

1 (Published in the Topeka Metro News _____)
2

3 ORDINANCE NO. _____
4

5 AN ORDINANCE introduced by City Manager Dr. Robert M. Perez, concerning
6 dangerous dogs, amending § 6.15.170 of the Topeka Municipal
7 Code and repealing original sections.
8

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

10 Section 1. That section 6.15.170, Dangerous dogs, of The Code of the City of
11 Topeka, Kansas, is hereby amended to read as follows:

12 **Dangerous dogs.**

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

16 (1) If the Municipal Court judge determines that a dog is dangerous pursuant to
17 this chapter, the owner of the dangerous dog shall be required to comply with the
18 following:

19 (i) Registration and Microchipping. The owner shall annually register the
20 dangerous dog with the City, on such forms designated by the Police Chief, and shall
21 have a microchip inserted into the dog by the humane society. The microchip shall
22 detail the dangerous dog registration and such other information as may be appropriate
23 to determine the ownership of the dog. The owner shall pay a \$50.00 annual registration
24 fee and shall pay all costs associated with the microchip procedure and registration of
25 the dog. The owner shall be responsible for maintaining with the Police Department the
26 address of the owner and the dangerous dog. The owner shall notify the Police
27 Department within seven days of a change in address for the owner and dangerous
28 dog.

29 (ii) Confinement – Muzzle/Restraint. All dangerous dogs shall be confined within
30 a secure enclosure, which can be either a building (i.e., Morton building, shed or
31 garage) or a dwelling/residence. It shall be unlawful for any owner to maintain a
32 dangerous dog upon any premises that does not have a secure enclosure, unless the
33 owner keeps the dangerous dog inside his or her dwelling/residence. It shall be unlawful
34 for any owner to allow a dangerous dog to be outside of the dwelling/residence of the
35 owner or outside the secured enclosure unless it is necessary for the owner (A) to
36 obtain veterinary care for the dangerous dog; or (B) for the limited purposes of allowing
37 said dangerous dog to urinate or defecate; or (C) to surrender the dangerous dog to the
38 humane society to be euthanized by a certified veterinarian; or (D) to respond to such
39 orders of law enforcement officials as may be required. In such event, the dangerous
40 dog shall be securely and humanely muzzled and restrained with a leash not exceeding
41 four feet in length, and shall be under the direct control and supervision of the owner of
42 the dangerous dog. The muzzle shall be made and used in a manner that will not cause
43 injury to the dog or interfere with its vision or respiration, but shall prevent it from biting
44 any human or animal.

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

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

51 (2) Upon conviction of keeping a dangerous dog, the owner shall comply with
52 the provisions of this chapter within 15 days. The owner shall file proof of sterilization

53 and microchipping, acceptable to the Municipal Court, with the clerk of the Municipal
54 Court no later than 20 calendar days after conviction. Upon receipt, the clerk of the
55 Municipal Court shall provide a copy of such proof to the Legal Department and the dog
56 may then be released. If the owner fails to comply with the provisions of this chapter
57 within the time provided, upon motion filed by the owner, the Municipal Court Judge
58 may allow an extension of time to comply, after a finding of good cause, or order the
59 dog ~~shall~~to be destroyed. If the owner or keeper of the dog contests the determination,
60 he or she may appeal within 14 days of the finding to the district court pursuant to law.

61 (3) The Municipal Court shall impose a fine of at least \$499.00 and not more
62 than \$1,000 on a person who has been convicted of possessing a dangerous dog for an
63 attack on a human being pursuant to TMC 6.05.010(h)(3). The Municipal Court shall
64 have no authority to suspend the fine or any portion of the fine.

65 (4) The Municipal Court shall impose a fine of \$250.00 on a person who has
66 been convicted of possessing a dangerous dog for an attack on a domestic animal
67 pursuant to TMC 6.05.010(h)(3). The Municipal Court shall have no authority to
68 suspend the fine or any portion of the fine.

69 (b) In the event that an animal control officer or law enforcement officer has
70 probable cause to believe that a dog is dangerous, as defined by TMC 6.05.010, the
71 animal control officer or law enforcement officer may seize and impound such animal at
72 the animal shelter or humane society. If an animal is ordered to be impounded pursuant
73 to this subsection, the person who owns, harbors, keeps or possesses such animal
74 shall be entitled to a hearing in the Municipal Court within 14 days of such impoundment
75 to review the propriety of such impoundment and whether a bond may be posted.
76 Impoundment expenses shall be assessed as court costs against a convicted owner

77 and any bond may be applied to such costs. If the owner is personally served with the
78 citation and fails to make an appearance to answer the charges within 72 hours after
79 the failure to appear, the court shall release the animal to the humane society or a
80 proper holding facility. If the citation is mailed to a presumed owner, and the presumed
81 owner fails to appear before the court to answer the charges, the court shall release the
82 animal to the humane society or a proper holding facility 20 days after the failure to
83 appear. Upon any failure to appear by the presumed owner thereafter, the court shall
84 release the animal to the humane society.

85 (c) Dogs seized in connection with dog fighting shall be housed in a secure
86 enclosure with proper exercise and care and held as evidence in the case until the
87 conclusion of the case and order from the court on the disposition of the dogs.
88 Disposition and release of dogs is determined in accordance to K.S.A. 21-6412 and 21-
89 6414 and any amendments thereto.

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

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

101 impoundment, the owner or keeper shall pay a \$499.00 fine and the animal control
102 officer or law enforcement officer is empowered to impound the dog, and the dog shall
103 be destroyed. The Municipal Judge shall have no authority to suspend the fine or any
104 portion thereof.

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

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

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

119 (i) Notwithstanding any other provision of this chapter to the contrary and
120 irrespective of whether the dog has been declared dangerous pursuant to this chapter,
121 the Municipal Judge may order any dog destroyed if the Municipal Judge determines
122 that the dog is an immediate threat to public health and safety and that confinement and
123 registration of the dog by the owner or keeper of the dog as provided in this chapter will
124 not adequately protect public health and safety. No person shall harbor, own, or

125 possess a dog that is an immediate threat to public health and safety. In making such
126 determination the Municipal Judge may consider the severity of the attack and such
127 other relevant information. The Municipal Judge shall have the authority to sentence the
128 person adjudicated guilty of this section to serve up to a maximum of six months in jail
129 and to pay a fine not to exceed \$1,000.

130 Section 2. That original § 6.15.170 of The Code of the City of Topeka, Kansas,
131 are hereby specifically repealed.

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

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

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

139 PASSED AND APPROVED by the Governing Body on _____.

140 CITY OF TOPEKA, KANSAS

141
142
143
144
145
146 _____
147 Michael A. Padilla, Mayor

148 ATTEST:
149
150
151 _____
152 Brenda Younger, City Clerk