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City Council Agenda

**City Council Chambers
214 SE 8th Street
Topeka, Kansas 66603**

December 6, 2011
6:00 PM

Mayor: William W. Bunten

Councilmembers

Karen A. Hiller	District No. 1	Chad Manspeaker	District No. 6
John Alcala	District No. 2	Robert E. Archer	District No. 7
Sylvia E. Ortiz	District No. 3	Andrew P. Gray	District No. 8
Denise Everhart	District No. 4	Richard Harmon	District No. 9
Larry Wolgast	District No. 5		

Interim City Manager: Daniel R. Stanley

Addressing the Council: No person shall address the Council during a Council Meeting, unless they have notified the City Clerk 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.

Citizens wishing to offer Public Comment may sign up by phoning the City Clerk's office at 368-3940.

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

INVOCATION:

PLEDGE OF ALLEGIANCE:

1. PROCLAMATIONS:

"None scheduled at this time."

2. PRESENTATIONS:

"None scheduled at this time."

3. ROLL CALL:

4. CONSENT AGENDA:

A. Board Appointment - Downtown Business Improvement District Advisory Board

BOARD APPOINTMENT recommending the re-appointment of Gary Yager to the Downtown Business Improvement District Advisory Board for a term ending December 31, 2013. *(Downtown Business Representative)*

B. Board Appointment - Downtown Business Improvement District Advisory Board

BOARD APPOINTMENT recommending the re-appointment of Jim Parrish to the Downtown Business Improvement District Advisory Board for a term ending December 31, 2013. *(Downtown Business Representative)*

C. Workers' Compensation Settlement - Donald Fincham

APPROVAL of Workers' Compensation Settlement for Water Pollution Control (WPC) employee, Donald Fincham, in the amount of \$24,868.58, for permanent partial impairment of his cervical spine from injuries suffered in a lifting incident of April 10, 2008.

(Approval would authorize payment of that amount as full and final settlement of the underlying claim.)

D. MINUTES of the regular meeting of November 29, 2011

E. APPLICATIONS:

5. UNFINISHED BUSINESS:

A. Ordinance - Alcohol License Permit Fees

AN ORDINANCE introduced by Interim City Manager Daniel R. Stanley, amending City of Topeka Code Sections 5.10.020 and 9.15.300, concerning alcohol sales and tax and specifically repealing said original sections. Final Reading.

(Approval would change the current occupation tax from an annual to a biennial payment.)



ATTACHMENTS

B. Ordinance - Fireworks

 [ATTACHMENTS](#)

AN ORDINANCE introduced by Councilmembers Karen Hiller, Sylvia Ortiz and Richard Harmon, sitting as the Public Health and Safety Committee, amending City of Topeka Code Section 8.35.070 concerning fireworks and specifically repealing said original section. Final Reading.

(Approval would reduce the number of days consumer fireworks may be sold and discharged within the City of Topeka and ban the discharge of fireworks in certain circumstances.)

C. Ordinance - Parks and Recreation and Golf Course Advisory Boards

 [ATTACHMENTS](#)

AN ORDINANCE introduced by Interim City Manager Daniel R. Stanley, concerning the Parks and Recreation and Golf Course Advisory Boards, amending City of Topeka Code Section 2.05.010 and specifically repealing said original section as well as repealing Sections 2.90.010 through 2.90.080 and Sections 11.30.050 through 11.30.120. Final Reading.

(Approval would repeal City Code provisions concerning the Parks and Recreation and Golf Course Advisory Boards that are no longer needed due to the consolidation of the Parks and Recreation Departments of the City and County.)

6. NEW BUSINESS:

A. Applications - Retail Cereal Malt Beverage License

APPROVAL of Retail Cereal Malt Beverage License Applications.

Voting Requirement: Majority of the Governing Body, including the Mayor.

(Pursuant to K.S.A. 41-2702 application for license must be approved by the Governing Body prior to the issuance of the license.)

7. MISCELLANEOUS:

-

8. PRESENTATIONS BY THE CITY MANAGER, MAYOR AND MEMBERS OF THE COUNCIL:

-

9. PUBLIC COMMENT:

-

10. ADJOURNMENT:

-



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 25, 2011

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DATE:	December 6, 2011	
CONTACT PERSON:		DOCUMENT #:
SECOND PARTY/SUBJECT:		PROJECT #:
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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BACKGROUND:

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SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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CIP PROJECT:	No	
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		PAGE #:

DOCUMENT DESCRIPTION:

"None scheduled at this time."

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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DOCUMENT DESCRIPTION:

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POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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November 7, 2011

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DATE: December 6, 2011

CONTACT PERSON: Mayor Bunten DOCUMENT #:

SECOND PARTY/SUBJECT: Downtown Business Improvement District Advisory Board PROJECT #:

CATEGORY/SUBCATEGORY 006 Communication / 003 Requests

CIP PROJECT: No

ACTION OF COUNCIL: JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

BOARD APPOINTMENT recommending the re-appointment of Gary Yager to the Downtown Business Improvement District Advisory Board for a term ending December 31, 2013. (*Downtown Business Representative*)

POLICY ISSUE:

N/A

STAFF RECOMMENDATION:

Mayor Bunten is recommending the re-appointment of Gary Yager to the Downtown Business Improvement District Advisory Board. There is no official attendance policy, however there have been seven meetings, and Mr. Yager has one absence.

BACKGROUND:

KSA 12-1781 et seq. This is a statutory board wherein the Mayor recommends the nominee and Council has final approval. Nominees must be representatives of the businesses located within the district. The advisory board submits a recommendation to the Council of programs and services within the district, and submits a proposed schedule of fees for assessment on the businesses in the district and may recommend consideration of changes in the boundaries of the district.

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

No Attachments Available

Item #6



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November 7, 2011

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DATE: December 6, 2011
CONTACT PERSON: Mayor Bunten DOCUMENT #:
SECOND PARTY/SUBJECT: Downtown Business Improvement District PROJECT #:
Advisory Board
CATEGORY/SUBCATEGORY 006 Communication / 003 Requests
CIP PROJECT: No
ACTION OF COUNCIL: JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

BOARD APPOINTMENT recommending the re-appointment of Jim Parrish to the Downtown Business Improvement District Advisory Board for a term ending December 31, 2013. (*Downtown Business Representative*)

POLICY ISSUE:

N/A

STAFF RECOMMENDATION:

Mayor Bunten is recommending the re-appointment of Jim Parrish to the Downtown Business Improvement District Advisory Board. There is no official attendance policy, however, there have been seven meetings, and Mr. Parrish has one absence.

BACKGROUND:

KSA 12-1781 et seq. This is a statutory board wherein the Mayor recommends the nominee and the Council has final approval. Nominees must be representatives of the businesses located within the district. The advisory board submits a recommendation to the Council of programs and services within the district, and submits a proposed schedule of fees for assessment on the businesses in the district and may recommend consideration of changes in the boundaries of the district.

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

No Attachments Available

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November 16, 2011

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DATE:	December 6, 2011	
CONTACT PERSON:	Ken Benjamin, 8-3883	DOCUMENT #:
SECOND PARTY/SUBJECT:	Donald Fincham/Workers' Comp impairment award	PROJECT #:
CATEGORY/SUBCATEGORY	005 Claims / 006 Appeals	
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

APPROVAL of Workers' Compensation Settlement for Water Pollution Control (WPC) employee, Donald Fincham, in the amount of \$24,868.58, for permanent partial impairment of his cervical spine from injuries suffered in a lifting incident of April 10, 2008.

(Approval would authorize payment of that amount as full and final settlement of the underlying claim.)

POLICY ISSUE:

Whether it is in the best interests of the City to fully and finally settle a Workers' Compensation claim against it for a split of the physician ratings rather than having it go forward to be decided by an administrative law judge, with the likelihood that future medical and the opportunity for review and modification will be left open.

STAFF RECOMMENDATION:

Approval.

BACKGROUND:

Donald Fincham has been an Equipment Operator for WPC since May of 2005. On April 10, 2008, he strained his upper back and neck while using a pry bar and hammer to raise an impacted manhole cover. An MRI indicated a cervical disc herniation, eventually leading to fusion surgery in October of 2010. After maximum medical improvement was reached, Fincham received full body impairment ratings of 9% from the City's doctor and 16% from the one selected by his lawyer. Using the statutory formula for calculation of monetary awards, a split of those two evaluations (12.5%) resulted in an entitlement of \$22,868.58. In order to have the employee agree to close out his claim fully and finally with no future medical, \$2,000 was

added to that figure to arrive at the amount being proposed for settlement.

BUDGETARY IMPACT:

\$24,868.58 new outlays, in addition to the \$36,132.71 already paid-out in Temporary Total Disability and medical expenses, for an overall cost to the City of \$61,001.29.

SOURCE OF FUNDING:

Workers' Compensation indemnity fund.

ATTACHMENTS:

No Attachments Available



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CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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DATE:	December 6, 2011	
CONTACT PERSON:	Mary Feighny, Deputy City Attorney	DOCUMENT #:
SECOND PARTY/SUBJECT:	Alcohol permit fees	PROJECT #:
CATEGORY/SUBCATEGORY	013 Ordinances - Codified / 010 Alcoholic Beverages	
CIP PROJECT:	No	
ACTION OF COUNCIL:	11/29/11 First Reading.	JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by Interim City Manager Daniel R. Stanley, amending City of Topeka Code Sections 5.10.020 and 9.15.300, concerning alcohol sales and tax and specifically repealing said original sections. Final Reading.

(Approval would change the current occupation tax from an annual to a biennial payment.)

POLICY ISSUE:

Whether or not to pass and approve the ordinance.

STAFF RECOMMENDATION:

Pass and approve

BACKGROUND:

State law changed from annual to biennial license fees for liquor licenses. This ordinance amendment does likewise for city occupation taxes - making them biennial rather than annual. There is no fee increase.

BUDGETARY IMPACT:

None

SOURCE OF FUNDING:

NA

ATTACHMENTS:

[Ordinance](#)

Item #11

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by Daniel R. Stanley, Interim City Manager, amending City of Topeka Code § 5.10.020 and § 9.15.300, concerning alcohol sales and tax and specifically repealing said original sections.

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

Section 1. That section 5.10.020, Alcoholic beverages – Alcoholic liquor sales, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Alcoholic beverages – Alcoholic liquor sales.

(a) There is hereby imposed upon all holders of the following licenses issued by the state Director of Alcoholic Beverage Control under the provisions of the Kansas Liquor Control Act (K.S.A. 41-101 et seq.), ~~an annual~~ a biennial city occupation tax in the following amounts:

(1) For a license to manufacture alcohol and spirits	\$2,500.00 <u>\$5,000.00</u>
(2) For a license to manufacture beer and cereal malt beverage:	
(i) For one to 100 barrel daily capacity or any part thereof	\$200.00 <u>\$400.00</u>
(ii) For 101 to 150 barrel daily capacity	\$400.00 <u>\$800.00</u>
(iii) For 151 to 200 barrel daily capacity	\$700.00 <u>\$1,400.00</u>
(iv) For 201 to 300 barrel daily capacity	\$1,000.00 <u>\$2,000.00</u>
(v) For 301 to 400 barrel daily capacity	\$1,300.00 <u>\$2,600.00</u>
(vi) For 401 to 500 barrel daily capacity	\$1,400.00 <u>\$2,800.00</u>
(vii) For 501 or more barrel daily capacity	\$1,600.00 <u>\$3,200.00</u>

Provided, that the words “daily capacity” as used in this section shall mean the average daily barrel production for the previous 12 months of manufacturing operations; provided further, that if no such basis for comparison exists, the manufacturing licensee shall pay in advance for ~~the first year’s operation~~ operation during the first term of the license an occupation tax of ~~\$1,000~~ \$2,000.00.

24

(3)	For a license to manufacture wine	\$500.00 <u>1,000.00</u>
(4)	For a microbrewery license or a farm winery license	\$250.00
(54)	For a spirits distributor's license for the first and each additional distributing place of business operated in the city by the same licensee and wholesaling and jobbing spirits	\$1,000.00 <u>2,000.00</u>
(65)	For a beer distributor's license, for the first and each additional wholesale distributing place of business operated in the city by the same licensee and wholesaling or jobbing beer and cereal malt beverage	\$700.00 <u>1,400.00</u>
(76)	For a retailer's license	\$300.00 <u>600.00</u>
(87)	For a nonbeverage user's license:	
(i)	For class 1	\$10.00 <u>20.00</u>
(ii)	For class 2	\$50.00 <u>100.00</u>
(iii)	For class 3	\$100.00 <u>200.00</u>
(iv)	For class 4	\$200.00 <u>400.00</u>
(v)	For class 5	\$500.00 <u>1,000.00</u>
(98)	For any private club or drinking establishment	\$250.00 <u>500.00</u>

25 (b) The ~~annual~~biennial city occupation tax imposed upon holders of both a
 26 spirits distributor's license and a beer distributor's license shall be either of the
 27 applicable occupation taxes set forth in subsections (a)(~~54~~) and (a)(~~65~~) of this section,
 28 but not both. If one such occupation tax is higher than the other by virtue of multiple
 29 licenses, the higher tax shall be imposed.

30 Section 2. That section 9.15.300, Amount of tax –When due, of The Code of
 31 the City of Topeka, Kansas, is hereby amended to read as follows:

32 **Amount of tax – When due.**

33 Occupation taxes under this subarticle shall be as set forth in TMC 5.10.020. All
 34 occupation taxes shall be paid ~~annually~~biennially on the renewal date of the licensee's
 35 state license.



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November 21, 2011

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DATE:	December 6, 2011	
CONTACT PERSON:	Councilmembers Ortiz, Hiller and Harmon sitting as the Public Health and Safety Committee	DOCUMENT #:
SECOND PARTY/SUBJECT:	Fireworks	PROJECT #:
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:	11/29/11 First Reading.	JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by Councilmembers Karen Hiller, Sylvia Ortiz and Richard Harmon, sitting as the Public Health and Safety Committee, amending City of Topeka Code Section 8.35.070 concerning fireworks and specifically repealing said original section. Final Reading.

(Approval would reduce the number of days consumer fireworks may be sold and discharged within the City of Topeka and ban the discharge of fireworks in certain circumstances.)

POLICY ISSUE:

Whether or not to adopt the amendments to the Topeka Municipal Code relating to fireworks as proposed by the Public Health and Safety Committee.

STAFF RECOMMENDATION:

BACKGROUND:

Amendments to the ordinance include:

- defines "fireworks", "consumer fireworks" and "display fireworks";
- limits the sale of consumer fireworks to July 2nd through July 4th;
- limits the discharge of consumer fireworks to July 4th from 8:00 a.m. to 11:59 p.m. and requires that each seller to attach a flier to each sale advising that this is the only date and time Item #12

period fireworks may lawfully be discharged in the City of Topeka;

- bans the ignition or discharge of fireworks into, under or from a car or vehicle, whether moving or standing still, or on a public roadway or the right-of-way adjoining a public roadway;
- bans the discharge of fireworks within 100 feet of any "place of institution" as defined by National Fire Protection Association Standard No. 101 or any retail fireworks stand or facility where fireworks are stored; and
- encourages the fire department to continue public education efforts and encourages the police department to work internally and with the community to develop improved strategies for enforcement.

BUDGETARY IMPACT:

Unknown

SOURCE OF FUNDING:

ATTACHMENTS:

[Ordinance](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by Councilmembers Karen Hiller, Sylvia Ortiz and Richard Harmon, sitting as the Public Health and Safety Committee, amending City of Topeka Code § 8.35.070 concerning fireworks and specifically repealing said original section.

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

Section 1. That section 8.35.070, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Fireworks.

(a) Definitions.

(1) ~~“Consumer fireworks” shall mean any small firework devices designed to produce visible effects by combustion and are classified as consumer fireworks UN0336, and UN0337 by the U.S. Department of Transportation at 49 CFR 172.101, and 27 CFR 555.11 as may be amended. Metal sparklers are specifically excluded from this definition of consumer fireworks.~~ “Fireworks” shall mean any composition or device for the purpose of producing a visible or an audible effect for entertainment purposes by combustion, deflagration, or detonation, that meets the definition of Consumer Fireworks or Display Fireworks as set forth in this Code. [NFPA 1124, 2006]

(2) ~~“Display fireworks” shall mean large fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation and are classified as display fireworks UN0333, UN0334 or UN0335 by the U.S. Department of Transportation at 49 CFR 172.101, and 27 CFR 555.11.~~ “Consumer fireworks” shall mean any small firework devices containing

30 restricted amounts of pyrotechnic composition, designed primarily to produce
31 visible or audible effects by combustion that comply with the construction,
32 chemical composition, and labeling regulations of the U.S. Consumer Product
33 Safety Commission (CPSC), as set forth in CPSC 16 CFR 1500 and 1507, 49
34 CFR 172, and APA Standard 87-1, Standard for the Construction and Approval
35 for Transportation of Fireworks, Novelties and Theatrical Pyrotechnics. [NFPA
36 1124, 2006]

37 (3) ~~“Fireworks” shall mean any composition or device designed to~~
38 ~~produce a visible or an audible effect by combustion, deflagration, or detonation.~~
39 “Display fireworks” shall mean large fireworks devices that are explosive material
40 intended for use in fireworks displays and designed to produce visible or audible
41 effects by combustion, deflagration, or detonation, as set forth in CPSC 16 CFR
42 1500 and 1507, 49 CFR 172, and APA Standard 87-1, Standard for the
43 Construction and Approval for Transportation of Fireworks, Novelties, and
44 Theatrical Pyrotechnics.

45 (4) “Fire chief” shall mean the duly appointed chief of the city of
46 Topeka fire department or any person designated by said chief to enforce the
47 provisions of this chapter.

48 (b) Possession/Discharge of Fireworks. It shall be unlawful for any person to
49 possess, transport, ignite, discharge or cause to be discharged any firework in the city
50 except as specifically permitted in this section.

51 (1) Consumer fireworks may be discharged within the City of Topeka
52 on July 4th from 8:00 a.m. to 11:59 p.m.

(i) ~~Between the hours of 8:00 a.m. and 9:00 p.m. on June 27th, 28th, 29th, 30th, July 1st and July 5th of each year.~~

(ii) ~~Between the hours of 8:00 a.m. and 11:00 p.m. on July 2nd, 3rd and 4th of each year.~~

(2) ~~It shall be unlawful for any person to~~ A person shall not recklessly or intentionally discharge, ignite or otherwise cause a firework:

(i) To place another person in reasonable apprehension of immediate bodily harm; or

(ii) To cause physical contact with another person; or

(iii) To deface or damage real or personal property of another person without the consent of any such other person.

(3) A person shall not ignite or discharge fireworks into, under, or from a car or vehicle, whether moving or standing still, or on a public roadway or the right-of-way adjoining a public roadway.

(4) Fireworks shall not be discharged within 100 feet of any "place of institution," as defined by national fire protection association standard no. 101, which is adopted by reference in K.A.R. 22-1-3, or any retail fireworks stand or facility where fireworks are stored. (Authorized by and implementing K.S.A. 2007 Supp. 31-133; effective January 1, 1973; amended May 1, 1986; amended December 29, 2008).

(5) Further, it shall be unlawful for any person to possess, ignite or otherwise cause the discharge of any firework that is not a consumer firework or any firework which is prohibited by federal or state statute or regulation.

76 (c) Sale of Fireworks.

77 (1) It shall be unlawful for any person to sell, hold for sale, or offer for
78 sale at retail, any consumer fireworks in the city unless such person has first
79 obtained a permit from the city as a retailer.

80 (2) Any person desiring to sell or offer for sale any permissible
81 fireworks as a retailer shall make application to the city clerk for a permit
82 authorizing the same. Such application shall include the following information
83 and such additional information as the fire chief shall deem necessary:

84 (i) The name and residence address of the applicant.

85 (ii) The location of the premises for which the permit is sought. If
86 ownership of premises is different from the applicant, written consent of
87 the owner is required.

88 (iii) When the permit is sought in a temporary structure or facility,
89 the applicant shall provide a legal description of the premises, a
90 description of the structure or facility to be used, and the location of such
91 structure or facility upon the premises. All temporary structures, including
92 tents, shall be posted with the approved NFPA 704 placards as described
93 in the Uniform Fire Code. A copy of subsection (b) of this section shall
94 also be posted on all premises where fireworks are sold. Such notice shall
95 be at least eight and one-half inches by 11 inches in size and printed in
96 type no smaller than 12 characters per inch. After an inspection of the
97 premises including review by appropriate city agencies such as the fire
98 department and developmental services director, and consideration of the

99 information contained in the application for a permit, the fire chief may
100 issue a permit therefor, conditioned upon reasonable safety measures to
101 be specified in the permit and upon payment by the applicant of a fee of
102 \$280.00 to the city clerk. Any permit issued under the provisions of this
103 section shall be valid only for the period of ~~June 27th~~July 2nd through and
104 including July ~~54th~~ of the year in which issued and shall be issued in
105 accordance with the Uniform Fire Code article entitled "Permits." Persons
106 responsible for the operations of permissible firework stands in which
107 fireworks are stored or handled shall be familiar with safety requirements
108 for the materials being sold, and the appropriate actions necessary in the
109 event of a fire. Additionally, each seller is required to attach a flier to each
110 sale advising the discharge of fireworks is lawful in the City of Topeka only
111 on July 4th from 8:00 a.m. to 11:59 p.m.

112 (d) Confiscation of Fireworks. Any fireworks in the immediate possession or
113 control of a person violating any city ordinance controlling the use of fireworks may be
114 confiscated by any sworn law enforcement official, the fire chief, or any member of the
115 fire department who has been duly authorized by the fire chief. Confiscated fireworks
116 must be retained by the confiscating agency and may only be destroyed upon approval
117 by the court. The City Council encourages the fire department to continue public
118 education efforts and encourages the police department to work internally and with the
119 community to develop improved strategies for enforcement.

120 (e) Adult Supervision Required. At all times that it is lawful for any person
121 over the age of 18 years to possess and discharge permitted consumer fireworks, it

shall also be lawful for a person under the age of 18 years to possess and discharge permitted consumer fireworks when such person does so under adult supervision and in the physical presence of the adult. It shall be unlawful for any person over the age of 18 years to permit a person under the age of 18 to discharge fireworks without adult supervision and in the physical presence of the adult.

(f) Rules and Regulations. Display fireworks may be sold and ignited and/or discharged pursuant to rules and regulations established by the chief of the Topeka fire department.

(g) Penalties. Any person convicted of violating any of the provisions in this section shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than \$250.00 to a maximum amount of \$499.00 per violation. In addition to any fine, the individual may be sentenced up to 179 days in jail. The fine shall not be paroled.

Section 2. That original § 8.35.070 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 _____.

CITY OF TOPEKA, KANSAS

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk



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Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 21, 2011

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DATE:	December 6, 2011	
CONTACT PERSON:	Judy Olander, Assistant City Attorney	DOCUMENT #:
SECOND PARTY/SUBJECT:	Parks and Recreation/Advisory Boards	PROJECT #:
CATEGORY/SUBCATEGORY	013 Ordinances - Codified / 002 Administration	
CIP PROJECT:	No	
ACTION OF COUNCIL:	11/29/11 First Reading.	JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by Interim City Manager Daniel R. Stanley, concerning the Parks and Recreation and Golf Course Advisory Boards, amending City of Topeka Code Section 2.05.010 and specifically repealing said original section as well as repealing Sections 2.90.010 through 2.90.080 and Sections 11.30.050 through 11.30.120. Final Reading.

(Approval would repeal City Code provisions concerning the Parks and Recreation and Golf Course Advisory Boards that are no longer needed due to the consolidation of the Parks and Recreation Departments of the City and County.)

POLICY ISSUE:

Whether or not to pass and approve the ordinance.

STAFF RECOMMENDATION:

Pass and approve.

BACKGROUND:

BUDGETARY IMPACT:

None

Item #13

SOURCE OF FUNDING:

NA

ATTACHMENTS:

[Ordinance](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by Daniel R. Stanley, Interim City Manager, concerning the Parks and Recreation and Golf Course advisory boards, amending City of Topeka Code § 2.05.010 and specifically repealing said original section as well as repealing § 2.90.010 through § 2.90.080 and § 11.30.050 through § 11.30.120.

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

Section 1. That section 2.05.010, Establishment, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Establishment.

The following nonstatutory boards, commissions and other plural authorities are hereby established and made a part of the administrative code of the city, as authorized by Charter Ordinance No. 94, Section 24 (Appx. A, Section A2-72): human relations commission (TMC 2.55.010); board of electrical appeals (TMC 5.63.120); board of plumbing appeals (TMC 5.63.120); board of mechanical appeals (TMC 5.63.120); board of building and fire appeals (TMC 2.40.010); board of zoning appeals (TMC 2.45.010 et seq.); ~~golf course advisory board (TMC 11.30.050 et seq.); parks and recreation advisory board (TMC 2.90.010 et seq.);~~ citizen advisory council (TMC 2.105.040); civil service commission (TMC 2.125.030); Topeka planning commission (TMC 2.65.020); boards of trustees of fire and police pension funds (TMC 2.140.190); city of Topeka Americans with Disabilities Act advisory council (TMC 2.80.010); sustainability advisory board (TMC 2.95.010). The council is hereby authorized to promulgate appropriate rules and regulations for such boards, commissions and authorities dealing with their organization and operation. No city employee shall be appointed to any board,

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

Section 2. That section 2.90.010, Created, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Created.~~

~~There is hereby created a parks and recreation advisory board.~~

Section 3. That section 2.90.020, Composition, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Composition.~~

~~The parks and recreation advisory board shall consist of nine members. Four members shall be appointed by the mayor, one member by the governing body of Unified School District No. 501, one member by the governing body of Unified School District No. 450, one member by the governing body of Unified School District No. 345,~~

~~one member by the governing body of the Unified School District No. 437, and one member by the governing body of Washburn University.~~

Section 4. That section 2.90.030, Qualifications, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Qualifications.~~

~~Each member of the parks and recreation advisory board shall be a resident of the city.~~

Section 5. That section 2.90.040, Term of members, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Term of members.~~

~~Members of the parks and recreation advisory board shall serve for a term of four years. Members may be appointed for subsequent terms after completion of the first term. All terms shall end in July of each respective year. Members shall not serve beyond the end of their appointed terms. Upon expiration of a term the position shall remain vacant until a successor is appointed.~~

Section 6. That section 2.90.050, Compensation, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Compensation.~~

~~Members of the parks and recreation advisory board shall serve without compensation.~~

Section 7. That section 2.90.060, Qualifications, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Removal of members.~~

~~The mayor may remove any member of the board which the mayor appointed at any time for good cause shown. Other appointing bodies referenced in TMC [2.90.020](#) may also remove their appointee at any time for good cause shown. All members of the advisory board must attend at least eight of the 12 scheduled meetings each year and not miss any three scheduled meetings in a row or be subject to removal from the board.~~

Section 8. That section 2.90.070, Vacancies, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Vacancies.~~

~~Vacancies occurring on the parks and recreation advisory board shall be filled by appointment for the unexpired term by the appropriate appointing body or individual.~~

Section 9. That section 2.90.080, Operation, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Operation.~~

~~The parks and recreation advisory board shall represent members of the Topeka community and shall provide input, assistance, feedback, and support to the parks and recreation department and its director, as well as advice and information to the mayor and city administration, the city council, and to the public, in such manner and at such times as the advisory board shall determine.~~

~~The parks and recreation director shall, and the council may, refer to the parks and recreation advisory board all major proposals and propositions for the construction, reconstruction and improvement of public parks and recreational facilities in the city, including the acquisition of lands for park purposes; the acquisition of major recreational~~

99 ~~equipment and facilities; and the initiation of new programs in the recreational system.~~
100 ~~All of such proposals and propositions shall be taken under consideration by the~~
101 ~~advisory board, and such board shall make reports and recommendations to the parks~~
102 ~~and recreation director or the council on all matters referred to it and may make such~~
103 ~~further reports and recommendations to the parks and recreation director or the council~~
104 ~~as the board shall deem advisable.~~

105 ~~Such reports requested by the council shall be made to the council within a time~~
106 ~~fixed by the council either by the resolution submitting the proposal or proposition or at~~
107 ~~the time the proposal or proposition is submitted to the advisory board by the council,~~
108 ~~and no action shall be taken thereafter by the council upon any proposal or proposition~~
109 ~~which it has referred to the advisory board until the reports and recommendations~~
110 ~~thereon have been received from the advisory board. The council shall take action upon~~
111 ~~the reports and recommendations received from the advisory board within 30 days after~~
112 ~~their receipt; provided, that the council may extend the time as it shall deem necessary~~
113 ~~to give the matter further attention before action is taken.~~

114 ~~The parks and recreation director shall regularly report to the advisory board on~~
115 ~~such matters as the department budget, capital projects, department policies, and~~
116 ~~proposed programming changes, as well as other matters determined by the advisory~~
117 ~~board or the parks and recreation director to be of interest to the board for its~~
118 ~~consideration.~~

119 Section 10. That section 11.30.050, Created, of The Code of the City of
120 Topeka, Kansas, is hereby repealed.

121 **Created.**

~~There is hereby created a public golf course advisory board of the city.~~

Section 11. That section 11.30.060, Composition - Appointments, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Composition — Appointments.~~

~~The golf course advisory board shall consist of three members and three ex officio members. The three members shall be appointed by the mayor with the consent of the council. The following shall be ex officio members of the advisory board: the director of the department of parks and recreation or designee, the golf course manager and the golf course professional.~~

Section 12. That section 11.30.070, Terms, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Terms.~~

~~The terms of office of the members of the golf course advisory board shall be two years. Members may be appointed for subsequent terms after completion of their first term. Members shall not serve beyond the end of their appointed terms. Upon expiration of a term the position shall remain vacant until a successor is appointed.~~

Section 13. That section 11.30.080, Compensation, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Compensation.~~

~~Each member of the golf course advisory board shall serve without compensation.~~

Section 14. That section 11.30.090, Removal of members, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Removal of members.~~

~~Any member of the golf course advisory board may be removed by the mayor at any time for good cause shown.~~

Section 15. That section 11.30.100, Filling of vacancies, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Filling of vacancies.~~

~~Vacancies occurring on the golf course advisory board shall be filled by appointment for the unexpired term, and such appointment shall be made in the same manner as the original appointment.~~

Section 16. That section 11.30.110, Meetings, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Meetings.~~

~~The golf course advisory board shall meet at such times and such places as it may agree upon, as deemed appropriate by the full membership of the board, and as often as necessary to take care of the work load.~~

Section 17. That section 11.30.120, Purpose, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Purpose.~~

~~The public golf course advisory board shall advise the council in all matters concerning the public golf courses, and shall make reports and recommendations to the council on all matters referred to the advisory board, and may make such further recommendations as the advisory board may deem necessary. The council shall take action upon the reports and recommendations received from the advisory board within~~

~~30 days after their receipt; provided, that the council may extend the time as it shall deem necessary to give the matter further attention before taking action.~~

Section 18. That original § 2.05.010 of The Code of the City of Topeka, Kansas, is hereby specifically repealed.

Section 19. This ordinance shall take effect and be in force on January 1, 2012, after its passage, approval and publication in the official City newspaper.

Section 20. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 21. 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

William W. Buntten, Mayor

ATTEST:

Brenda Younger, City Clerk



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October 25, 2011

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DATE:	December 6, 2011	
CONTACT PERSON:	Brenda Younger	DOCUMENT #:
SECOND PARTY/SUBJECT:	Applications	PROJECT #:
CATEGORY/SUBCATEGORY	006 Communication / 005 Other	
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

APPROVAL of Retail Cereal Malt Beverage License Applications.

Voting Requirement: Majority of the Governing Body, including the Mayor.

(Pursuant to K.S.A. 41-2702 application for license must be approved by the Governing Body prior to the issuance of the license.)

POLICY ISSUE:

None

STAFF RECOMMENDATION:

Approve the licenses.

BACKGROUND:

Pursuant to K.S.A. 41-2702 as amended, license applications for retail cereal malt beverage must be approved by the governing body prior to issuance of the license.

BUDGETARY IMPACT:

None

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

No Attachments Available



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CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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No Attachments Available



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