffic Ordinance, relating to operation of a  
66     motor vehicle when a habitual violator, is hereby declared to be and is omitted and  
67     deleted and the provisions set forth at TMC 10.20.230 shall be substituted therefor.

68           (j)     Section 198 of the Standard Traffic Ordinance, relating to vehicle license –  
69     illegal tag, is hereby declared to be and is omitted and deleted and the provisions set  
70     forth at TMC 10.05.060 shall be substituted therefor.

71           (k)     Section 204(b) of the Standard Traffic Ordinance, relating to fines doubled  
72     in school zones, is hereby declared to be and is omitted and deleted and the provisions  
73     set forth at TMC 10.20.170 shall be substituted therefor.

74           Section 3.     That original § 10.15.010 and § 10.15.020 of The Code of the City  
75     of Topeka, Kansas, are hereby specifically repealed.

Section 4. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 5. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 6. 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 Governing Body on \_\_\_\_\_.

CITY OF TOPEKA, KANSAS

ATTEST:

Larry E. Wolgast, Mayor

Brenda Younger, City Clerk



# CITY OF TOPEKA

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Legal Department  
215 SE 7<sup>th</sup> St., Room 260  
Topeka, KS 66603-3914  
Tel: (785) 368-3910  
Fax: (785) 368-3104

Lisa Robertson, City Attorney

Charles F. Kitt  
Chief of Prosecution  
ckitt@topeka.org

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## MEMORANDUM

To: City Councilmembers, Mayor Wolgast  
From: Charles F. Kitt, Chief of Prosecution  
Re: 2015 edition of the Standard Traffic Ordinance  
Date: February 10, 2016

The purpose of this memo is to explain the proposed adoption of the 2015 edition of the Standard Traffic Ordinance (STO). The STO is a codification of state traffic laws published in book format by the League of Kansas Municipalities and is designed to provide cities with a comprehensive traffic code which can be adopted and incorporated by reference.

The STO, in large part, parallels the state traffic statutes. A city may delete articles or sections which are unnecessary for the city and may modify sections provided those modifications do not conflict with an equivalent state statute.

The adoption of the 2015 edition of the STO with the following deletions and/or changes is recommended:

1. Continue to delete Section 33 relating to maximum speed limits, Section 50 relating to right, left and U-turns, Section 67 relating to use of right half of crosswalks, Section 104 relating to inattentive driving, Section 107 relating to unattended motor vehicles, Section 116 relating to driving on sidewalks, Section 119 relating to parades and processions, and Section 198 relating to vehicle license tags. These sections are historically deleted by the City with substitute provisions already in place.
2. Section 194 relating to driving while license is canceled, suspended or revoked and Section 195.1 relating to operation of a motor vehicle when a

habitual violator have been omitted in previous years due to third offenses requiring a mandatory 90 day jail sentence. Pursuant to an ongoing agreement with the Shawnee County District Attorney, it is proposed that the City continue to prosecute 1<sup>st</sup> and 2<sup>nd</sup> offenders and the DA's Office will prosecute the 3<sup>rd</sup> offenses requiring the mandatory 90 day jail sentence.

3. It is recommended that section 194 be included with the exception of those provisions in subsections (b) and (c) related to 3<sup>rd</sup> offenses.
4. It is recommended that section 195.1 be omitted and the substitute provision which does not contain 3<sup>rd</sup> offenses be adopted.
5. It is recommended that section 204(b) relating to doubling fines in a school zone be omitted and the substitute provision adopted.

A summary of changes from the 2013 STO is provided below.

## **CHANGES FROM 2013-2015 S.T.O.**

### **Modified *mens rea* required (consistent w/ Courts & Legislature)**

- 13.1 Traffic Control Signal Preemption Devices

### **Other Substantive changes**

- 23 Accident Involving Death or Personal Injuries; Penalties  
Adds requirement that driver remove vehicle from roadway
- 24 Accident Involving Damage to Vehicle or Other Property  
Deleted – incorporated into STO 25
- 25 Duty of Driver...  
Name changed from Duty to Give Information and Render Aid  
Incorporates what was previously STO 24  
Shortens time frame to produce proof of insurance from 20 to 10 days  
Requires suspect to provide necessary information to officer at the scene of the accident or an officer *who is investigating the accident*.
- 30 Driving Under the Influence of Intoxicating Liquor or Drugs  
Includes DUI Battery as prior for determining level of offense
- 30.1 Driving Commercial Vehicle Under the Influence of Intoxicating Liquor or Drugs  
Include DUI Battery as prior for determining level of offense
- 30.3 Ignition Interlock Devices; Tampering  
Conviction of this offense now requires extension of suspension/restriction period

- 106 Transportation of Alcoholic Beverage
  - Provides exception for vehicles w/o trunks (must be behind last upright seat or area not normally occupied by driver or passenger)
- 124 Riding in House Trailer or Mobile or Manufactured Home Prohibited
  - Expands definition of what is prohibited (previously only covered House Trailer)
- 138 Riding on Motorcycles
  - Creates exception for autocycles
- 170 School Buses
  - New buses are required to have a strobe light on top
- 171 Lighting Equipment and Warning Devices on Church Buses and Day Care Buses
  - Removes definition of religious organization
  - Updates requirements for stop signal arms (now set by State Board of Education)
- 182 Child Passenger Safety Restraining System
  - Includes autocycle as a requiring child restraints
- 182.1 Seat Belts
  - Includes autocycle as requiring seat belts
- 193 Driver's License in Possession
  - Person may provide proof to *law enforcement* or Court of a valid DL to have charge dismissed (previously had to provide it to Court)
- 200 Motor Vehicle Liability Insurance
  - Creates an exception for vehicles used as driver training and is covered by school

#### **Minor changes in wording**

- 31 Fleeing or Attempting to Elude a Police Officer
  - Previous subsection divided into subsections
  - Clarification on what constitutes a prior offense included
- 41 When Passing on the Right is Permitted
  - Exception created for transit buses (only applies in Johnson County, KSA 75-5091)
- 62 Highway Construction and Maintenance
  - Removes requirement to give driver a warning for offenses prior to July 2007
- 85 Stopping, Standing or Parking Prohibited in Specified Places
- 111 Crossing Fire Hose
- 133 Lamps and Other Equipment on Bicycles
- 142 Equipment for Motorcycle Operator or Rider
- 174 Horns and Warning Devices



**City of Topeka**  
**Council Action Form**  
**Council Chambers**  
**214 SE 8th Street**  
**Topeka, Kansas 66603**  
**www.topeka.org**  
April 5, 2016

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<b>DATE:</b>	<b>April 5, 2016</b>	
<b>CONTACT PERSON:</b>	<b>Chuck Kitt, Chief of Prosecution</b>	<b>DOCUMENT #:</b>
<b>SECOND PARTY/SUBJECT:</b>		<b>PROJECT #:</b>
<b>CATEGORY/SUBCATEGORY</b>	<b>013 Ordinances - Codified / 050 Courts</b>	
<b>CIP PROJECT:</b>	<b>No</b>	
<b>ACTION OF COUNCIL:</b>		<b>JOURNAL #:</b>
		<b>PAGE #:</b>

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**DOCUMENT DESCRIPTION:**

**AN ORDINANCE** introduced by City Manager Jim Colson, concerning expungement of certain convictions in municipal court, amending City of Topeka Code Section 2.110.660 and repealing original section.

*(Approval would make the expungement ordinance consistent with the state law by reducing the waiting time for expungements for: (1) convictions for ordinance violations regarding knives (now 3 years); and (2) convictions for first time DUI or test refusals (to determine the presence of alcohol/drugs) (now 10 years for DUI).)*

**POLICY ISSUE:**

Approval would make the City's expungement ordinance consistent with state statute regard expungement of certain convictions.

**STAFF RECOMMENDATION:**

Staff recommends the Governing Body adopt the ordinance.

**BACKGROUND:**

Under the current ordinance, a person has to wait 10 years before requesting expungement of any DUI conviction, including first time convictions. State law now allows a wait of only 5 years for expungement of 1st time DUI convictions. Second and subsequent DUI convictions are 10 years and would remain unchanged. The current ordinance requires a 3 year waiting period before applying for expungement for convictions for carrying a switchblade knife. As the legislature removed criminal penalties for carrying knives in 2014, anyone convicted of an offense prior to 2014 no longer has to wait 3 years.

**BUDGETARY IMPACT:**

There is no budgetary impact to the City.

**SOURCE OF FUNDING:**

Not Applicable

**ATTACHMENTS:**

**Description**

Ordinance

K.S.A. 12-4516



1 (Published in the Topeka Metro News \_\_\_\_\_)

2  
3 ORDINANCE NO. \_\_\_\_\_

4  
5 AN ORDINANCE introduced by City Manager Jim Colson, concerning expungement  
6 of certain convictions in municipal court, amending City of Topeka  
7 Code § 2.110.660 and repealing original section.  
8

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

10 Section 1. That section 2.110.660, Expungement of certain convictions, of The  
11 Code of the City of Topeka, Kansas, is hereby amended to read as follows:

12 **Expungement of certain convictions.**

13 (a) Expungement.

14 (1) Except as provided in subsections (b), (c), (d), ~~and (e)~~, (f) and (g) of  
15 this section, any person who has been convicted of a violation of an ordinance of  
16 the city of Topeka may petition the municipal court for the expungement of such  
17 conviction and related arrest records if three or more years have elapsed since  
18 the person:

19 (i) Satisfied the sentence imposed; or

20 (ii) Was discharged from probation, parole or a suspended  
21 sentence.

22 (2) Except as provided in subsections (b), (c), (d), ~~and (e)~~, (f) and (g) of  
23 this section, any person who has fulfilled the terms of a diversion agreement  
24 based on a violation of an ordinance may petition the court for the expungement  
25 of such diversion agreement and related arrest records if three or more years  
26 have elapsed since the terms of the diversion agreement were fulfilled.

27           **(b)**    Any person convicted of a violation of any ordinance that is prohibited by  
28           K.S.A. 12-16,134(a) or (b) and amendments thereto, and which was adopted prior to  
29           July 1, 2014, or who entered into a diversion agreement in lieu of further criminal  
30           proceedings for such violation, may petition the court for the expungement of such  
31           conviction or diversion agreement and related arrest records.

32           **(b̄c)**   Any person convicted of the violation of an ordinance which would also  
33           constitute a violation of K.S.A. 21-3512, prior to its repeal, or a violation of K.S.A. 21-  
34           6419, and amendments thereto, or who entered into a diversion agreement in lieu of  
35           further criminal proceedings for such violation, may petition the municipal court for the  
36           expungement of such conviction or diversion agreement and related arrest records if:

37                   (1)    One or more years have elapsed since the person satisfied the  
38                   sentence imposed or the terms of a diversion agreement or was discharged from  
39                   probation, parole, conditional release or a suspended sentence; and

40                   (2)    Such person can prove they were acting under coercion caused by  
41                   the act of another. For purposes of this section, “coercion” means: threats of  
42                   harm or physical restraint against any person; a scheme, plan or pattern intended  
43                   to cause a person to believe that failure to perform an act would result in bodily  
44                   harm or physical restraint against any person; or the abuse or threatened abuse  
45                   of the legal process.

46           **(ēd)**    No person may petition for expungement until five or more years have  
47           elapsed since the person satisfied the sentence imposed or the terms of a diversion  
48           agreement or was discharged from probation, parole, conditional release or a

49 suspended sentence, if such person was convicted of the violation of a city ordinance  
50 which would also constitute:

51 (1) Vehicular homicide, as defined by K.S.A. 21-3405, prior to its  
52 repeal, or K.S.A. 21-5406, and amendments thereto;

53 (2) Driving while the privilege to operate a motor vehicle on the public  
54 highways of this state has been canceled, suspended or revoked, as prohibited  
55 by K.S.A. 8-262, and amendments thereto;

56 (3) Perjury resulting from a violation of K.S.A. 8-261a, and  
57 amendments thereto;

58 (4) A violation of the provisions of the fifth clause of K.S.A. 8-142, and  
59 amendments thereto, relating to fraudulent applications;

60 (5) Any crime punishable as a felony wherein a motor vehicle was  
61 used in the perpetration of such crime;

62 (6) Failing to stop at the scene of an accident and perform the duties  
63 required by K.S.A. 8-1602, 8-1603, prior to its repeal, or 8-1604, and  
64 amendments thereto;

65 (7) A violation of the provisions of K.S.A. 40-3104, and amendments  
66 thereto, relating to motor vehicle liability insurance coverage; or

67 (8) A violation of K.S.A. 21-3405b, prior to its repeal.

68 (~~de~~) No person may petition for expungement until ~~40~~five or more years have  
69 elapsed since the person satisfied the sentence imposed or the terms of a diversion  
70 agreement or was discharged from probation, parole, conditional release or a  
71 suspended sentence, if such person was convicted of ~~thea~~ a first violation of an ordinance

72 which would also constitute a first violation of K.S.A. 8-1567 or 8-1025, and  
73 amendments thereto.

74 (f) No person may petition for expungement until 10 or more years have  
75 elapsed since the person satisfied the sentence imposed or was discharged from  
76 probation, parole, conditional release or a suspended sentence, if such person was  
77 convicted of a second or subsequent violation of an ordinance which would also  
78 constitute a second or subsequent violation of K.S.A. 8-1567 or 8-1025, and  
79 amendments thereto.

80 (eg) There shall be no expungement of convictions or diversion for a violation  
81 of an ordinance which would also constitute a violation of K.S.A. 8-2,144 and  
82 amendments thereto.

83 (fh) When a petition for expungement is filed, the court shall set a date for a  
84 hearing thereon and shall give notice thereof to the prosecuting attorney. The petition  
85 shall state: (1) the defendant's full name; (2) the full name of the defendant at the time  
86 of arrest, conviction or diversion, if different than the defendant's current name; (3) the  
87 defendant's sex, race, and date of birth; (4) the crime for which the defendant was  
88 arrested, convicted, or diverted; (5) the date of the defendant's arrest, conviction, or  
89 diversion; and (6) the identity of the convicting court, arresting law enforcement agency  
90 or diverting authority. The municipal court may prescribe a fee to be charged as costs  
91 for a person petitioning for an order of expungement pursuant to this section. Any  
92 person who may have relevant information about the petitioner may testify at the  
93 hearing. The court may inquire into the background of the petitioner and shall have

94 access to any reports or records relating to the petitioner that are on file with the  
95 secretary of corrections or the prisoner review board.

96 (g) At the hearing on the petition, the court shall order the petitioner's arrest  
97 record, conviction, or diversion expunged if the court finds that:

98 (1) The petitioner has not been convicted of a felony in the past two  
99 years and no proceeding involving any such crime is presently pending or being  
100 instituted against the petitioner;

101 (2) The circumstances and behavior of the petitioner warrant the  
102 expungement; and

103 (3) The expungement is consistent with the public welfare.

104 (h) When the court has ordered an arrest record, conviction or diversion  
105 expunged, the order of expungement shall state the information required to be  
106 contained in the petition. The clerk of the court shall send a certified copy of the order of  
107 expungement to the Kansas Bureau of Investigation which shall notify the Federal  
108 Bureau of Investigation, the secretary of corrections and any other criminal justice  
109 agency which may have a record of the arrest, conviction, or diversion. After the order  
110 of expungement is entered, the petitioner shall be treated as not having been arrested,  
111 convicted or diverted of the crime, except that:

112 (1) Upon conviction for any subsequent crime, the conviction that was  
113 expunged may be considered as a prior conviction in determining the sentence to  
114 be imposed;

115 (2) The petitioner shall disclose that the arrest, conviction, or diversion  
116 occurred if asked about previous arrests, convictions, or diversions:

117 (i) In any application for licensure as a private detective, private  
118 detective agency, certification as a firearms trainer pursuant to K.S.A. 75-  
119 7b21, and amendments thereto, or employment as a detective with a  
120 private detective agency, as defined by K.S.A. 75-7b01, and amendments  
121 thereto; as security personnel with a private patrol operator, as defined by  
122 K.S.A. 75-7b01, and amendments thereto; or with an institution, as  
123 defined in K.S.A. 76-12a01, and amendments thereto, of the Department  
124 for ~~Children and Families~~ Aging and Disability Services;

125 (ii) In any application for admission, or for an order of  
126 reinstatement, to the practice of law in this state;

127 (iii) To aid in determining the petitioner's qualifications for  
128 employment with the Kansas Lottery or for work in sensitive areas within  
129 the Kansas Lottery as deemed appropriate by the executive director of the  
130 Kansas Lottery;

131 (iv) To aid in determining the petitioner's qualifications for  
132 Executive Director of the Kansas Racing and Gaming Commission, for  
133 employment with the Commission or for work in sensitive areas in  
134 parimutuel racing as deemed appropriate by the Executive Director of the  
135 Commission, or to aid in determining qualifications for licensure or renewal  
136 of licensure by the Commission;

137 (v) To aid in determining the petitioner's qualifications for the  
138 following under the Kansas Expanded Lottery Act:

(A) Lottery gaming facility manager or prospective manager, racetrack gaming facility manager or prospective manager, licensee or certificate holder; or

(B) An officer, director, employee, owner, agent or contractor thereof;

(vi) Upon application for a commercial driver's license under K.S.A. 8-2125 through 8-2142, and amendments thereto;

(vii) To aid in determining the petitioner's qualifications to be an employee of the state Gaming Agency;

(viii) To aid in determining the petitioner's qualifications to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact;

(ix) In any application for registration as a broker-dealer, agent, investment advisor or investment adviser representative, all as defined in K.S.A. 17-12a102 and amendments thereto;

(x) In any application for employment as a law enforcement officer, as defined in K.S.A. 22-2202 or 74-5602, and amendments thereto; or

(xi) For applications to aid in determining the petitioner's qualifications for a license to carry a concealed weapon pursuant to the Personal and Family Protection Act, K.S.A. 75-7c01 et seq. and amendments thereto;

161 (3) The court, in the order of expungement, may specify other  
162 circumstances under which the arrest, conviction or diversion is to be disclosed;  
163 and

164 (4) The conviction may be disclosed in a subsequent prosecution for  
165 an offense which requires as an element of such offense a prior conviction of the  
166 type expunged.

167 (ik) Whenever a person is convicted of an ordinance violation, pleads guilty  
168 and pays a fine for such a violation, is placed on parole or probation or is granted a  
169 suspended sentence for such a violation, the person shall be informed of the ability to  
170 expunge the arrest records or conviction. Whenever a person enters into a diversion  
171 agreement, the person shall be informed of the ability to expunge the diversion.

172 (jl) Subject to the disclosures required pursuant to subsection (hi) of this  
173 section, in any application for employment, license or other civil right or privilege, or any  
174 appearance as a witness, a person whose arrest records, conviction, or diversion of an  
175 offense has been expunged may state that such person has never been arrested,  
176 convicted, or diverted of such offense.

177 (km) Whenever the record of any arrest, conviction, or diversion has been  
178 expunged, the custodian of the records of arrest, conviction, diversion and incarceration  
179 relating to that crime shall not disclose the existence of such records, except when  
180 requested by:

181 (1) The person whose record was expunged;

182 (2) A private detective agency or a private patrol operator, as defined  
183 by K.S.A. 75-7b01, and the request is accompanied by a statement that the



request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;

(3) A court, upon a showing of a subsequent conviction of the person whose record has been expunged;

(4) The secretary of the Department for ~~Children and Families~~Aging and Disability Services, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the Department for ~~Children and Families~~Aging and Disability Services of any person whose record has been expunged;

(5) A person entitled to such information pursuant to the terms of the expungement order;

(6) A prosecuting attorney, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense;

(7) The supreme court, the clerk or disciplinary administrator thereof, the state board for admission of attorneys or the state board for discipline of attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged;

(8) The Kansas Lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for

employment with the Kansas Lottery or for work in sensitive areas within the Kansas Lottery as deemed appropriate by the executive director of the Kansas Lottery;

(9) The governor or the Kansas Racing and Gaming Commission, or a designee of the Commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for Executive Director of the Commission, for employment with the Commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the Executive Director of the Commission or for licensure, renewal of licensure or continued licensure by the Commission;

(10) The Kansas Racing and Gaming Commission, or a designee of the Commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications of the following under the Kansas Expanded Lottery Act:

(i) Lottery gaming facility managers and prospective managers, racetrack gaming facility managers and prospective managers, licensees and certificate holders; and

(ii) Their officers, directors, employees, owners, agents and contractors;

(11) The state Gaming Agency, and the request is accompanied by a statement that the request is being made to aid in determining qualifications: (i) to be an employee of the state Gaming Agency; or (ii) to be an employee of a

tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact;

(12) The Kansas Securities Commissioner, or a designee of the Commissioner, and the request is accompanied by a statement that the request is being made in conjunction with an application for registration as a broker-dealer, agent, investment adviser or investment adviser representative by such agency and the application was submitted by the person whose record has been expunged;

(13) The Attorney General, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for a license to carry a concealed weapon pursuant to the Personal and Family Protection Act;

(14) The Kansas Sentencing Commission;

(15) The Kansas Commission on Peace Officers' Standards and Training and the request is accompanied by a statement that the request is being made to aid in determining certification eligibility for employment as a law enforcement officer; or

(16) A law enforcement agency and the request is accompanied by a statement that the request is being made to aid in determining eligibility for employment as a law enforcement officer.

Section 2. That original § 2.110.660 of The Code of the City of Topeka, Kansas, is hereby specifically repealed.

Section 3. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 4. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 5. 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 \_\_\_\_\_.

CITY OF TOPEKA, KANSAS

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk

## [K.S.A. § 12-4516](#)

This document is current through the 2015 Regular Session of the Kansas Legislature

**LexisNexis® Kansas Annotated Statutes > Chapter 12. Cities and Municipalities > Article 45. Code for Municipal Courts; Trials and Proceedings Incident Thereto**

### **12-4516. Expungement of certain convictions, arrest records and diversion agreements.**

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(a)

(1) Except as provided in subsections (b), (c), (d), (e) and (f), any person who has been convicted of a violation of a city ordinance of this state may petition the convicting court for the expungement of such conviction and related arrest records if three or more years have elapsed since the person:

(A) Satisfied the sentence imposed; or

(B) was discharged from probation, parole or a suspended sentence.

(2) Except as provided in subsections (b), (c), (d), (e) and (f), any person who has fulfilled the terms of a diversion agreement based on a violation of a city ordinance of this state may petition the court for the expungement of such diversion agreement and related arrest records if three or more years have elapsed since the terms of the diversion agreement were fulfilled.

(b) Any person convicted of a violation of any ordinance that is prohibited by either [K.S.A. 2014 Supp. 12-16.134\(a\)](#) or (b), and amendments thereto, and which was adopted prior to July 1, 2014, or who entered into a diversion agreement in lieu of further criminal proceedings for such violation, may petition the convicting court for the expungement of such conviction or diversion agreement and related arrest records.

(c) Any person convicted of the violation of a city ordinance which would also constitute a violation of [K.S.A. 21-3512](#), prior to its repeal, or a violation of [K.S.A. 2014 Supp. 21-6419](#), and amendments thereto, or who entered into a diversion agreement in lieu of further criminal proceedings for such violation, may petition the convicting court for the expungement of such conviction or diversion agreement and related arrest records if:

(1) One or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, parole, conditional release or a suspended sentence; and

(2) such person can prove they were acting under coercion caused by the act of another. For purposes of this subsection, "coercion" means: Threats of harm or physical restraint against any person; a scheme, plan or pattern intended to cause a person to believe that failure to perform an act would result in bodily harm or physical restraint against any person; or the abuse or threatened abuse of the legal process.

(d) No person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, parole, conditional release or a suspended sentence, if such person was convicted of the violation of a city ordinance which would also constitute:

(1) Vehicular homicide, as defined by [K.S.A. 21-3405](#), prior to its repeal, or [K.S.A. 2014 Supp. 21-5406](#), and amendments thereto;

(2) driving while the privilege to operate a motor vehicle on the public highways of this state has been canceled, suspended or revoked, as prohibited by [K.S.A. 8-262](#), and amendments thereto;

(3) perjury resulting from a violation of [K.S.A. 8-261a](#), and amendments thereto;

(4) a violation of the provisions of [K.S.A. 8-142](#) Fifth, and amendments thereto, relating to fraudulent applications;

- (5) any crime punishable as a felony wherein a motor vehicle was used in the perpetration of such crime;
- (6) failing to stop at the scene of an accident and perform the duties required by [K.S.A. 8-1602](#), [8-1603](#), prior to its repeal, or 8-1604, and amendments thereto;
- (7) a violation of the provisions of [K.S.A. 40-3104](#), and amendments thereto, relating to motor vehicle liability insurance coverage; or
- (8) a violation of [K.S.A. 21-3405b](#), prior to its repeal.

**(e)**

- (1) No person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed or the terms of a diversion agreement or was discharged from probation, parole, conditional release or a suspended sentence, if such person was convicted of a first violation of a city ordinance which would also constitute a first violation of [K.S.A. 8-1567](#) or K.S.A. 2014 Supp. 8-1025, and amendments thereto.
- (2) No person may petition for expungement until 10 or more years have elapsed since the person satisfied the sentence imposed or was discharged from probation, parole, conditional release or a suspended sentence, if such person was convicted of a second or subsequent violation of a city ordinance which would also constitute a second or subsequent violation of K.S.A. 8-1567 or K.S.A. 2014 Supp. 8-1025, and amendments thereto.

- (f) There shall be no expungement of convictions or diversions for a violation of a city ordinance which would also constitute a violation of [K.S.A. 8-2,144](#), and amendments thereto.

**(g)**

- (1) When a petition for expungement is filed, the court shall set a date for a hearing of such petition and shall cause notice of such hearing to be given to the prosecuting attorney and the arresting law enforcement agency. The petition shall state the:
  - (A) Defendant's full name;
  - (B) full name of the defendant at the time of arrest, conviction or diversion, if different than the defendant's current name;
  - (C) defendant's sex, race and date of birth;
  - (D) crime for which the defendant was arrested, convicted or diverted;
  - (E) date of the defendant's arrest, conviction or diversion; and
  - (F) identity of the convicting court, arresting law enforcement agency or diverting authority.
- (2) A municipal court may prescribe a fee to be charged as costs for a person petitioning for an order of expungement pursuant to this section.
- (3) Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with the secretary of corrections or the prisoner review board.

- (h) At the hearing on the petition, the court shall order the petitioner's arrest record, conviction or diversion expunged if the court finds that:

- (1) The petitioner has not been convicted of a felony in the past two years and no proceeding involving any such crime is presently pending or being instituted against the petitioner;
- (2) the circumstances and behavior of the petitioner warrant the expungement; and
- (3) the expungement is consistent with the public welfare.

- (i) When the court has ordered an arrest record, conviction or diversion expunged, the order of expungement shall state the information required to be contained in the petition. The clerk of the court shall send a certified copy of the order of expungement to the Kansas bureau of investigation which shall notify the federal bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the arrest, conviction or diversion. After the order of expungement is entered, the petitioner shall be treated as not having been arrested, convicted or diverted of the crime, except that:
  - (1) Upon conviction for any subsequent crime, the conviction that was expunged may be considered as a prior conviction in determining the sentence to be imposed;
  - (2) the petitioner shall disclose that the arrest, conviction or diversion occurred if asked about previous arrests, convictions or diversions:
    - (A) In any application for licensure as a private detective, private detective agency, certification as a firearms trainer pursuant to K.S.A. 2014 Supp. 75-7b21, and amendments thereto, or employment as a detective with a private detective agency, as defined by [K.S.A. 75-7b01](#), and amendments thereto; as security personnel with a private patrol operator, as defined by [K.S.A. 75-7b01](#), and amendments thereto; or with an institution, as defined in [K.S.A. 76-12a01](#), and amendments thereto, of the department for aging and disability services;
    - (B) in any application for admission, or for an order of reinstatement, to the practice of law in this state;
    - (C) to aid in determining the petitioner's qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;
    - (D) to aid in determining the petitioner's qualifications for executive director of the Kansas racing and gaming commission, for employment with the commission or for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission;
    - (E) to aid in determining the petitioner's qualifications for the following under the Kansas expanded lottery act: (i) Lottery gaming facility manager or prospective manager, racetrack gaming facility manager or prospective manager, licensee or certificate holder; or
- (ii) an officer, director, employee, owner, agent or contractor thereof;
  - (F) upon application for a commercial driver's license under [K.S.A. 8-2,125](#) through [8-2,142](#), and amendments thereto;
  - (G) to aid in determining the petitioner's qualifications to be an employee of the state gaming agency;
  - (H) to aid in determining the petitioner's qualifications to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact;
  - (I) in any application for registration as a broker-dealer, agent, investment adviser or investment adviser representative all as defined in [K.S.A. 17-12a102](#), and amendments thereto;
  - (J) in any application for employment as a law enforcement officer, as defined in [K.S.A. 22-2202](#) or [74-5602](#), and amendments thereto; or
  - (K) for applications received on and after July 1, 2006, to aid in determining the petitioner's qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act, [K.S.A. 2014 Supp. 75-7c01](#) et seq., and amendments thereto;

- (3) the court, in the order of expungement, may specify other circumstances under which the arrest, conviction or diversion is to be disclosed; and
- (4) the conviction may be disclosed in a subsequent prosecution for an offense which requires as an element of such offense a prior conviction of the type expunged.
- (j) Whenever a person is convicted of an ordinance violation, pleads guilty and pays a fine for such a violation, is placed on parole or probation or is granted a suspended sentence for such a violation, the person shall be informed of the ability to expunge the arrest records or conviction. Whenever a person enters into a diversion agreement, the person shall be informed of the ability to expunge the diversion.
- (k) Subject to the disclosures required pursuant to subsection (i), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose arrest records, conviction or diversion of an offense has been expunged under this statute may state that such person has never been arrested, convicted or diverted of such offense.
- (l) Whenever the record of any arrest, conviction or diversion has been expunged under the provisions of this section or under the provisions of any other existing or former statute, the custodian of the records of arrest, conviction, diversion and incarceration relating to that crime shall not disclose the existence of such records, except when requested by:
  - (1) The person whose record was expunged;
  - (2) a private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;
  - (3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;
  - (4) the secretary for aging and disability services, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in [K.S.A. 76-12a01](#), and amendments thereto, of the department for aging and disability services of any person whose record has been expunged;
  - (5) a person entitled to such information pursuant to the terms of the expungement order;
  - (6) a prosecuting attorney, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense;
  - (7) the supreme court, the clerk or disciplinary administrator thereof, the state board for admission of attorneys or the state board for discipline of attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged;
  - (8) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;
  - (9) the governor or the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission;
  - (10) the Kansas racing and gaming commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications of the following under the Kansas expanded lottery act: (A) Lottery gaming facility managers and prospective managers, racetrack gaming facility managers and prospective managers, licensees and certificate holders; and (B) their officers, directors, employees, owners, agents and contractors;



- (11) the state gaming agency, and the request is accompanied by a statement that the request is being made to aid in determining qualifications: (A) To be an employee of the state gaming agency; or (B) to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact;
- (12) the Kansas securities commissioner, or a designee of the commissioner, and the request is accompanied by a statement that the request is being made in conjunction with an application for registration as a broker-dealer, agent, investment adviser or investment adviser representative by such agency and the application was submitted by the person whose record has been expunged;
- (13) the attorney general, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act;
- (14) the Kansas sentencing commission;
- (15) the Kansas commission on peace officers' standards and training and the request is accompanied by a statement that the request is being made to aid in determining certification eligibility as a law enforcement officer pursuant to [K.S.A. 74-5601](#) et seq., and amendments thereto; or
- (16) a law enforcement agency and the request is accompanied by a statement that the request is being made to aid in determining eligibility for employment as a law enforcement officer as defined by [K.S.A. 22-2202](#), and amendments thereto.

## History

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L. 1978, ch. 120, § 27; L. 1980, ch. 102, § 1; L. 1981, ch. 158, § 1; L. 1982, ch. 139, § 1; L. 1985, ch. 48, § 13; L. 1985, ch. 78, § 5; L. 1987, ch. 292, § 22; [L. 1988, ch. 315, § 1](#); [L. 1989, ch. 38, § 45](#); [L. 1995, ch. 251, § 9](#); [L. 1996, ch. 256, § 10](#); [L. 1998, ch. 131, § 4](#); [L. 2004, ch. 154, § 55](#); [L. 2006, ch. 32, § 19](#); [L. 2006, ch. 171, § 1](#); [L. 2007, ch. 110, § 56](#); [L. 2008, ch. 162, § 1](#); [L. 2011, ch. 105, § 24](#); [L. 2012, ch. 16, § 1](#); [L. 2013, ch. 120, § 10](#); July 1; [L. 2014, ch. 97, § 9](#); [L. 2015, HB2159, § 3](#).

## Annotations

## LexisNexis® Notes

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## Case Notes

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### Notes to Unpublished Decisions

**Criminal Law & Procedure: Postconviction Proceedings: Expungement**

**Governments: Local Governments: Elections**

**Governments: Local Governments: Employees & Officials**

**Criminal Law & Procedure: Postconviction Proceedings: Expungement**

1. *Unpublished decision*: Persons attempting to hold the office of sheriff must disclose expunged liquor-related convictions; requires persons applying for employment with a criminal justice agency must disclose expunged convictions, if asked in an application for employment. [Chamberlain v. Buhrman, 250 Kan. 277, 825 P.2d 168, 1992 Kan. LEXIS 34 \(Kan. 1992\)](#).

2. *Unpublished decision*: This section is a general statute dealing with expungement of convictions; it does not remove the fact of the convictions, but merely closes the records of the conviction to public scrutiny. [Chamberlain](#)

[\*v. Buhrman\*, 250 Kan. 277, 825 P.2d 168, 1992 Kan. LEXIS 34 \(Kan. 1992\).](#)

3. *Unpublished decision*: Candidate for sheriff was properly dropped from the ballot despite having his two prior liquor-related offenses expunged because the specific statute relating to qualifications for the office of sheriff prevailed over the general expungement statute. [\*Chamberlain v. Buhrman\*, 250 Kan. 277, 825 P.2d 168, 1992 Kan. LEXIS 34 \(Kan. 1992\).](#)

#### **Governments: Local Governments: Elections**

4. *Unpublished decision*: Candidate for sheriff was properly dropped from the ballot despite having his two prior liquor-related offenses expunged because the specific statute relating to qualifications for the office of sheriff prevailed over the general expungement statute. [\*Chamberlain v. Buhrman\*, 250 Kan. 277, 825 P.2d 168, 1992 Kan. LEXIS 34 \(Kan. 1992\).](#)

#### **Governments: Local Governments: Employees & Officials**

5. *Unpublished decision*: Persons attempting to hold the office of sheriff must disclose expunged liquor-related convictions; requires persons applying for employment with a criminal justice agency must disclose expunged convictions, if asked in an application for employment. [\*Chamberlain v. Buhrman\*, 250 Kan. 277, 825 P.2d 168, 1992 Kan. LEXIS 34 \(Kan. 1992\).](#)

6. *Unpublished decision*: Candidate for sheriff was properly dropped from the ballot despite having his two prior liquor-related offenses expunged because the specific statute relating to qualifications for the office of sheriff prevailed over the general expungement statute. [\*Chamberlain v. Buhrman\*, 250 Kan. 277, 825 P.2d 168, 1992 Kan. LEXIS 34 \(Kan. 1992\).](#)

## **Opinion Notes**

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### **LexisNexis® Notes**

#### **OPINIONS OF ATTORNEY GENERAL**

1. Crimes and Punishments — Sentencing — Expungement of Certain Convictions, ATTORNEY GENERAL OPINION No. 80-60, [1980 Kan. AG LEXIS 210](#).
2. Crimes and Punishments — Kansas Criminal Code; Sentencing — Expungement of Certain Convictions, ATTORNEY GENERAL OPINION No. 89-58, [1989 Kan. AG LEXIS 62](#).
3. State Boards, Commissions and Authorities—Parimutuel Racing—Prohibited Acts; Conflicts of Interest; Racing Commission Employees Ability to Participate in Indian Gaming Activities, ATTORNEY GENERAL OPINION No. 96-62, [1996 Kan. AG LEXIS 72](#).
4. State Boards, Commissions and Authorities—Parimutuel Racing—Prohibited Acts; Conflicts of Interest; Racing Commission Employees Ability to Participate in Indian Gaming Activities, Attorney General Opinion No. 96-62, [1996 Kan. AG LEXIS 92](#).
5. Automobiles and Other Vehicles—Uniform Act Regulating Traffic; Rules of the Road; Serious Traffic Offenses—Driving Under Influence of Alcohol or Drugs; Penalties; Municipal Diversion as “Conviction”, Attorney General Opinion No. 2001-48, [2001 Kan. AG LEXIS 47](#).
6. Public Records, Documents and Information—Records Open to the Public — Municipal Court Records; Expunged Criminal Arrest and Conviction; Release of Records to Criminal Justice Agencies, ATTORNEY GENERAL OPINION No. 2002-14, [2002 Kan. AG LEXIS 19](#).

## **Research References & Practice Aids**

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### **Hierarchy Notes:**

[K.S.A. Ch. 12](#)

[K.S.A. Ch. 12, Art. 45](#)

## State Notes

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### Notes

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#### Revisor's Note:

Section was also amended by [L. 2011, ch. 30, § 102](#), but that version was repealed by [L. 2011, ch. 105, § 36](#).

## CASE ANNOTATIONS

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1. Person precluded from being candidate for sheriff even if DUI conviction expunged. [Chamberlain v. Buhrman, 250 K. 277, 278, 279, 825 P.2d 168 \(1992\)](#).

## Opinion Notes

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#### Attorney General's Opinions:

Expungement of certain convictions; time requirements. 89-58.

Municipal diversion is a "conviction" for purposes of enhanced punishment regardless whether diversion was expunged. 2001-48.

Expunged municipal court records may be released to "criminal justice agency" having legitimate need for such. 2002-14.

## Research References & Practice Aids

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#### Cross References to Related Sections:

Expungement of certain convictions of crimes, see 21-4619.

Expungement, defined, see 21-3110a.

Expungement, defined, see 21-5111.

#### Research and Practice Aids:

Criminal Law § 1226(3).

C.J.S. Criminal Law §§ 1735, 1736.

#### Law Review and Bar Journal References:

"Survey of Kansas Law: Criminal Law and Procedure," Keith G. Meyer, 27 K.L.R. 391, 396, 397 (1979).

"The New Kansas Expungement Laws," Keith Meyer, 2 J.K.T.L.A. No. 5, 22, 24, 25 (1979).

"Kansas Diversion: Defendant's Remedies and Prosecutorial Opportunities," Joseph Brian Cox, 20 W.L.J. 344, 348, 362 (1981).

"Expungement: Lies That Can Hurt You in and out of Court," Steven K. O'Hern, 27 W.L.J. 574, 578, 586, 589, 598 (1988).

“Packing Heat: The Personal and Family Protection Act,” Mary D. Feighny, 76 J.K.B.A. No. 4, 21 (2007).

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**City of Topeka  
Council Action Form  
Council Chambers  
214 SE 8th Street  
Topeka, Kansas 66603  
www.topeka.org  
April 5, 2016**

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<b>DATE:</b>	<b>April 5, 2016</b>	
<b>CONTACT PERSON:</b>	<b>Lisa Robertson, City Attorney</b>	<b>DOCUMENT #:</b>
<b>SECOND PARTY/SUBJECT:</b>	<b>Loaned Executives - Department Heads</b>	<b>PROJECT #:</b>
<b>CATEGORY/SUBCATEGORY</b>	<b>013 Ordinances - Codified / 002 Administration</b>	
<b>CIP PROJECT:</b>	<b>No</b>	
<b>ACTION OF COUNCIL:</b>		<b>JOURNAL #:</b>
		<b>PAGE #:</b>

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**DOCUMENT DESCRIPTION:**

**AN ORDINANCE** introduced by City Manager Jim Colson, concerning department heads and assistance from employees of other governmental entities, amending City of Topeka Code Section 2.25.090 and repealing the original section.

*(Approval would continue to require governing body approval for employment agreements with department heads and severance agreements with employees; but would clarify that such approval is not required for short term contracts with employees from other governmental entities.)*

**POLICY ISSUE:**

Although governing body approval is required for employment agreements with department heads and severance agreements with employees, the city code is vague and, as such, does not adequately address the unique situation of short term agreements with employees from other governmental entities (loaned executives). The proposed revisions would provide the additional clarification needed to prevent any confusion in the future.

**STAFF RECOMMENDATION:**

Staff recommends the Governing Body move to approve the ordinance.

**BACKGROUND:**

Recently filed litigation challenged the City's contract with the City of Goodyear, Arizona, for the use of its deputy fire chief for a short period of time without utilizing the procurement process.

This ordinance would provide the additional clarification needed in relation to the city manager's authority to contract with individuals employed by other governmental entities to assist the City for a period not to exceed 6 months. This type of contract would not be subject to the procurement ordinances.

**BUDGETARY IMPACT:**

There is no budgetary impact to the City.

**SOURCE OF FUNDING:**

Not Applicable

**ATTACHMENTS:**

**Description**

Ordinance

(Published in the Topeka Metro News \_\_\_\_\_)

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE introduced by Jim Colson, City Manager concerning department heads and assistance from employees of other governmental entities, amending City of Topeka Code § 2.25.090 and repealing the original section.

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

Section 1. That section 2.25.090, Approval of employment and severance agreements, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

~~Approval of employment and severance a~~Agreements: department heads, short-term assistance from employees of other governmental entities; severance.

(a) ~~All employment contracts with department heads or appointive officers or employees shall be approved by the city council prior to signature by the city manager.~~  
Approval by the governing body shall ~~not~~ be required prior to the city manager signing any for employment contracts of 90 days or less duration or with employees not designated as with a department heads.

(b) Notwithstanding subsection (a) above, approval by the governing body shall not be required for any contract with an individual employed by another governmental entity to provide assistance on a short-term basis, not to exceed six months in duration.  
Such contract shall not be subject to the procurement ordinances, TMC Chapter 3.30.

(c) No severance or other payments beyond those ~~earned or otherwise~~ authorized by state or federal law, city ordinance or contract shall be made to a current or former ~~appointive city officer, department head or employee~~ without prior ~~city council~~ authorization by the governing body.

Section 2. That original § 2.25.090 of The Code of the City of Topeka, Kansas,  
is hereby specifically repealed.

Section 3. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 4. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 5. 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 \_\_\_\_\_.

CITY OF TOPEKA, KANSAS

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk





**City of Topeka**  
**Council Action Form**  
**Council Chambers**  
**214 SE 8th Street**  
**Topeka, Kansas 66603**  
**[www.topeka.org](http://www.topeka.org)**  
April 5, 2016

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**DATE:** April 5, 2016  
**CONTACT PERSON:** Jacque Russell, Human Resources Director **DOCUMENT #:**  
**SECOND PARTY/SUBJECT:** City Health and Wellness Center **PROJECT #:**  
**CATEGORY/SUBCATEGORY** 006 Communication / 005 Other  
**CIP PROJECT:** No  
**ACTION OF COUNCIL:** **JOURNAL #:**  
**PAGE #:**

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**DOCUMENT DESCRIPTION:**

**DISCUSSION** for the purpose of providing an update on the City of Topeka Health and Wellness Center.

*(Overview of the Health Risk Assessment and Biometric Screen Event, Flu Shot Event and initial services the Health and Wellness Center has provided beginning in October 2015.)*

**POLICY ISSUE:**

The program was implemented to contain the healthcare costs for health plan participants and the City of Topeka.

**STAFF RECOMMENDATION:**

Discussion only, staff is making no recommendation.

**BACKGROUND:**

The Health and Wellness Center was implemented to assist with managing the health risks of health plan participants with the anticipation of reducing overall health risk resulting in improved quality of life for employees and maintaining the healthcare costs for our group health plans.

**BUDGETARY IMPACT:**

The total construction cost of the center was \$292,814.

**SOURCE OF FUNDING:**

Health Fund



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**Council Action Form**  
**Council Chambers**  
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**Topeka, Kansas 66603**  
**www.topeka.org**  
April 5, 2016

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<b>DATE:</b>	<b>April 5, 2016</b>	
<b>CONTACT PERSON:</b>	<b>Lisa Robertson, City Attorney</b>	<b>DOCUMENT #:</b>
<b>SECOND PARTY/SUBJECT:</b>		<b>PROJECT #:</b>
<b>CATEGORY/SUBCATEGORY</b>	<b>006 Communication / 003 Requests</b>	
<b>CIP PROJECT:</b>	<b>No</b>	
<b>ACTION OF COUNCIL:</b>		<b>JOURNAL #:</b>
		<b>PAGE #:</b>

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**DOCUMENT DESCRIPTION:**

**DISCUSSION** regarding consideration of an extension of time for submission of development agreements from Constitution Hall, Historic Jayhawk Theatre and Downtown Plaza to receive transient guest tax funding.

*(Letters requesting a 90-day extension of time from the governing body was submitted for consideration.)*

**POLICY ISSUE:**

**STAFF RECOMMENDATION:**

**BACKGROUND:**

On October 20, 2015, the governing body approved resolutions granting transient guest tax (TGT) funding to the Downtown Plaza, Historic Jayhawk Theatre, Constitution Hall, and the Evel Knievel Museum. Funding is contingent upon submission of a development agreement to the governing body by April 20, 2016 unless an extension is granted. Three of the recipients are requesting extensions.

**BUDGETARY IMPACT:**

Not Applicable

**SOURCE OF FUNDING:**

Not Applicable

**ATTACHMENTS:**

**Description**

Resolution No. 8729/Constitution Hall

Constitution Hall Letter of Request  
Resolution No. 8730/Downtown Plaza  
Downtown Plaza Letter of Request  
Resolution No. 8731/Jayhawk Theatre  
Jayhawk Theatre Letter of Request

**RESOLUTION NO. 8729**

A RESOLUTION introduced by Councilmembers Elaine Schwartz, Brendan Jensen and Jeffery Coen sitting as the Transient Guest Tax Committee, allocating transient guest tax funding for a period of 12 years for Constitution Hall.

WHEREAS, transient guest taxes (TGT) may be imposed on individuals who occupy hotel and motel rooms for short durations; and

WHEREAS, the funds generated by such taxes may be used for convention and tourism activities and to promote the general welfare of the city, including the attraction of industry; and

WHEREAS, the City currently imposes a 7% TGT; and

WHEREAS, on August 20, 2002, the governing body, in Resolution No. 7253, allocated 1% of the TGT for a period of 13 years to the development of the Great Overland Station, including Riverfront Park, and the historic preservation fund; and

WHEREAS, that funding will expire on December 31, 2015; and

WHEREAS, the TGT Committee is desirous of extending the 1% for an additional 12 years to provide a funding source for certain projects that the Committee believes will enhance tourism by putting more 'heads on beds' and delivering a quantifiable return on the City's investment; and

WHEREAS, the TGT Committee developed a process to consider applications for funding which were reviewed by a review board comprised of staff and tourism industry representatives; and

WHEREAS, on August 19, 2015, the TGT Committee adopted the review board's recommendations to allocate approximately \$4.7 million dollars over a period of 12 consecutive years to fund certain projects, including Constitution Hall.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE  
CITY OF TOPEKA, KANSAS, that:

Section 1. The City shall allocate \$355,000.00 over a period of 12 years to  
provide funding for Constitution Hall subject to the terms and conditions contained in  
this Resolution and a subsequently executed development agreement.

Such funds will be allocated annually in an amount determined by the City's chief  
financial officer or designee. The commitments will begin in fiscal year 2016 and  
continue until December 31, 2027 or until the maximum expenditure amount of  
\$355,000.00 is met, whichever event is earlier.

Section 2. The City's funding commitment will be conditioned upon the  
occurrence of the following:

(a) Enactment of a charter ordinance extending the current 1% TGT (which  
expires on December 31, 2015) for an additional 12 years commencing in fiscal year  
2016 and ending on December 31, 2027.

(b) Approval of a development agreement between the governing body and  
the appropriate legal entity responsible for the project. Such agreement will contain  
provisions addressing the use of TGT funds, including but not necessarily limited to:

(1) A project development budget identifying all funding sources and  
the manner in which TGT funds will be spent.

(2) An operating plan for the project identifying various performance  
metrics.

(3) A project timeline identifying established deadlines for various  
milestones.

(4) A project design document.

(5) The anticipated economic impact of the project.

(6) An outline of the various responsibilities related to reporting, inspections, audits, indemnification, insurance, and fund repayment in certain specified circumstances.

The development agreement will also acknowledge that grant funding may be reduced to correspond to lower than expected TGT revenues.

(c) The development agreement will be submitted to the governing body for its consideration and approval within 180 days from the date of this Resolution; unless an extension is granted by the governing body.

(d) If the entity contracting on behalf of Constitution Hall is a not-for-profit entity, it will comply with the requirements of K.S.A. 45-240 and amendments thereto regarding recordkeeping requirements for not-for-profit entities that receive public funds.

(e) The entity contracting on behalf of Constitution Hall shall not owe any debt due to the City, including, but not limited to property taxes and special assessments and shall be in good standing with the Kansas Secretary of State.

Section 3. All financial commitments referenced in this Resolution shall be subject to the Budget and Cash Basis laws and any other applicable ordinances or statutes.

ADOPTED and APPROVED by the Governing Body on October 20, 2015.

CITY OF TOPEKA, KANSAS

---

Larry E. Wolgast, Mayor

ATTEST:

---

Brenda Younger, City Clerk



March 28, 2016

City Clerk  
City of Topeka  
Topeka, KS

Dear Ms. Younger,

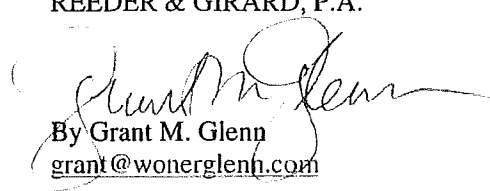
On behalf of the Friends of the Free State Capitol, Inc., we request that you place on the City Council Agenda April 5, 2016, a request that the 180 day deadline set forth in Section 2 (c) of City Resolution 8729 be extended an additional 90 days from April 17 until July 16, 2016. We request this extension be considered at the same time other similar applications are being made for other entities receiving transient guest tax funds.

We will plan to attend and provide further explanation for the need for this extension. Basically, the reason is based upon the need to attempt to perform the improvements with the funds sooner rather than later, by financing the improvements through a bank loan or similar financing mechanism. We have commenced the dialogue with potential lenders and need their input to determine if the proposed language for the Agreement with the City is sufficient to permit possible financing.

Most of the anticipated improvements to Constitution Hall (replacement of the east façade on Kansas Avenue) must be completed at one time and cannot be incrementally done a little at a time over 12 years of the funding. Without financing, the work could not be done until near the end of the 12 year period, when inflation may make the cost for doing so prohibitive. Thus, financing the improvements based upon the anticipated stream of revenue seems the only real means that this funding can be used to timely complete the necessary improvements and thereby start making a "Return" on investment for taxpayers through enhanced visitor opportunities.

Please advise us of the date the Council will consider this on its agenda.

Very Truly Yours,  
WONER, GLENN,  
REEDER & GIRARD, P.A.

  
By Grant M. Glenn  
[grant@wonerglenn.com](mailto:grant@wonerglenn.com)

cc: Lisa Robertson  
Jim Colson  
Members of the City Council

RECEIVED  
CITY CLERK  
2016 MAR 28 P 2:40  
TOPEKA, KANSAS

**RESOLUTION NO. 8730**

A RESOLUTION introduced by Councilmembers Schwartz, Jensen, and Coen sitting as the Transient Guest Tax Committee, allocating transient guest tax funding for a period of 12 years for Downtown Plaza.

WHEREAS, transient guest taxes (TGT) may be imposed on individuals who occupy hotel and motel rooms for short durations; and

WHEREAS, the funds generated by such taxes may be used for convention and tourism activities and to promote the general welfare of the city, including the attraction of industry; and

WHEREAS, the City currently imposes a 7% TGT; and

WHEREAS, on August 20, 2002, the governing body, in Resolution No. 7253, allocated 1% of the TGT for a period of 13 years to the development of the Great Overland Station, including Riverfront Park, and the historic preservation fund; and

WHEREAS, that funding will expire on December 31, 2015; and

WHEREAS, the TGT Committee is desirous of extending the 1% for an additional 12 years to provide a funding source for certain projects that the Committee believes will enhance tourism by putting more 'heads on beds' and delivering a quantifiable return on the City's investment; and

WHEREAS, the TGT Committee developed a process to consider applications for funding which were reviewed by a review board comprised of staff and tourism industry representatives; and

WHEREAS, on August 19, 2015, the TGT Committee adopted the review board's recommendations to allocate approximately \$4.7 million dollars over a period of 12 consecutive years to fund certain projects, including Downtown Plaza.



NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS, that:

Section 1. The City shall allocate \$3,435,000 over a period of 12 years to provide funding for Downtown Plaza subject to the terms and conditions contained in this Resolution and a subsequently executed development agreement.

Such funds will be allocated annually in an amount determined by the City's chief financial officer or designee. The commitments will begin in fiscal year 2016 and continue until December 31, 2027 or until the maximum expenditure amount of \$3,435,000 is met, whichever event is earlier; provided, however, that all terms and conditions of the above-referenced development agreement are fully and completely adhered to through the duration of the 12-year investment period.

Section 2. The City's goal with this funding commitment is to support a viable project that will produce an economic return at the conclusion of the investment. The City's funding commitment will be conditioned upon the occurrence of the following:

(a) Enactment of a charter ordinance extending the current 1% TGT (which expires on December 31, 2015) for an additional 12 years commencing in fiscal year 2016 and ending on December 31, 2027.

(b) Approval of a development agreement between the governing body and the appropriate legal entity responsible for the project. Such agreement will contain provisions addressing related to the use of TGT funds that address general principles, including, but not necessarily limited to, the following:

(1) A project development budget identifying all funding sources and the manner in which TGT funds will be spent.

51                   (2)    An operating plan for the project identifying strategy, budget and  
52                   various performance metrics.

53                   (3)    A project timeline identifying established deadlines for various  
54                   milestones.

55                   (4)    A project design document.

56                   (5)    The anticipated economic impact of the project.

57                   (6)    An outline of the various responsibilities related to reporting,  
58                   inspections, audits, indemnification, insurance, and fund repayment in certain  
59                   specified circumstances.

60                   The City and the legal entity responsible for the project fully acknowledge that the  
61                   general principles set forth in this Resolution will be developed in much greater detail  
62                   through specific language to be contained in the subsequently-executed development  
63                   agreement, which will be the controlling document in relation to the project. The parties  
64                   further will also acknowledge that grant funding may be reduced to correspond to lower  
65                   than expected TGT revenues.

66                   (c)    The development agreement will be submitted to the governing body for  
67                   its consideration and approval within 180 days from the date of this Resolution; unless  
68                   an extension is granted by the governing body.

69                   (d)    If the entity contracting on behalf of Downtown Plaza is a not-for-profit  
70                   entity, it will comply with the requirements of K.S.A. 45-240 and amendments thereto  
71                   regarding recordkeeping requirements for not-for-profit entities that receive public funds.

(e) The entity contracting on behalf of Downtown Plaza shall not owe any debt due to the City, including, but not limited to property taxes and special assessments and shall be in good standing with the Kansas Secretary of State.

Section 3. All financial commitments referenced in this Resolution shall be subject to the Budget and Cash Basis laws and any other applicable ordinances or statutes.

ADOPTED and APPROVED by the Governing Body on October 20, 2015.

CITY OF TOPEKA, KANSAS

\_\_\_\_\_  
Larry E. Wolgast, Mayor

ATTEST:

\_\_\_\_\_  
Brenda Younger, City Clerk



Since passage of the resolution granting distribution of transient guest tax dollars by the City of Topeka to four different entities, the committee of individuals that was involved in the petition process for a public plaza has continued its effort to meet the requirements set forth in the agreement that was passed by the City of Topeka.

Once the resolution was passed this project development committee, as it had been established by Visit Topeka, began soliciting the assistance of a number of genuinely interested partners and leaders in the community to facilitate the eventual development of the public plaza. The committee currently is made up of or is receiving assistance from the following individuals.

Matt Strathman—Strathman Sales

Seth Wagoner—Advisors Excel/Cyrus Hotel

Jim Ogle—Freedom's Frontiers Heritage

John Hunter—Heartland Visioning

Vince Frye—Downtown Topeka Inc.

Kurt Young—Topeka Lodging Association

Zach Snethen—HTK Architects

Charles Smith—HTK Architects

Brett Oetting—Visit Topeka

Rodger Fry—Topeka Lodging Association/Ramada Downtown

Scott Smathers—Go Topeka

Wendy Wells—US Bank

Mark Cairdullo—State of Kansas

Carol Ruth Bonebrake—Simpson, Logback, Lynch, Norris, P.A.

As had been stated early in the petitioning process for these funds, this effort would be built, so to speak, from the ground up. With no land site in place at the time of the granting of the funds, the first challenge was to proceed into the site analysis phase to determine the most strategic site to develop the plaza.

Several key criteria were developed to guide the site to determine its ability to provide the highest level of impact to the City of Topeka and its residents. Some of these criteria are as follows:

- *Potential for Economic Development in and around the plaza*
- *View of the Capital*



- *Proximity to Kansas Avenue*
- *Adjacent Amenities*
- *Connection to other venues and public spaces*
- *Scalability*

One of the first challenges was to secure funding for the payment of the expenses incurred for this site analysis. That commitment of \$19,000 was secured and is in place.

We began with a list of approximately ten land sites or buildings in the downtown area. With the assistance of the professionals at HTK architects and numerous planning and strategy meetings, that list has been reduced to two potential sites that meet the criteria originally established. Throughout this process, initial discussions have been held with owners of the potential sites to determine a possible purchase price to assist in the overall analysis.

One major component of the development agreement is the operation budget. Discussions are currently being held with an organization to underwrite the majority of the annual operating expenses estimated to be in a range of \$300,000 per year. It is too early to publicly present any content of those discussions. It is anticipated that this process could be completed in another four to six weeks.

We are pleased with the progress that has been made to this point in this major project to assist in the further development of downtown Topeka. As most of you are aware, the speculative interest in real estate in the downtown locale is at an all-time high. While this interest can be attributed to what has already transpired in downtown Topeka, it is also apparent there is a keen level of interest in the future success of this plaza.

It is apparent that, at this point, the individuals involved in this effort will need more time to finalize an agreement and as a result we are asking for an extension of the deadline. While it is difficult to determine what an appropriate amount of time is, our best guess would be in a range of another 90 to 120 days.

We would request to be placed on the City Council agenda for either of the two dates prior to the expiration of the current deadline of April 17, 2016. It is our understanding there are Council meetings on both April 5<sup>th</sup> and 12<sup>th</sup>. Either of those dates would be appropriate.

Thank you for your kind consideration of this request.

A handwritten signature in black ink, appearing to be "Rodger Fry", is written over a large, light-colored circular mark.

Rodger Fry

President, Topeka Lodging Association

**RESOLUTION NO. 8731**

A RESOLUTION introduced by Councilmembers Elaine Schwartz, Brendan Jensen and Jeffry Coen sitting as the Transient Guest Tax Committee, allocating transient guest tax funding for a period of 12 years for the Historic Jayhawk Theatre.

WHEREAS, transient guest taxes (TGT) may be imposed on individuals who occupy hotel and motel rooms for short durations; and

WHEREAS, the funds generated by such taxes may be used for convention and tourism activities and to promote the general welfare of the city, including the attraction of industry; and

WHEREAS, the City currently imposes a 7% TGT; and

WHEREAS, on August 20, 2002, the governing body, in Resolution No. 7253, allocated 1% of the TGT for a period of 13 years to the development of the Great Overland Station, including Riverfront Park, and the historic preservation fund; and

WHEREAS, that funding will expire on December 31, 2015; and

WHEREAS, the TGT Committee is desirous of extending the 1% for an additional 12 years to provide a funding source for certain projects that the Committee believes will enhance tourism by putting more 'heads on beds' and delivering a quantifiable return on the City's investment; and

WHEREAS, the TGT Committee developed a process to consider applications for funding which were reviewed by a review board comprised of staff and tourism industry representatives; and

WHEREAS, on August 19, 2015, the TGT Committee adopted the review board's recommendations to allocate approximately \$4.7 million dollars over a period of 12 consecutive years to fund certain projects, including the Historic Jayhawk Theatre.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE  
CITY OF TOPEKA, KANSAS, that:

Section 1. The City shall allocate \$680,000.00 over a period of 12 years to  
provide funding for the Jayhawk Theatre subject to the terms and conditions contained  
in this Resolution and a subsequently executed development agreement.

Such funds will be allocated annually in an amount determined by the City's chief  
financial officer or designee. The commitments will begin in fiscal year 2016 and  
continue until December 31, 2027 or until the maximum expenditure amount of  
\$680,000.00 is met, whichever event is earlier.

Section 2. The City's funding commitment will be conditioned upon the  
occurrence of the following:

(a) Enactment of a charter ordinance extending the current 1% TGT (which  
expires on December 31, 2015) for an additional 12 years commencing in fiscal year  
2016 and ending on December 31, 2027.

(b) Approval of a development agreement between the governing body and  
the appropriate legal entity responsible for the project. Such agreement will contain  
provisions addressing the use of TGT funds, including but not necessarily limited to:

(1) A project development budget identifying all funding sources and  
the manner in which TGT funds will be spent.

(2) An operating plan for the project identifying various performance  
metrics.

(3) A project timeline identifying established deadlines for various  
milestones.

(4) A project design document.

(5) The anticipated economic impact of the project.

(6) An outline of the various responsibilities related to reporting, inspections, audits, indemnification, insurance, and fund repayment in certain specified circumstances.

The development agreement will also acknowledge that grant funding may be reduced to correspond to lower than expected TGT revenues.

(c) The development agreement will be submitted to the governing body for its consideration and approval within 180 days from the date of this Resolution; unless an extension is granted by the governing body.

(d) If the entity contracting on behalf of the Jayhawk Theatre is a not-for-profit entity, it will comply with the requirements of K.S.A. 45-240 and amendments thereto regarding recordkeeping requirements for not-for-profit entities that receive public funds.

(e) The entity contracting on behalf of the Jayhawk Theatre shall not owe any debt due to the City, including, but not limited to property taxes and special assessments and shall be in good standing with the Kansas Secretary of State.

Section 3. All financial commitments referenced in this Resolution shall be subject to the Budget and Cash Basis laws and any other applicable ordinances or statutes.

ADOPTED and APPROVED by the Governing Body on October 20, 2015.

CITY OF TOPEKA, KANSAS

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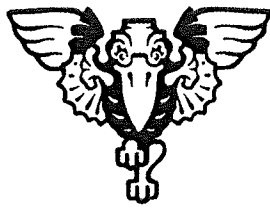
Larry E. Wolgast, Mayor

ATTEST:

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Brenda Younger, City Clerk





# THE JAYHAWK

STATE THEATRE OF KANSAS

RECEIVED  
CITY CLERK

March 28, 2016

City Clerk  
City of Topeka  
Topeka, KS

2016 MAR 28 P 4: 09

TOPEKA, KANSAS

Dear Ms. Younger,

On behalf of the Historic Jayhawk Theatre, we request that you place on the City Council Agenda for early April a request that the 180 day deadline set forth in Section 2 (c) of City Resolution 8729 be extended an additional 90 days from April 17 until July 16, 2016. We request this extension be considered at the same time other similar applications are being made for other entities receiving transient guest tax funds. We will plan to attend and provide further explanation for the need for this extension.

We are in discussions with local banks to arrange financing the improvements. We need their input to determine if the proposed language for the Agreement with the City is sufficient to permit possible financing of all or part of the total TGT allocation. Most of the anticipated improvements to the Jayhawk Theatre must be completed at one time and cannot be incrementally done a little at a time. Financing the improvements based upon the anticipated stream of revenue seems the only real means that this funding can be used to timely complete the necessary improvements and thereby start making a "Return" on investment for taxpayer through enhanced visitor opportunities.

Second, We have just notified our architect, Slemmons and Associates, that we are conducting a search for a new architect. This may substantially affect our overall budget and plan off attack for construction. The RFP process for this will take at least another 60 days.

Finally, We are on the cusp of hiring an Executive Director. We hope to have this person in place by late June. This is an exciting and crucial step in helping us develop a more professional and successful path toward restoration and operation.

Please advise us of the date the Council will consider this on its agenda.

Sincerely,

Jeff S. Carson, President  
Jayhawk Theatre Board of Directors

cc: Lisa Robertson, Jim Colson, Members of the City Council