



City of Topeka City Council Agenda

City Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org

October 11, 2016
6:00 PM

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
Tony Emerson	District No. 4	Richard Harmon	District No. 9
Michelle De La Isla	District No. 5		

Interim City Manager: Douglas Gerber

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>)

CALL TO ORDER:

INVOCATION:

PLEDGE OF ALLEGIANCE:

1. MAYORAL PROCLAMATIONS:

"Fire Prevention Week"

2. PRESENTATIONS:

"None scheduled at this time."

3. ROLL CALL:

4. CONSENT AGENDA:

A. Resolution - El Shaddai Templo de Alabanza- Noise Exception

A RESOLUTION introduced by Councilmember Sylvia Ortiz, granting El Shaddai Templo de Alabanza an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions. (Council District No. 3)

(City of Topeka Code Section 9.45.170, et seq., authorizes the City Council to grant noise exceptions. Approval would allow for amplified music and sound during the hours of 12:00 p.m. and 2:00 p.m. on October 15, 2016, at the park at SE 8th & Lake Street.)

B. MINUTES of the regular meeting of October 4, 2016

C. APPLICATIONS:

5. ACTION ITEMS:

A. Resolution - Metropolitan Topeka Planning Organization Board (MTPO) Council Representatives

RESOLUTION introduced by Interim City Manager Doug Gerber, relating to the appointment of three council members to the Metropolitan Topeka Planning Organization Board (MTPO) Policy Board and repealing Resolution No. 8491.

(Approval would change the appointment of councilmembers to the MTPO Board from April to January in odd-numbered years.)

B. Resolution - JEDO Board Council Representatives

RESOLUTION introduced by Interim City Manager Doug Gerber, establishing a procedure for the selection of two council members to serve as voting members of the Joint Economic Development Organization (JEDO) and rescinding Resolution No. 7206.

(Approval would change the selection of two council voting members to the JEDO Board from April to January.)

C. Ordinance - Insurance Proceeds

ORDINANCE introduced by Interim City Manager Doug Gerber, concerning insurance proceeds for building loss claims, amending City of Topeka Code Sections 8.80.010, 8.80.020, 8.80.040 and 8.80.050 and repealing original sections.

(Approval would allow the City to benefit from a new state law requiring insurance companies to remit to the City a percentage of insurance proceeds for damage to buildings caused by any casualty. Currently, remittances are limited to only certain casualties.)

D. Ordinance - Street Name Memorial Designation - SE Bellview Avenue (SNC16/2)

ORDINANCE introduced by Interim City Manager Doug Gerber, relating to the designation of street names, more specifically authorizing a memorial designation for the segment of SE Bellview Avenue, lying between SE 23rd and 25th Streets as "Bishop Dr. Aletha J. Cushinberry Memorial Pkwy." (SNC16/2) (Council District No. 4)

(Approval would add two street signs to memorialize SE Bellview Avenue between SE 23rd and SE 25th Streets in honor of the late Bishop Dr. Aletha J. Cushinberry).

E. Ordinance - Dangerous Dog Ordinance Amendment

ORDINANCE introduced by City Manager Jim Colson, concerning dangerous dogs, amending City of Topeka Code Section 6.05.080 and repealing original section. (The Public Health and Safety Committee recommended approval as amended by a vote of 3-0-0 on September 1, 2016.)

(The proposed amendments clarify the circumstances under which a dangerous dog may be destroyed.)

6. NON-ACTION ITEMS:

A. Discussion - Misty Harbor Estates No. 5 Annexation (A16/2)

DISCUSSION regarding the request to annex land to the City of Topeka, Kansas, in accordance with K.S.A. 12-520, located approximately 400 feet north of SW 45th Street and approximately 2,300 feet west of SW Burlingame Road, within unincorporated Shawnee County, Kansas and adjacent to the City of Topeka corporate limits. (A16/2) (Council District No. 7)

(Approval would annex a 15-acre tract intended for a 40-lot single-family home subdivision in the City of Topeka.)

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
October 11, 2016

DATE: October 11, 2016
CONTACT PERSON: Sylvia Ortiz **DOCUMENT #:**
SECOND PARTY/SUBJECT: Abigail Hidalgo **PROJECT #:**
CATEGORY/SUBCATEGORY 020 Resolutions / 005 Miscellaneous
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

A RESOLUTION introduced by Councilmember Sylvia Ortiz, granting El Shaddai Templo de Alabanza an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions. (*Council District No. 3*)

(*City of Topeka Code Section 9.45.170, et seq., authorizes the City Council to grant noise exceptions. Approval would allow for amplified music and sound during the hours of 12:00 p.m. and 2:00 p.m. on October 15, 2016, at the park at SE 8th & Lake Street.*)

POLICY ISSUE:

El Shaddai Templo de Alabanza has requested that a noise exception be granted for an event to take place during specified date and time.

STAFF RECOMMENDATION:

Staff recommends the Council move to approve the resolution.

BACKGROUND:

El Shaddai Templo de Alabanza is requesting the noise exception due to amplified music and sound at the event.

BUDGETARY IMPACT:

There would be no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

Description

Resolution

1 RESOLUTION NO.

2
3 A RESOLUTION introduced by Councilmember Sylvia Ortiz, granting El-Shaddai
4 Templo de Albanza an exception to the provisions of City of
5 Topeka Code Section 9.45.150, et seq. concerning noise
6 prohibitions.
7

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

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

17 WHEREAS, El-Shaddai Templo de Albanza has requested that he be
18 granted an exception to the provisions of City of Topeka Code Section 9.45.150,
19 et seq. for the purposes, dates and times described herein, and

20 WHEREAS, upon review of the application of El-Shaddai Templo de
21 Albanza the Council of the City of Topeka does hereby find that the requested
22 activity does not offend the spirit of the findings of City of Topeka Code Section
23 9.45.150, et seq.

24 NOW, THEREFORE, BE IT RESOLVED by the Council of the City of
25 Topeka that El-Shaddai Templo de Albanza is hereby granted an exception from
26 the provisions of City of Topeka Code Section 9.45.150, et seq. for amplified

27 music and sound located at the public park at SE 8th & Lake Street, during the
28 hours of 12:00 p.m. and 2:00 p.m. on October 15, 2016.

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30 ADOPTED and APPROVED by the Governing Body _____.

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CITY OF TOPEKA, KANSAS

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Larry E. Wolgast, Mayor

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ATTEST:

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Brenda Younger, City Clerk



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
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October 11, 2016

DATE: October 11, 2016
CONTACT PERSON: Mary Feighny, Deputy City Attorney
DOCUMENT #:
SECOND PARTY/SUBJECT: PROJECT #:
CATEGORY/SUBCATEGORY 020 Resolutions / 005 Miscellaneous
CIP PROJECT: No
ACTION OF COUNCIL: JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

RESOLUTION introduced by Interim City Manager Doug Gerber, relating to the appointment of three council members to the Metropolitan Topeka Planning Organization Board (MTPO) Policy Board and repealing Resolution No. 8491.

(Approval would change the appointment of councilmembers to the MTPO Board from April to January in odd-numbered years.)

POLICY ISSUE:

Due to the change in State election law moving April municipal elections to November, the appointment process should change so members are elected in January instead of April of odd-numbered years.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to approve the resolution.

BACKGROUND:

The MTPO Board membership includes two Council members and either the Mayor or the Mayor's designee. Current Resolution No. 8491, addresses the election of Councilmembers which occurs in April of odd-numbered years, serving 2-year terms. In light of the election law changes that move April elections to November, the appointment process should change so that members are elected in January.

The proposed resolution also addresses the Mayor's designee who is appointed by the Mayor and whose term of office will commence at the same time as the two Council appointees at the 3rd governing body meeting in January.

Current members serving on the MTPO are Councilmembers Jeff Coen (Mayor's designee), Karen Hiller and

Brendan Jensen.

BUDGETARY IMPACT:

There is no budgetary impact to the City

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

Description

Resolution

Resolution No. 8491

1 RESOLUTION NO. _____
2

3 A RESOLUTION introduced by Interim City Manager Douglas Gerber, relating to the
4 appointment of three council members to the Metropolitan Topeka
5 Planning Organization Board (MTPO) Policy Board and repealing
6 Resolution No. 8491.
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8 WHEREAS, each metropolitan area in the country is required to have a Metropolitan
9 Planning Organization (MPO) to carry out the continuing, cooperative and comprehensive
10 (3C) planning program, including transportation planning; and

11 WHEREAS, the Kansas Department of Transportation Secretary, Deb Miller, on
12 behalf of Governor Kathleen Sebelius, designated the Metropolitan Topeka Planning
13 Organization (MTPO) as the MPO for the Topeka area on March 3, 2004; and

14 WHEREAS, the MTPO Designation Agreement signed by the City of Topeka,
15 Topeka Metropolitan Transit Authority, and the Kansas Department of Transportation
16 specifies the membership of the MTPO Policy Board; and

17 WHEREAS, the Mayor or the Mayor's Council designee is a member of the MTPO
18 Policy Board as are two Council members selected by the governing body.

19 NOW, THEREFORE, BE IT RESOLVED that the following procedure shall govern
20 the appointment of members to the MTPO Policy Board.

21 1. Should the Mayor not wish to serve on the MTPO Policy Board, the Mayor shall
22 appoint a Council member to serve on the MTPO Policy Board. The Mayor's designee will
23 serve a two-year term that commences at the third governing body meeting in January of
24 odd-numbered years.

25 2. The governing body shall elect two council members to serve on the MTPO Policy
26 Board at the third governing body meeting in January of odd-numbered years. Council
27 members will serve a two-year term.

3. For purposes of Section 2, a council member may self-nominate or be nominated. Following the nominations, each governing body member shall be allowed two votes on each ballot. Only one vote may be used for a candidate. The two council members receiving the highest number of votes will be elected, providing they have a minimum of six votes. Should a tie vote exist or a position not be filled due to an insufficient number of votes, balloting will continue until the voting requirement is met.

4. If a council member is no longer a member of the Council or resigns from the Board, the Mayor or governing body, as appropriate, shall appoint a successor who will serve the remainder of the unexpired term.

5. The terms of the Council members who are currently serving will expire at the third governing body meeting in January of 2017.

6. Resolution No. 8491 is hereby repealed.

ADOPTED and APPROVED by the Governing Body on _____.

CITY OF TOPEKA, KANSAS

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk

RESOLUTION NO. 8491

A RESOLUTION introduced by City Manager Jim Colson relating to the appointment of two councilmembers to the Metropolitan Planning Organization and repealing Resolution No. 7453.

WHEREAS, each metropolitan area in the country is required to have a Metropolitan Planning Organization (MPO) to carry out the continuing, cooperative and comprehensive (3C) planning program, including transportation planning; and

WHEREAS, the Kansas Department of Transportation Secretary, Deb Miller, on behalf of Governor Kathleen Sebelius, designated the Metropolitan Topeka Planning Organization (MTPO) as the MPO for the Topeka area on March 3, 2004; and

WHEREAS, the MTPO Designation Agreement signed by the City of Topeka, Topeka Metropolitan Transit Authority, and the Kansas Department of Transportation specifies the membership of the MTPO Policy Board; and

WHEREAS, the MTPO Policy Board requires the selection by the City Council of two of its members to serve on the Board.

NOW, THEREFORE, BE IT RESOLVED that the following procedure shall govern the election of Council members to the MTPO Policy Board:

1. The Council shall elect two Council members to serve a two-year term on the MTPO Policy Board, such term to commence on May 1 of each odd-numbered year.

2. The election shall occur at the first regular Council meeting following the general City election in odd-numbered years.

3. If the Council member elected to serve on the MTPO Policy Board is no longer a member of the Council or resigns from the Board, the Council shall elect a successor who will serve the remainder of the unexpired term.

27 4. Council members elected to serve on the MTPO Policy Board may be re-elected
28 up to a maximum of two consecutive terms.

29 5. Resolution No. 7453 is hereby repealed.

30 ADOPTED and APPROVED by the City Council February 12, 2013.

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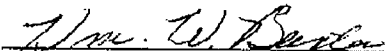
39

ATTEST:


Brenda Younger, City Clerk



CITY OF TOPEKA, KANSAS


William W. Bunten, Mayor



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CATEGORY/SUBCATEGORY 020 Resolutions / 005 Miscellaneous
CIP PROJECT: No
ACTION OF COUNCIL: JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

RESOLUTION introduced by Interim City Manager Doug Gerber, establishing a procedure for the selection of two council members to serve as voting members of the Joint Economic Development Organization (JEDO) and rescinding Resolution No. 7206.

(Approval would change the selection of two council voting members to the JEDO Board from April to January.)

POLICY ISSUE:

Due to the change in State election laws moving April municipal elections to November, the process should change so members are elected in January instead of April.

STAFF RECOMMENDATION:

Staff is recommending the Governing Body move to approve the resolution.

BACKGROUND:

The current interlocal cooperation agreement establishing the JEDO provides for two council members to serve as voting members. Resolution No. 7206, enacted in 2001, provides a process for selection every April. In light of the fact that April elections have been changed to November and that JEDO's first meeting is in February, the selection process should occur in January. The election of new JEDO voting members would occur at the third governing body meeting each January. This election would occur at the same time as the election of the deputy mayor.

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

Description

Resolution

Resolution No. 7206

1 RESOLUTION NO. _____
2

3 A RESOLUTION introduced by Interim City Manager Douglas Gerber, establishing a
4 procedure for the selection of two council members to serve as
5 voting members of the Joint Economic Development Organization
6 (JEDO) and rescinding Resolution No. 7206
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8 WHEREAS, the interlocal cooperation agreement establishing the JEDO provides
9 that the voting members will be the county commissioners, the mayor, the deputy mayor
10 and two council members; and

11 WHEREAS, Resolution No. 7206, passed in 2001, established a process based
12 upon April governing body elections whereby the Council elects two JEDO members at
13 the second Council meeting each April following the election of the deputy mayor; and

14 WHEREAS, governing body terms of office now commence on the second Monday
15 in January of even-numbered years; and

16 WHEREAS, the JEDO now meets on the second Wednesday of February, May,
17 September and December of each calendar year; and

18 WHEREAS, in order to foster consistency in the JEDO membership, the governing
19 body finds that it is prudent to establish a process whereby JEDO members are elected in
20 January.

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

23 1. The governing body shall elect two council members to serve as voting
24 JEDO members at the third governing body meeting each January after the election of
25 the deputy mayor. The council members shall serve a one-year term.

26 2. Each council member may self-nominate or be nominated. Following the
27 nominations, each governing body member shall be allowed two votes on each ballot.

Only one vote may be used for any single candidate. The two council members receiving the highest number of votes will be elected, providing they have a minimum of six votes. Should a tie vote exist or a position not be filled due to an insufficient number of votes, balloting will continue until the voting requirement is met.

3. The terms of the Council members who are currently serving will expire at the third governing body meeting in January of 2017.

4. Resolution No. 7206 is rescinded.

ADOPTED and APPROVED by the Governing Body _____
_____.

CITY OF TOPEKA, KANSAS

Larry Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk

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

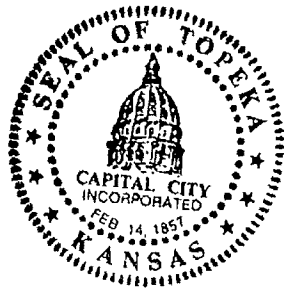
WHEREAS, there is a need for the City Council to establish a process for the selection of its voting representatives to the JEDO board.

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:

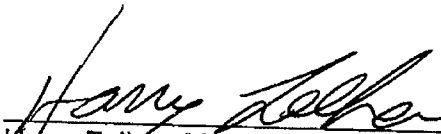
1. At the second City Council meeting in December 2001, two voting City Councilmembers will be elected by the City Council as provided herein, to serve until the second City Council meeting in April 2002.
2. There will be an election of the JEDO board representatives at the City Council meeting on the 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

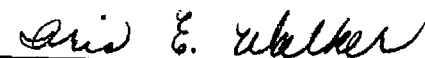


CITY OF TOPEKA, KANSAS



Harry Felker, Mayor

45 ATTEST:

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48 Iris E. Walker, City Clerk
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APPROVED AS TO FORM AND LEGALITY	
DATE <u>11/28/01</u>	BY <u>BL</u>



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DATE: October 11, 2016
CONTACT PERSON: Mary Feighny, Deputy City Attorney
DOCUMENT #:
SECOND PARTY/SUBJECT: PROJECT #:
CATEGORY/SUBCATEGORY 013 Ordinances - Codified / 002 Administration
CIP PROJECT: No
ACTION OF COUNCIL: JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

ORDINANCE introduced by Interim City Manager Doug Gerber, concerning insurance proceeds for building loss claims, amending City of Topeka Code Sections 8.80.010, 8.80.020, 8.80.040 and 8.80.050 and repealing original sections.

(Approval would allow the City to benefit from a new state law requiring insurance companies to remit to the City a percentage of insurance proceeds for damage to buildings caused by any casualty. Currently, remittances are limited to only certain casualties.)

POLICY ISSUE:

Whether to amend the ordinance to expand the City's ability to receive insurance proceeds for casualty losses to buildings.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to adopt the ordinance.

BACKGROUND:

Since the 1980s insurance companies have been required to send 15% of the proceeds from every claim for a building loss caused by fire, windstorm or explosion to the City. The City holds these funds to ensure that the owner demolishes the building. If the owner refuses, the City can use the funds to do so.

A new state law now requires insurance companies to send proceeds to the City for any casualty event not just for fire, windstorm or explosion. In order for the City to take advantage of expansion, it is necessary to amend the ordinance.

BUDGETARY IMPACT:

Approval would provide for additional funding for the City to demolish buildings when needed due to a casualty event.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

Description

Ordinance

Summary of Changes

Fact Sheet

1 (Published in the Topeka Metro News _____)

2
3 ORDINANCE NO. _____

4
5 AN ORDINANCE introduced by Interim City Manager Douglas Gerber, concerning
6 insurance proceeds for building loss claims, amending City of
7 Topeka Code § 8.80.010, § 8.80.020, § 8.80.040, and § 8.80.050
8 and repealing original sections.
9

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

11 Section 1. That section 8.80.010, Scope and application, of The Code of the
12 City of Topeka, Kansas, is hereby amended to read as follows:

13 **Scope and application.**

14 The city is hereby authorized to utilize the procedures established by K.S.A. 40-
15 3901 et seq., whereby no insurance company shall pay a claim of a named insured for
16 loss or damage to any building or other structure located within the city, ~~arising out of~~
17 ~~any fire or explosion, or windstorm~~ where the amount recoverable for the loss or
18 damage to the building or other structure under all policies is in excess of 75 percent of
19 the face value of the policy covering such building or other insured structure, unless
20 there is compliance with the procedures set out in this chapter.

21 Section 2. That section 8.80.020, Lien, of The Code of the City of Topeka,
22 Kansas, is hereby amended to read as follows:

23 **Lien.**

24 (a) The ~~city council~~ governing body hereby creates a lien pursuant to K.S.A.
25 40-3902 in favor of the city on the proceeds of any insurance policy based upon a
26 covered claim payment made for damage or loss to a building or other structure located
27 within the city, ~~caused by or arising out of any fire or explosion, or windstorm~~ where the

amount recoverable for all the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy covering such building or other insured structure. The lien arises upon any unpaid tax, special ad valorem levy, special assessment, or any other charge imposed upon real property by or on behalf of the city which is an encumbrance on real property, whether or not evidenced by written instrument, or such tax, levy, assessment, expense or other charge that has remained undischarged for at least one year prior to the filing of a proof of loss.

(b) Prior to final settlement on any claim covered by this section, the insurer or insurers shall contact the county treasurer to determine whether any such encumbrances are presently in existence. If encumbrances are found to exist, the insurer or insurers shall execute and transmit in an amount equal to that owing under the encumbrances a draft payable to the county treasurer. A transfer of proceeds under this section shall be on a pro rata basis by all insurance companies insuring the building or other structure.

Section 3. That section 8.80.040, Procedure upon receipt of moneys – Investigation, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Procedure upon receipt of moneys – Investigation.

(a) Upon receipt of moneys as provided for by this chapter, the city treasurer shall immediately notify the ~~police chief or designee~~enforcement official of such receipt, and transmit all documentation received from the insurance company to the ~~police chief or designee~~enforcement official.

(b) Within 20 days of the receipt of the moneys as provided by this chapter,

51 the ~~police chief or designee~~enforcement official shall determine, based upon
52 investigation, whether the city shall instigate proceedings under the provisions of K.S.A.
53 12-1750 through 12-1756, as amended, and Chapter 8.60 TMC. For purposes of this
54 chapter, ~~police chief~~ the director of the department of neighborhood relations or
55 designee shall be the enforcement official ~~with responsibility for determining an~~
56 ~~immediate hazard, pursuant to K.S.A. 12-1750 et seq., and the administrator of the~~
57 ~~environmental code services program shall be the enforcement official with~~
58 ~~responsibility for enforcement of Chapter 8.60 TMC.~~

59 (c) Prior to the expiration of the 20-day period established in this section, the
60 enforcement official shall notify the city treasurer whether the city intends to initiate
61 proceedings under K.S.A. 12-1750 through 12-1756, as amended, and Chapter 8.60
62 TMC.

63 (d) If the enforcement official has determined that proceedings under K.S.A.
64 12-1750 through 12-1756, as amended, or Chapter 8.60 TMC shall be initiated, he or
65 she will do so immediately, but no later than 30 days after receipt of the moneys by the
66 city treasurer.

67 (e) Upon notification to the city treasurer by the enforcement official that no
68 proceedings shall be initiated under K.S.A. 12-1750 through 12-1756, as amended, or
69 Chapter 8.60 TMC, the city treasurer shall return all moneys received to the insured or
70 insureds as identified in the communication from the insurance company. Such return
71 shall be accomplished within ~~30~~45 days of the receipt of the moneys from the insurance
72 company or companies.

73 Section 4. That section 8.80.050, Removal of structure – Excess moneys, of

The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Removal of structure – Excess moneys.

(a) If the enforcement official has proceeded under the provisions of K.S.A. 12-1750 through 12-1756, as amended, or Chapter 8.60 TMC, all moneys in excess of that which is ultimately necessary to comply with the provisions for the removal of the building or structure, less salvage value, if any, shall be paid to the insured.

(b) If the enforcement official, with regard to a damaged building or other structure ~~damaged by fire, explosion, or windstorm~~ determines that it is necessary to act under K.S.A. 12-1756 or Chapter 8.60 TMC, any proceeds received by the city treasurer under the authority granted in this chapter relating to that building or other structure shall be used to reimburse the city for any expenses incurred by the city in proceeding under K.S.A. 12-1756 or Chapter 8.60 TMC. Upon reimbursement from the insurance proceeds, the enforcement official shall immediately effect the release of the lien resulting therefrom. Should the expenses incurred by the city exceed the insurance proceeds paid over to the city treasurer under TMC 8.80.030, the enforcement official shall publish a new lien in an amount equal to such excess expenses incurred.

Section 5. That original § 8.80.010, § 8.80.020, § 8.80.040, and § 8.80.050 of The Code of the City of Topeka, Kansas, are hereby specifically repealed.

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

Section 7. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 8. 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

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk



CITY OF TOPEKA

Summary of Proposed Changes to Insurance Payments for Damaged Structures

Explanation: Since 1982, state law has required insurance companies to remit 15% of property insurance claim proceeds to a city to hold in the event an insured doesn't repair or demolish a structure that has been damaged by fire, explosion or windstorm. Cities can use the proceeds to demolish if the insured won't. In 2016, the legislature amended this law to delete the requirement that the loss was caused by fire, explosion or windstorm. Effective July 1, 2016, the remittance is allowed for any damage to a structure provided the city has an ordinance.

The City has had an ordinance since the 1980's that is consistent with state law. However, in light of the state law changes, it would be beneficial to amend the ordinance so that the City could receive insurance proceeds for any damages to a structure, regardless of the cause.

TOPIC	CURRENT	CHANGE
Type of loss for which insurers pay cities. Lines 17, 27,81	Fire, explosion, windstorm	Any damage, regardless of cause.
Who oversees the insurance claim process. Lines 45-54	City treasurer and Police chief or designee	City treasurer and Director of Neighborhood Relations (DNR) or designee. DNR oversees demolitions.
Number of days City can hold insurance proceeds. Line 71.	30 days after receipt by insurer.	45 days after receipt by insurer.



CITY OF TOPEKA

Fact Sheet

Use of insurance proceeds for demolition of damaged buildings

1. What does this ordinance do?

Requires insurance companies to send 15 % of insurance proceeds to the City whenever a property owner has submitted a casualty claim on a building or other structure damaged by fire, windstorm, or explosion.

2. What does the City do with the proceeds?

If the building/structure is damaged to such a degree that it needs to be demolished, the City will use the proceeds to demolish the building/structure after completion of the administrative hearing process. If the property owner repairs or demolishes the building/structure, then the City returns the proceeds to the owner.

3. How long has this ordinance been around?

Since the 1980's.

4. Why is the governing body looking at this ordinance now?

A new state law requires that insurance companies send proceeds for any casualty event – not just fire, windstorm, or explosion. However, before the city can avail itself of this change, it must amend its current ordinance.



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
October 11, 2016

DATE:	October 11, 2016		
CONTACT PERSON:	Bill Fiander	DOCUMENT #:	SNC16/2
SECOND PARTY/SUBJECT:	Apostolic Church of Jesus Christ	PROJECT #:	
CATEGORY/SUBCATEGORY	014 Ordinances – Non-Codified / 010 Street Name Change		
CIP PROJECT:	No		
ACTION OF COUNCIL:	10-04-16 Discussion Only.	JOURNAL #:	
		PAGE #:	

DOCUMENT DESCRIPTION:

ORDINANCE introduced by Interim City Manager Doug Gerber, relating to the designation of street names, more specifically authorizing a memorial designation for the segment of SE Bellview Avenue, lying between SE 23rd and 25th Streets as "Bishop Dr. Aletha J. Cushinberry Memorial Pkwy."
(SNC16/2) (Council District No. 4)

(Approval would add two street signs to memorialize SE Bellview Avenue between SE 23rd and SE 25th Streets in honor of the late Bishop Dr. Aletha J. Cushinberry).

POLICY ISSUE:

Topeka Municipal Code 12.05.110 provides for the consideration and approval of street name changes or memorial designation signs by the Governing Body upon a report of advisability from the Planning Department. The process allows for support from affected residents and organizations prior to action by the Governing Body, and provides for an examination of the costs/benefits to property owners, residents, stakeholders, as well as the effect on public services. This request satisfies these guidelines.

- (1) A street name or memorial designation shall not be the same as the name of an existing thoroughfare.
- (2) A street name or memorial designation shall not be the name of a living person or persons.
- (3) A street name or memorial designation shall not be the name of an existing or proposed business or existing product or proposed product of a business.
- (4) A street name shall be given to the entire length of the street, while a memorial designation may be given for any or all of a street.
- (5) The cost to taxpayers and burden on residents and service providers of the proposed action shall be examined.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to adopt the ordinance.

BACKGROUND:

The applicant shall reimburse the City for the cost of \$566 to produce, mount, and the install the two signs. The Highland Park Apartments has agreed to contribute \$300 to this total cost. This cost does not include standard maintenance.

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:**Description**

Ordinance

Staff Report

Application

History background

Next of Kin/NIA/Owner support

Location Map

Graphic of sign

Community Letters of Support

8-30-2016 Meeting Follow Up

(Published in the Topeka Metro News)

ORDINANCE NO. _____

AN ORDINANCE introduced by ~~Interim~~ City Manager Douglas Gerber, relating to the designation of street names, more specifically authorizing a memorial designation for the segment of SE Bellview Avenue lying between SE 23rd and 25th Streets as "*Bishop Dr. Aletha J. Cushinberry Memorial Pkwy.*" (SNC16/2) (Council District No. 4)

Whereas, TMC 12.05.110 provides a process whereby by the governing body may authorize a memorial designation for a segment on a public street; and

Whereas, the Apostolic Church of Jesus Christ has submitted a request to designate a segment of SE Bellview Avenue lying between SE 23rd and SE 25th Streets to honor the Bishop Dr. Aletha J. Cushinberry who pastored the Church and passed away on December 26, 2015; and

Whereas, the Planning Department has submitted a report as to the advisability of the designation.

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

Section 1. SE Bellview Avenue between SE 23rd and 25th Streets shall be designated as "*Bishop Dr. Aletha J. Cushinberry Memorial Pkwy.*". Provided, that this ordinance shall not be construed to alter the dimensions of said street nor the set-back requirements provided in other ordinances of the City of Topeka. Provided further, that this ordinance shall not be construed to affect the designation of said street as may be provided in other ordinances of the City of Topeka.

Section 2. 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

STAFF REPORT

RE: SNC16/2 – By: Apostolic Church of Jesus Christ– Memorial Designation Sign

Proposal: A request by the Apostolic Church of Jesus Christ (2420 SE Bellview Avenue) to honor Bishop Dr. Aletha J. Cushinberry, former pastor, with a street memorial designation.

Location: Two (2), 2' X 4', one-sided, memorial signs located along the right-hand sides of SE Bellview at the SE 25th intersection and SE 23rd intersection.

Background/History: To honor Bishop Dr. Aletha Cushinberry, former pastor of the church (February 10, 1936 to December 26, 2015). The applicant has attached a summary of her achievements and role serving both the church and the Topeka community and will present the background at the meeting.

Process/Findings: TMC 12.05.110 provides for the consideration and approval of street name changes or memorial designation signs by the Governing Body upon a report of advisability from the Planning Department. The process allows for support from affected residents and organizations prior to action by the Governing Body, and provides for an examination of the costs/benefits to property owners, residents, stakeholders, as well as the effect on public services.

- 6/8/2016 – The applicant held a pre-application meeting with City staff and originally proposed changing the street name. Staff recommended a Memorial Designation sign instead for the following reasons. Staff followed up accordingly with the church community in two meetings held on July 6 and August 30 to address their questions and concerns.
 - The Manual of Uniform Traffic Control Devices (adopted by City Code) has much less flexibility in the sizing, length, and number of characters contained on a street sign than a memorial sign.

- The Highland Park Apartments contain 200 units and a street name change would negatively impact and burden residents and apartment management regarding addressing and public service calls. For reasons indicated in the attached letter, the apartment management did not support a street name change.
 - Staff has attached a meeting hand-out from 8-30-2016 that details the questions and responses from staff regarding the street name change issue.
- 8/31/2016 – Applicant submitted the application proposal. Planning distributed application materials to reviewing departments/agencies: Development Services, Neighborhood Relations, Engineering, Fire, Police, Shawnee Co. Public Works, Shawnee Co. Dispatch, and public utilities. No opposition was expressed.
- The City Traffic Engineer is supportive of memorial signs consistent with the specifications in the Manual of Uniform Traffic Control Devices at the two intersections.
- The signs are one-sided and will be placed on the right-hand side at both ends of SE Bellview. Their placement will not interfere with other signage or traffic signals.
- The applicant provided support letters from the next of kin, Highland Acres NIA, the Highland Park Apartment management, and the one remaining property owner on that block. Additionally, the applicant has provided seven letters of support from community churches in Topeka and a petition of support signed by their church members.
- The applicant has agreed to pay for the cost of signs, which is estimated at \$284 (\$566 total) per sign to produce, mount, and install. This cost estimate does not include regular maintenance. The Highland Park Apartments has agreed to contribute up to \$300 to assist with the cost.
- A memorial sign has no negative impact on residents or public service calls as addresses will remain and service is not affected.

Naming or Memorial Designation Guidelines TMC 12.05.110(c): In naming or changing the name of any street the following guidelines shall be observed. The proposed memorial sign satisfies these guidelines.

(1) A street name or memorial designation shall not be the same as the name of an existing thoroughfare.

(2) A street name or memorial designation shall not be the name of a living person or persons.

(3) A street name or memorial designation shall not be the name of an existing or proposed business or existing product or proposed product of a business.

(4) A street name shall be given to the entire length of the street, while a memorial designation may be given for any or all of a street.

(5) The cost to taxpayers and burden on residents and service providers of the proposed action shall be examined.

Recommendation: Based upon the above findings and analysis, the Topeka Planning Department with the concurrent of reviewing City staff recommends **APPROVAL** of the two memorial designation signs located at both ends of SE Bellview Avenue.

Prepared by:

Annie Driver, AICP

Planner II

Attachments:

- Ordinance
- Application Proposal/Acknowledgment of next of kin
- Letters of Support from NIA and Highland Park Apartments
- Location Map

- Sign Graphic
- Letters of Support
- TMC12.05.110 – Procedures for changing street names or designating memorial streets
- Meeting follow up – 8/30/2016



APPLICATION FORM

Street Name Change or Memorial Dedication

City of Topeka Planning Department
620 SE Madison, 3rd Floor (Unit #11)
Topeka, KS 66607-1118
Phone 785-368-3728 Fax 785-368-2535
www.topeka.org/planning

PLANNING OFFICE USE ONLY

Date Submitted 8/31/16 Case # SNC/16/2
Subdivision: Presbyterian Subd.
Council District: #4 - Emerson
NIA/NA: Highland Acres
NIM Date: Not required

Applicant Information

Applicant(s): Dale H Cushmanberry
Organization (if applicable): Apostolic Church of Jesus Christ
Street Address: 2420 SE Bellview Ave.
City: Topeka State: Ks Zip: 66605-1750 E-mail: Wraacj@att.net

Requested Action

Check one: ☐ Street Name Change ☒ Memorial Designation

Current Name: SE Bellview Proposed Name: Bishop Dr. Altha J. Cushmanberry Memorial Dr.

Location of street to be re-named or memorialized. Note: street names shall be for a contiguous segment or the entire length of the street.

Segment of SE Bellview Ave b/t SE 25th
SE 23rd

Describe the reason(s) for the street name change: (attach additional documentation if needed)

Honoring our deceased pastor

Was a pre-application meeting held? ☒ Yes ☐ No If Yes: Date Held 6/8/16 (attach minutes)

The following items should be attached unless determined unnecessary by Planning Department:

- Acknowledgment of next of kin ☒
- Letters of support from neighborhood organization and affected stakeholders ☒
- Neighborhood Information Meeting minutes and sign-in sheet ☒
- Background history of current and proposed name ☒

RECEIVED
SEP 01 2016
TOPEKA PLANNING
DEPARTMENT

Applicant Signature: Dale H Cushmanberry Date: 8-31-16

SNC, 1/6/16

Celebration of Life
Bishop Dr. Aletha J. Cushinberry

Sunrise
Monday
February 10, 1936

Sunset
Saturday
December 26, 2015

Saturday, January 9, 2016

10 A.M.

Victorious Life Church
3400 The Paseo Kansas City, MO 64109

BISHOP MARK C. TOLBERT, **OFFICIATING**
PRESIDING PRELATE BISHOP CHARLES H. ELLIS, **EULOGIST**

Presentation of Life

Aletha June Cushinberry was born February 10, 1936, one of ten children born to Abel Thomas and Eula Thompson Thomas Goolsby. She was preceded in death by her father, mother and several siblings.

Bishop Dr. Cushinberry spent her early childhood in Garden City, KS. Later, she moved to Topeka, Kansas where she was baptized in the Name of Jesus Christ and received the precious gift of the Holy Ghost in 1954. From the onset of her spiritual birth, Bishop Dr. Cushinberry was a steadfast worker in the Apostolic Church. Her humble beginnings would best be described as a shy, quiet Sunday School teacher and member of the Sewing Circle. As a young, saved woman, she was elected Vice-President for the Young People's Auxiliary and was chosen to be a delegate for the National Convention. As she continued her walk with the Lord, she developed into a gallant, sweet, powerful, anointed and revered woman of God. Bishop Dr. Cushinberry was a licensed and ordained minister in the Pentecostal Assemblies of the World, Inc. (PAW, Inc.). A member of the Apostolic Church since its beginning, she served faithfully and was installed as pastor in September, 1967 by the late Bishop James A. Johnson, the Northwestern District Council (NWDC) Diocesan at the time.

On May 21, 1977 she married the love of her life, Elder Larry Cushinberry. To this union of 38 years, no biological children were born; however, along with her husband, she mentored, trained, taught and guided many. Her work in ministry was definitely enhanced by the loyal and loving support of her husband. He worked untiringly in ministry, as well as accompanied her in her travels to speaking engagements, the NWDC and the PAW, Inc. conventions. He was always there to drive, encourage, assist and capture those important moments on camera.

Bishop Dr. Cushinberry received a Diploma in Nursing from the Stormont-Vail Regional Hospital of Topeka, Kansas. She attended Washburn University and received a BSN from the University of Kansas and a MSN from Wayne State University. Later, she continued her education at the University of Kansas receiving her Ed D in 1986. She also received an Honorary DD from the Aeon Bible College in 1994.

Bishop Dr. Cushinberry was an Associate Professor of Nursing for the Washburn University School of Nursing for 29 years in the field of Pediatric Nursing. She was active in national, state and local professional Nursing Organizations and the Nursing Honor Society. She retired in 1993 as Associate Professor Emeritus. An award is given bi-annually from the Washburn School of Nursing, in honor of Bishop Dr. Aletha J. Cushinberry, to a graduating nursing student who demonstrates professionalism.

Bishop Dr. Cushinberry was no stranger to hard work. She served 56 years in the Apostolic Church, of which 49 of those years she served as the Pastor. Under her dynamic ministry and leadership skills, God blessed the congregation to grow and construct a new building. God saw fit to utilize her in many offices within the NWDC and the PAW, Inc. as well. She served several terms as Secretary for the Sunday School Auxiliary and conducted several workshops and seminars for the District and Regional conferences. In 1980, Bishop Dr. Cushinberry was the first woman to be elected Chairman, (the highest elected office at the District level) for the NWDC. She served in this office for two consecutive terms and at the end of her second term, she was elected Vice Chairman. Her tenure of one term in the office of Vice Chairman was followed by another elected term of Council Chairman. Upon completion of her third term as Council Chairman, she was assigned the position of Administrative Assistant to the late Bishop Samuel A. Layne, the NWDC Diocesan at that time. Bishop Dr. Cushinberry also served as Chairman of the Pastor's Advisory Board and in June of 1995 she was appointed the first woman District Elder for the NWDC by the late Bishop Samuel Layne.

On the national level of PAW, Inc. Bishop Dr. Cushinberry was the first woman to serve as Lay Director of the Midwestern Region on the Board of Bishops, serving a total of three terms nonconsecutive. She served as Director for the International Single People's Alliance and two terms as the first woman General Secretary for PAW, Inc. She was a member and Conference Coordinator for the Aenon Bible College, Indianapolis, IN, the official training Institution for PAW, Inc. She also served as Interim President for the Aenon Bible College from 1997 to 1998.

Bishop Dr. Cushinberry was the recipient of numerous awards and honors; Outstanding Achievement Award (woman) -Topeka Links, Principal for a Day - USD 501, the first to receive the Pastor Wayne Franklin Religion Award through Living The Dream, Inc. in 2008 and in 2009 she received the Eula Goolsby Appreciation Award from the Apostolic Church of Jesus Christ Christian Education Ministry.

The year of 2010 was another fruitful year for Bishop Dr. Cushinberry. In January, the vision God gave her of starting an extension of Aenon Bible College manifested and henceforth-"Unlimited Harvest Bible Institute" was started. That same year at the June NWDC, under the auspices of the Diocesan Bishop Horace Smith, MD, Presiding Prelate of the PAW, Inc. at the time, District Elder Dr. Aletha Cushinberry was elevated and consecrated to the office of Suffragan Bishop.

Bishop Dr. Cushinberry was elected to the office of Honorary Bishop and consecrated on July 31, 2015 at the PAW, Inc. convention in Detroit, Mi. during the 100th year celebration, under the auspices of the Honorable Presiding Prelate Bishop Charles H. Ellis, III.

Bishop Dr. Cushinberry was also very committed to community work. For ten years she taught a weekly Bible Study at the Shawnee County Adult Corrections. She was President of the Minority Housing Corporation of Topeka, sponsoring Jefferson Villas, housing for seniors and disabled adults. Within the Topeka community, she belonged to numerous organizations and served on multiple boards; Advisors for the School of the Future, High Hopes program for teens, Covenant Development of Corrections, Secretary for the Topeka African American Pastor's Coalition, Vice President of Community First, Executive Board member and Treasurer of the Topeka Justice Unity Ministry Project, Phi Kappa Phi, Delta Kappa Gamma, Monoso-Washburn University and Alpha Kappa Alpha-Alfa Lota Omega Chapter member and President. She was a Grant Administrator for Reading Improvement Coalition, KABSE and the Site Administrator for the Apostolic Church of Jesus Christ, KABSE. Bishop Dr. Cushinberry founded Starrs, Inc., which was awarded a grant.

Bishop Dr. Cushinberry was a loving and generous spirited lady. Although she was very active in ministry, her career and the community, she took pleasure in the duties of a homemaker. She enjoyed spending time with her husband and traveling. Some of her hobbies included sewing, knitting, crocheting and working Sudoku puzzles. In her earlier years, Bishop Dr. Cushinberry tailored her own clothing. She was also an avid reader with a thirst for knowledge and had a huge collection of books in her personal library.

After living a full and very productive life on earth, Bishop Dr. Aletha June Cushinberry transitioned into eternity early Saturday morning, December 26, 2015. She leaves to cherish her memory: her loving and devoted husband, Elder Larry Cushinberry; sister, Linda (Chet) DeMoss of Topeka, KS; twin siblings, Betty Hysten and Bobby Goolsby of Dallas, TX; a host of nieces, nephews, friends, and the Apostolic Church of Jesus Christ family.

In my distress I cried unto the LORD, and he heard me. Psalms 120:1 (KJV)

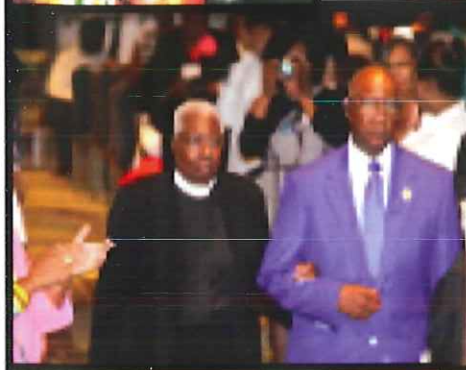
Program

Officiant and Master of Ceremony -
BISHOP MARK TOLBERT,
Diocesan of the Heart of America Council of Churches

Processional	Bishops / Clergy / Family
Hymns of Praise	Praise Team and Congregation
Old Testament Scripture	Bishop Michael Hannah, Northeast District Council Ps 19: 7-14
New Testament Scripture	Bishop Robert Douglas, Central California District Council Ephesian 6: 11-17
Prayer	Suffragan Bishop Kenneth Neal
PAW Bishop Board Tribute	Bishop Theodore Brooks 2nd Assistant Presiding Bishop
Music	HACC District Choir
Words of Reflection	(3 Minutes) Bishop Horace Smith, <i>Former Presiding Bishop PAW / Former Diocesan</i> Bishop Jeffery, Goldsmith, <i>Nevada State Council</i> Suffragan Bishop Morris Brown, <i>Heart of America Council of Churches Chairman</i> Suffragan Bishop Gwen Weeks, <i>Pastor of Bethel Tabernacle Pentecostal Church, Boston, MA</i>
Musical Selection	Sis Tisharria Harris & Unlimited Praise <i>Apostolic Church of Jesus Christ</i>
Acknowledgements & Condolences	Sis Joyce Scales, <i>Secretary of Heart of America Council of Churches</i>
Reflections from a Devoted Husband	Elder Larry Cushinberry
Words of Reflection	(3 Minutes Please) Bishop Carl Turner, <i>Kenya District Council</i> Elder Terry Canady, <i>a Mentee Apostolic Church of Jesus Christ</i> Bishop Michael Hannah, <i>Aenon Board Chairman</i> First Lady Dorothy Grayson, <i>Heart of America Council of Churches Christian Ed Representative</i> First Lady Emelda Tolbert, <i>Heart of America Council of Churches</i>
Music Selection	Choir Closing of the Bier during Choir Selection
Introduction of Speaker	Bishop Mark C. Tolbert
Eulogist	Bishop Charles H. Ellis III, <i>Presiding Bishop PAW</i>







Acknowledgements

The family of Bishop Aletha J. Cushinberry wishes to express our sincere appreciation for the cards, telegrams, florals, condolences and other expressions of sympathy extended during our bereavement. They have helped us immeasurably in lightening our burden of sadness. We wish each of you to know we shall remain ever grateful for your kindness and thoughtfulness.

Pallbearers

Bishop Pearson Carter, Sr
Deacon Mychael Anderson
Brother Norman Cushinberry
Deacon Wyatt Raye

Minister Pearson Carter, Jr.
Brother George Cushinberry
Brother Marlon Jones
Brother James Tibbs

Honorary Pallbearers

Deacon Arthur Anderson
Brother Philip Canady
Brother Kanyon Alexander
Brother Antonio Benifer
Brother JaRue Morton

Deacon Robert Cushinberry
Deacon Bruce Sanders
Brother Zu'mere Beard
Brother David Jackson
Brother David Cushinberry

Interment

Penwell-Gabel Cemetery & Mausoleum
3616 SW Sixth Avenue
Topeka, KS 66606

Services Entrusted to



401 SW Harrison

Topeka, KS. 66603

SNC16/02



L. C. CUSH INTERIOR PAINTING
LARRY C. CUSHINBERRY
1541 SE 42nd ST. TOPEKA, KANSAS 66609-1724
(785-267-7162) or (785-554-7297)

6 June 2016

Larry C. Cushinberry

1541 SE 42nd St.
Topeka, Ks. 66609

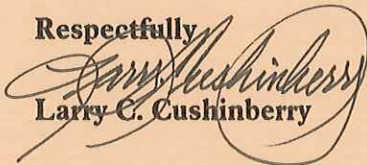
Dear Sir/Madam

In requests of changing the street name southeast of the city 25th Bellview Avenue, to 23rd street in Topeka, the State Capital of Kansas, to be renamed or changed to Bishop A. J. Cushinberry, or Bishop Cushinberry, or Bishop Aletha J. Cushinberry. Would be highly appreciated by me and her immediate family, and also the church family where she was Pastor for 49 years, the Apostolic Church of Jesus Christ.

I would like to take this time and thank you for this honorable gesture that was submitted by our church to rename Bellview Avenue, for my wife. To show the love that this outstanding woman had shared of her life to this city, and around the world.

I approve, with all of my heart, that the street be renamed. May you and others I pray that reads this letter, is bless of God.

Respectfully


Larry C. Cushinberry



Yarco Company, Inc.
7920 Ward Parkway
Kansas City, MO 64114
phone (816) 561-4240
fax (816) 561-3155

Today is Tuesday
August 2, 2016
Our 94th Year

Ms. Annie Driver
Topeka Planning Commission
Topeka Kansas

RE: Highland Park Town Homes; Bellevue Street, Topeka Kansas

Ms. Driver:

Thank you for meeting with me last week about the name change for Bellevue Street in Topeka, Kansas. After talking with the owners they are in favor of an Honorary name change as an alternative to a complete name change.

The reasons for the preference to the Honorary name change are, that while there is only one parcel of land, we have currently 178 residents that would need to change addresses on drivers' licenses, checking accounts, insurance documents, personal accounts, all mail items, etc. This would not only be an inconvenience, but some expense to our low income residents as well.

Additionally, as Highland Park is an affordable property, there will be numerous documents and database changes required, not only for the property, but Yarco, the city, state, and federal agencies and would entail countless man hours to complete.

We wish to assure the church congregation we're willing and delighted to back the idea of an honorary street name change. To that conclusion, we would contribute \$300.00 to help with the cost of the signage.

If you have questions, please feel free to contact me at.

Sincerely,

YARCO COMPANY, INC.
As Agent for Highland Park Town Homes

A handwritten signature in blue ink that reads "Chuck Hutchison". The signature is written in a cursive, flowing style.

Chuck Hutchison
Regional Property Manager

CH/mk

Musick Investments, LLC

4600 Wimbledon Drive

Lawrence, Kansas 66047

785-550-4602

April 13, 2016

To Whom It May Concern,

Musick Investments, LLC owns the property at 2400 SE Bellview, Topeka, Kansas. As the owner of this company, I am writing to show that I support the proposal to rename Bellview Avenue to Bishop Aletha Cushinberry Avenue or Drive.

A handwritten signature in black ink, appearing to read "Gregory C Musick", written in a cursive style.

Gregory C Musick

Owner

SNC 16/02



HIGHLAND ACRES NIA

May 19, 2016

Bill Fiander, AICP Director
620 SE Madson Street
Topeka, KS 66607

Dear Bill,

The Highland Acres Neighborhood Improvement Association voted at our January 4, 2016 meeting with a majority vote are in favor, with one vote against renaming SE Bellview Avenue to Bishop Aletha Cushinberry Avenue. We would appreciate your consideration to this matter.

If, there is anything else you need from the NIA please feel free in contacting me at (316) 208-9362 or my email is kmcgill@mirrorinc.org.

Sincerely,

Ken McGill
President Highland Acres NIA



SE 23rd ST

Approximate location
- right side of road
- in R/W

SE Bellview AVE

Segment to
Memorialized

SE Highland AVE

SE 25th ST

SNC16/2 By: Apostolic Church of Jesus Christ



Topeka Planning Department

**Bishop Dr. Aletha
J. Cushinberry
Memorial Pkwy**

4'

2'

4" Text Height

7'-0" Min.

El Shaddai Ministries Community Church

920 SE Sherman Topeka, KS 66607
PHONE: 785.232-5754 • FAX: 785.232-4305
www.esmctopeka.com

El Shaddai Ministries Community Church

June 23, 2016

Michael Hall, AICP
City of Topeka Planning Department
620 SE Madison, 3rd Floor
Topeka, Ks. 66603

Dear Mr. Hall,

I am writing to express support for Sister Dale Cushinberry in her efforts to change Bellview Avenue to "Bishop Aletha Cushinberry Boulevard." Through community projects, I had the pleasure to work with Bishop Cushinberry. She has blazed many trails and has been a voice to many disenfranchised people in our community. Please help us honor her name and legacy by allowing the street to be renamed.

Sincerely,



Pastor E.T. Watson III
El Shaddai Ministries Community Church



Most Pure Heart of Mary

Catholic Church

Fr. Gregory Hammes
Most Pure Heart of Mary Catholic Church
1800 SW Stone Ave
Topeka, KS 66604

June 22, 2016

Michael Hall, AICP
City of Topeka Planning Department
620 SE Madison, 3rd Floor
Topeka, KS 66603

Dear Michael Hall,

I am writing you to express support for Sis. Dale Cushinberry in her efforts to change Bellevue Avenue to "Bishop Aletha Cushinberry Boulevard." Through community projects, I had the pleasure to work with Bishop Cushinberry. She has blazed many trails and has been a voice to many disenfranchised people in our community. Please, help us honor her name and legacy by allowing the street to be renamed.

Sincerely,

Fr. Gregory Hammes

Most Pure Heart of Mary

Southwest Baptist Church
2901 SW Eveningside
Topeka, Kansas 66614
785-272-2219 Church
swbaptisttopeka@gmail.com
Carl Frazier, Pastor

July 7, 2016

Michael Hall, AICP
City of Topeka Planning Department
620 SE Madison, 3rd Floor
Topeka, KS 66603

Dear Michael Hall,

I am writing you to express support for Sis. Dale Cushinberry in her efforts to change Belleview Avenue to "Bishop Aletha Cushinberry Boulevard." Through community projects, I had the pleasure to work with Bishop Cushinberry. She has blazed many trails and has been a voice to many disenfranchised people in our community. Please, help us honor her name and legacy by allowing the street to be renamed.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Carl', followed by a horizontal line and a series of short, horizontal dashes.

The vision of Southwest Baptist Church is to REACH our community, especially the youth, for Christ, TEACH our country the word of God, and EQUIP our world for change.



ASBURY MOUNT OLIVE UNITED METHODIST CHURCH

1196 SW Buchanan St. Topeka, Kansas 66604
785-232-6801

Pastor Harry B. Christian
Asbury Mount Olive United Methodist
1196 S.W. Buchanan St.
Topeka, KS. 66604

June 22, 2016

Michael Hall, AICP
City of Topeka Planning Department
620 SE Madison, 3rd Floor
Topeka, KS 66603

Dear Michael Hall,

I am writing you to express support for Sis. Dale Cushinberry in her efforts to change Bellevue Avenue to "Bishop Aletha Cushinberry Boulevard." Through community projects, I had the pleasure to work with Bishop Cushinberry. She has blazed many trails and has been a voice to many disenfranchised people in our community. Please, help us honor her name and legacy by allowing the street to be renamed.

Sincerely,

Pastor Harry B. Christian
Asbury Mount Olive United Methodist Church

Prince of Peace

Lutheran (LCMS) Church and Preschool

3625 SW Wanamaker Road Topeka, KS 66614

Church: 785.271.0808 Preschool: 785.271.0913 Fax: 785.271.5324

Rev. Dr. Neil F. Buono, Pastor

Patty Bullock, Preschool Director

July 7, 2016

Michael Hall, AICP
City of Topeka Planning Department
620 SE Madison, 3rd Floor
Topeka, KS 66603

Dear Mr. Hall,

I am writing to express my strongest support for changing the name of Belleview Avenue to "Bishop Aletha Cushinberry Boulevard." Bishop Cushinberry was a pioneer in her denomination for expanding the role of women. She was a health care professional in this community and served on the faculty of Washburn University. And she was a faithful pastor, serving her people and advocating for their well-being.

Our city lost a true leader when she died. Please help us honor her name and legacy by allowing the street to be renamed.

Respectfully submitted,



Rev. Dr. Neil Buono
Pastor, Pastoral Counselor (LCMFT)



Proclaim the Living Christ, Live the Peace of Christ

website: www.princeofpeacetopeka.org

email: popeace@princeofpeacetopeka.org

Rev. Curtis Odum
In God's House Church
1616 NE Seward Ave
Topeka, KS 66616

July 6, 2016

Michael Hall, AICP
City of Topeka Planning Department
620 SE Madison, 3rd Floor
Topeka, KS 66603

Dear Michael Hall,

I am writing you to express support for Sis. Dale Cushinberry in her efforts to change Belleview Avenue to "Bishop Aletha Cushinberry Boulevard." Through community projects, I had the pleasure to work with Bishop Cushinberry. She has blazed many trails and has been a voice to many disenfranchised people in our community. Please, help us honor her name and legacy by allowing the street to be renamed.

Sincerely, 

Rev. Curtis Odum



GETHSEMANE WORSHIP CENTER, INC.

Raymond F. Berry, Founder/Pastor

Pastor Raymond F. Berry
Gethsemane Worship Center, Inc.
P.O. Box 8342
1404 N. Kansas Ave.
Topeka, KS 66608

June 22, 2016

Michael Hall, AICP
City of Topeka Planning Department
620 SE Madison, 3rd Floor
Topeka, KS 66603

Dear Michael Hall,

I am writing you to express support for Sis. Dale Cushinberry in her efforts to change Belleview Avenue to "Bishop Aletha Cushinberry Boulevard." Through community projects, I had the pleasure to work with Bishop Cushinberry. She has blazed many trails and has been a voice to many disenfranchised people in our community. Please, help us honor her name and legacy by allowing the street to be renamed.

Sincerely,

Pastor Raymond F. Berry
Gethsemane Worship Center, Inc.



401 SW Harrison St.
Topeka, KS
66603

office@peacefulrestfuneralchapel.com

Hello,

This letter is sent to inform you that there is a desire from the community and members of Apostolic Church of Jesus Christ (located on 2420 SE Bellview) to have the street name "Bellview Avenue" changed to "Bishop Aletha J. Cushinberry Avenue." This change, if permitted, will be made from 23rd and Bellview to 25th and Bellview.

Bishop Aletha J. Cushinberry is a well-known figure in our community. She was a member of Apostolic Church of Jesus Christ from its beginning and was installed as pastor in September of 1967. She was pastor 49 years and served at the church for a total of 56 years. She was a licensed and ordained minister in the Pentecostal Assemblies of the World, Inc. In 1980 she was elected as the first woman Chairman (which is the highest office in the district level) for Northwestern District Council, where she served two terms. She also worked as Vice President for the Northwestern District Council from 1984-1988.

She held the position of Associate Professor of Nursing in the Pediatric Nursing field of Washburn University for 29 years. She was very active in national, state, and local professional Nursing Organizations and the Nursing Honor Society. There is an award given bi-annually to graduating students that demonstrate professionalism in her honor from the Washburn School of Nursing.

Bishop Cushinberry was very committed to community work. She taught a weekly bible study at the Shawnee County Adult Corrections. She was President of the Minority Housing Corporation of Topeka, which provides housing for seniors and disabled adults. She also belonged to numerous organizations and served on multiple boards (including but not limited to): High Hopes program for teens, Covenant Development of Corrections, and Executive Board Member and Treasurer of the Topeka Justice Unity Ministry Project.

As you can see by reading this, Bishop Aletha J. Cushinberry had the attitude of long-lasting and devoted service to the community, as well as her church. We are in agreement with the request of the church and community to name Bellview Avenue after her. Please let us know when the decision is reached, as to whether or not this is permitted.

Thank you.

Owners & Operators of Peaceful Rest Funeral Chapel
Tycke Williams
Charles Cofield

Petition for renaming SE Bellview Avenue 23rd - 25th

I am signing this petition stating I am in favor of renaming SE Bellview Avenue from 23rd - 25th.

1-17-16

To Bishop Aletha Cushinberry Avenue

NAME	ADDRESS	IN FAVOR	OPPOSE
1 Neena Ashinberry	1300 SE 19th St	Yes	
2 Delma Noel	2815 SE Houtchek Ave	Yes	
3 Raymond Hefner	9037 SE California Blvd	Yes	
4 Debra M. Hall	2009 SE 9th Ave	Yes	
5 John Brown	1620 SE 25th	Yes	
6 Robert G. Gillingham	2230 SE 29th	Yes	
7 Dale H. Gillingham	2230 SE 29th	Yes	
8 Bruce E. Gillingham	600 N. 11th St	Yes	
9 Nick Bonosini	2712 Mandanville	Yes	
10 Art & Leona	2929 SE Adams St	Yes	
11 John & Leona	314 N. 2nd St	Yes	
12 John & Leona	3705 SE California Blvd	Yes	
13 Elisabeth Dikeles	3017 SW 30th St	Yes	
14 Lenore Jenson	2929 SE Adams Blvd	Yes	
15 Maude R. Jones	2927 SW McClure St	Yes	
16 Shirale Canada	1719 SE 30th Ter	Yes	
17 Shanna Wiest	3610 SE 8th Ter	Yes	
18 Lashia Patton	1734 SW 10th St	Yes	
19 Henry Penning	3003 G. 16th St	Yes	

Petition for renaming SE Bellview Avenue 23rd -25th

I am signing this petition stating I am in favor of renaming SE Bellview Avenue from 23rd - 25th.

To Bishop Aletha Cushinberry Avenue

1-17-10

NAME	ADDRESS	IN FAVOR	OPPOSE
20 Loanna Seaver	2435 Wisconsin	yes	
21 DANA PERRY	1000 S. KANSAS AVE #304	YES	
22 KIRAN HILL	931 S.W. Jewell	YES	
23 DENNIS GANDY	1171 Woodward	YES	
24 GARET A. SPENCE	930 SW JEWELL	YES	
25 SNOBOD DOUGLAS	1320 SE MULBERRY DR.	YES	
26 Mrs. Merna Jefferson	1300 SE Seaver St. City	yes	
27 Eileen HARRIS	2361 SE Bellview	yes	
28 TOMA DAVIS	40107 SW 26th AVE	YES	
29 MICKIE DAVIS	2139 SE Coll	YES	
30 Judy Guevara	504 S.E. Pinecrest Drive	yes	
31 Wanda Tibbs	620 SE Golden Ave	YES	
32 James Tibbs	820 SE Garden	YES	
33 Willette Triplett	530 SE Locust St. Topeka, KS	YES	
34 Blessie A. Mwakipare	1723 SW 18th Street Topeka, KS	Yes	
35 Teary Canady	1719 SE 36th Ter Topeka, KS	yes	
36 Joyce Moeck	3413 SE Fulton Ave Topeka, KS	yes	
37 Cecilia Mwakipare	7123 SW 18th St. Topeka, KS	yes	
38 Kori Alexander	1014 SE 30th Topeka, KS 66605	yes	

Petition for renaming SE Bellview Avenue 23rd -25th

I am signing this petition stating I am in favor of renaming SE Bellview Avenue from 23rd - 25th.

1-17-16

To Bishop Aletha Cushinberry Avenue

NAME	ADDRESS	IN FAVOR	OPPOSE
39 Angela Estwood	1205 SW 9th St	YES	
40 Barbara Elliott	8343 SW 9th St	YES	
41 Angel Jordan	700 SW Western Ave.	YES	
42 Stacy Williams	1541 SW 42nd St	YES	
43 Denise Sanders	1617 SE 38th Terrace	YES	
44 Park Jennings	1179 SW 14th	YES	
45 Halima Siggins	1179 SW 14th	YES	
46 Kendrick Johnson	9723 SW 11th	YES	Kenrick's 60215
47 Morris Brown	1320 SW 11th	YES	
48 Malcolm Brown	1320 SW 11th	YES	
49 Martha Johnson	9723 SW 11th	YES	Kenrick's 60215
50 Marie Johnson	5111 SW 11th	YES	Kenrick's 60215
51 Robert F. Hall	3720 SW 11th	YES	
52 Beverly Johnson	2110 SE 11th	YES	
53 Susan Johnson	2834 SE 11th	YES	
54 Mike Redman	2030 SE Colorado Ave	YES	
55 Marie Handley	2208 SE 25th	YES	
56 Sandra Baty	2316 SE 22nd St.	YES	
57 Linda Dixon	2601 SE 21st	YES	

Petition for renaming SE Bellview Avenue 23rd -25th

I am signing this petition stating I am in favor of renaming SE Bellview Avenue from 23rd - 25th.

To Bishop Aletha Cushinberry Avenue

	NAME	ADDRESS	IN FAVOR	OPPOSE
58	Shane W. Lough	2437 S.E. 21 st	X	
59	Paula S. Smith	2332 SE 22nd Ave	X	
60	Russ Smith	2125 SE 24th Ave	X	
61	Wendy Smith	" "	X	
62	Paula Lough	2217 SE Market St	X	
63	Robert J. Lough	" "	X	
64	Robert J. Lough	2811 SE Glenside Ct	X	
65	Paula Lough	2811 SE Glenside Ct	X	
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August 30, 2016

Street Name Change meeting at Apostolic Church of Jesus Christ- SE Bellview

Meeting Follow-Up:

- Contact Post Office concerning forwarding mail:
 - Is it possible to forward mail for at least one year? **Yes, at no charge but must be done by apartment resident not apartment complex. An addressed is for each resident not the complex so each resident needs to request a change. The apartment complex has 200 residents, which is a significant impact and burden to the public. KS Department of Revenue requires Driver's Licenses be changed in a minimum amount of time 10 days by State Law.**
 - Can a single entity request mail be forwarded? I.e. Apartment or does each resident need to do so? **NO; Each resident must do so**
- Is a memorial sign permanent? How could it be removed? **Yes, the memorial designation is permanent since it is adopted by Ordinance. It would take a new action by the City Council to repeal the ordinance.**
- Contact Chuck Hutchison – Regional Manager Highland Park Apts - **Contacted and invited to meeting. Apartment is HUD owned property and HUD has legal documents that makes it extremely difficult and burdensome to residents/owners to file all the paperwork necessary for a name change. The apartment is willing to contribute to a memorial designation sign. See attached letter.**
- Notice to residents of Highland Park- **Will be agreeable to noticing residents if need be of the memorial designation sign.**
- Can we apply for a street sign and keep the memorial sign as a second option?
 - Can the City Council consider both at the same meeting? **Possibly, there would need to be two ordinance drafted for the same meeting.**
 - What if the church applies for the actual street name change, but that option is denied? Will staff then recommend that the second option (memorial sign) be approved at the same council meeting? **Based upon what we have found our further, Planning is not supportive of a street name change and does not encourage the church to go this route.**

Sign specifications:

- Street signs are regulated by Manual of Uniform Traffic Control Devices. The following are specifications. **6" letter height with exceptions of suffixes/prefixes that may be 4". The only "flexibility" permitted is the spacing between characters, which is limited by visibility restrictions.**
- Total height of sign – **7' to bottom of sign measured from ground to bottom of sign**
- **See sign graphic attached.**

Responses from Engineering:

1. What is our longest street name on a sign? “SW Tutbury Town Ct.” **12 letters 54”** “SE Mississippi St” **11 letters 48”** SE Massachusetts St” **13 letters 48”**
2. What is the longest street name sign we have 60” ? 64”? **66” (5.5’)**
3. How long of a street name sign would we have to have for legend “SE Bishop Dr. Aletha Cushinberry AV” **105” (8.5’) 28 letters**
4. Using a length equivalent to the maximum we currently have can any of the following combinations be made to fit on a street name sign.
 - a. SE **Bishop Dr Aletha Cushinberry** AV **25 letters**
 - b. SE **Bishop Aletha Cushinberry** AV **23 letters**
 - c. SE **Dr Aletha Cushinberry** AV **19 letters**
 - d. SE **Aletha Cushinberry** AV **17 letters**
 - e. SE **Cushinberry** Av **11 letters**
5. Can you give me a per sign cost estimate? Fabrication, materials, and switching out the old signs.
Price for 2 signs and 3 post installation for **SE Bishop Dr Aletha Cushinberry AV**

\$38.08 Sheeting

\$50.00 Blanks (estimate)

\$63.15 for 3 post 1 ¾ inch by 10 feet telespar

\$27.95 for 3 stubs 2inch by 4 feet telespar

\$60.00 2 employees fabrication of 2 signs

\$125.00 truck time for locates

\$125.00 truck time for installation

\$489.18 price does not include bolts and hardware (\$5.00)

Cost per memorial sign (includes installation, hardware, posts, and production) - \$230 per sign

6. Can a street name sign broken into two lines instead of one? **NO, none that I know of. Some overhead signs at signals have two lines for two streets. City Traffic Engineer does not recommending do so.**



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
October 11, 2016

DATE:	October 11, 2016	
CONTACT PERSON:	Chuck Kitt, Chief of Prosecution	DOCUMENT #:
SECOND PARTY/SUBJECT:		PROJECT #:
CATEGORY/SUBCATEGORY	013 Ordinances - Codified / 018 Animals	
CIP PROJECT:	No	
ACTION OF COUNCIL:	Defer to the Public Health and Safety Committee 06-14-16	JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

ORDINANCE introduced by City Manager Jim Colson, concerning dangerous dogs, amending City of Topeka Code Section 6.05.080 and repealing original section. *(The Public Health and Safety Committee recommended approval as amended by a vote of 3-0-0 on September 1, 2016.)*

(The proposed amendments clarify the circumstances under which a dangerous dog may be destroyed.)

POLICY ISSUE:

The ordinance amendment clarifies the circumstances under which the municipal court can order the destruction of a dangerous dog. Currently, the court cannot destroy a dog unless there has been a previous determination that the dog is dangerous, as defined in the ordinance.

STAFF RECOMMENDATION:

Staff is recommending the Governing Body move to adopt the ordinance.

BACKGROUND:

The amendment requires the court to destroy a dog if: (1) the dog owner has been convicted of possessing a dangerous dog; and (2) the dog attacks either a human or a domestic animal and the attack results in death or great bodily harm. If there's no death/great bodily harm but the dog has previously been determined to be a dangerous dog, the court has the discretion to order that the dog be destroyed if it's owner has been convicted of possessing a dangerous dog.

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

Description

Ordinance - PHS Committee Amendments to TMC Section 6.05.010 - September 2016

Topeka Municipal Code Title 6 Animals - Dangerous Dogs (Current Ordinance)

PHS Committee Report - September 2016

Proposed amendments from Public Health and Safety Committee are shown in double underline and double strikethrough and highlighted (Original Ordinance did not include any amendments to § 6.05.010)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Jim Colson, concerning dangerous dogs, amending City of Topeka Code § 6.05.010 and § 6.05.080 and repealing original sections.

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

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

Definitions.

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

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

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

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

(2) Any dog which, in a vicious or threatening manner, approaches any person in apparent attack upon the person while on the streets, sidewalks, or any public grounds or places; or on private property other than on the property of the owner; or

Proposed amendments from Public Health and Safety Committee are shown in double underline and double strikethrough and highlighted (Original Ordinance did not include any amendments to § 6.05.010)

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

(4) Any dog which was previously determined to be a vicious animal pursuant to the previous Topeka City Code 18-8 or TMC 6.05.080; or

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

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

(i) the person was committing a willful trespass or other tort upon the premises occupied by the owner or keeper of the dog;

(ii) the person was committing or attempting to commit a crime;

(iii) the person provoked, teased, or injured the dog; or

(iv) the dog was protecting itself, its owner, its offspring or another human being.

(7) No dog may be declared dangerous if any ~~injury or damage~~was sustained by a domestic animal ~~which at the time such injury or damage was~~

Proposed amendments from Public Health and Safety Committee are shown in double underline and double strikethrough and highlighted (Original Ordinance did not include any amendments to § 6.05.010)

~~sustained was teasing, tormenting, abusing or assaulting the dog. No dog may~~
~~be declared dangerous if the dog was protecting or defending a human being or~~
~~if the dog was protecting or defending her litter of offspring or offspring on the~~
~~owner's property, within the immediate vicinity of the dog, from an attack or~~
~~assault.~~ under any of the following conditions:

(i) the domestic animal provoked, teased or injured the
dog; or

(ii) the dog was protecting itself, its owner, its offspring or
another human being.

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

(c) "Domestic animal" means any vertebrate animal that is kept as a pet.
"Domestic animal" includes, but is not limited to dogs, cats, rabbits, birds and domestic
fowl.

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

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

Proposed amendments from Public Health and Safety Committee are shown in double underline and double strikethrough and highlighted (Original Ordinance did not include any amendments to § 6.05.010)

administration of the agent or method of euthanasia in a manner to avoid undue apprehension by the animal.

(~~ef~~) “Humane society” means the Helping Hands Humane Society in the city or any animal shelter contracted with the city of Topeka which is licensed by the state of Kansas.

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

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

(~~hi~~) “Supervision” means within visual and auditory range of the owner.

(~~ij~~) Tether. When used as a verb, “tether” or “tethering” shall mean fastening a dog or cat to a stationary object, pulley run line or a stake. When used as a noun, “tether” or “tethers” shall mean a chain, leash, rope, cable, chain, string, leather or nylon

Proposed amendments from Public Health and Safety Committee are shown in double underline and double strikethrough and highlighted (Original Ordinance did not include any amendments to § 6.05.010)

strap, or any other material used to fasten a dog or cat to a stationary object, pulley run line or a stake.

(~~h~~k) “Vicious” means a cross, ferocious or dangerous disposition or a habit, tendency or disposition to snap, attack or bite any person or domestic animal.

Section 2. That section 6.05.080, Dangerous dogs, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Dangerous dogs.

(a) In the event that an animal control officer or law enforcement officer has probable cause to believe that a dog is dangerous, as defined by TMC 6.05.010, the animal control officer or law enforcement officer may seize and impound such animal at the humane society unless the owner agrees to impound the animal at the owner’s expense at any veterinarian in the city until the conclusion of any pending municipal court charge regarding the animal. If an animal is ordered to be impounded pursuant to this subsection, the person who owns, harbors, keeps or possesses such animal shall be entitled to a hearing in the municipal court within 14 days of such impoundment to review the propriety of such impoundment and whether a bond may be posted. Impoundment expenses shall be assessed as court costs against a convicted owner and any bond may be applied to such costs.

(b) Dogs seized in connection with dog fighting shall be housed in a secure enclosure with proper exercise and care and held as evidence in the case until the conclusion of the case and order from the court on the disposition of the dogs. Disposition and release of dogs is determined in accordance to K.S.A. ~~21-4314~~21-6412 and ~~21-4316~~21-6414 and any amendments thereto.

Proposed amendments from Public Health and Safety Committee are shown in double underline and double strikethrough and highlighted (Original Ordinance did not include any amendments to § 6.05.010)

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

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

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

(i) Registration and Microchipping. The owner shall annually register the dangerous dog with the city, on such forms designated by the police chief, and shall have a microchip inserted into the dog by the humane society. The microchip shall detail the dangerous dog registration and such other information as may be appropriate to determine the ownership of the dog. The owner shall pay a \$50.00 annual registration fee and shall pay all costs associated with the microchip procedure and registration of the dog. The owner shall be responsible for maintaining with the police department the address of the owner and the dangerous dog. The owner shall notify the police department within seven days of a change in address for the owner and dangerous dog.

Proposed amendments from Public Health and Safety Committee are shown in double underline and double strikethrough and highlighted (Original Ordinance did not include any amendments to § 6.05.010)

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

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

(2) Upon conviction of keeping a dangerous dog, the owner shall comply with the provisions of this chapter within 15 days. The owner shall file proof of sterilization and microchipping, acceptable to the municipal court, with the clerk of the municipal court no later than 20 calendar days after conviction. Upon receipt, the clerk of the municipal court shall provide a copy of such proof

Proposed amendments from Public Health and Safety Committee are shown in double underline and double strikethrough and highlighted (Original Ordinance did not include any amendments to § 6.05.010)

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

(3) The municipal court shall impose a fine of at least \$499.00 and not more than \$1000 on a person who has been convicted of possessing a dangerous dog for an attack on a human being pursuant to TMC 6.05.010(b)(3).
The municipal court shall have no authority to suspend the fine or any portion of the fine.

(4) The municipal court shall impose a fine of \$250 on a person who has been convicted of possessing a dangerous dog for an attack on a domestic animal pursuant to TMC 6.05.010(b)(3). The municipal court shall have no authority to suspend the fine or any portion of the fine.

(e) Dangerous Dog At-Large. Any dog that has been found to be a dangerous dog, or vicious dog under the previous Topeka City Code 18-8 or TMC 6.05.080, that is not confined or registered as required pursuant to this chapter shall be impounded by an animal control officer or a law enforcement officer. Upon conviction, in addition to all costs for impoundment, the owner or keeper shall pay a fine of at least \$250.00 but not more than \$499.00. For a second offense within 24 months, in which the dog is not confined or registered as required pursuant to this section, in addition to all costs for impoundment, the owner or keeper shall pay a \$499.00 fine and the animal control officer or law enforcement officer is empowered to impound the dog, and the dog shall

Proposed amendments from Public Health and Safety Committee are shown in double underline and double strikethrough and highlighted (Original Ordinance did not include any amendments to § 6.05.010)

be destroyed. The municipal judge shall have no authority to suspend the fine or any portion thereof.

(f) Dangerous Dog – Attack on Human. ~~If any dangerous dog or vicious dog under the previous Topeka City Code 18-8 or TMC 6.05.080 shall attack, assault, wound, bite, or otherwise injure or kill, or assist in such injury or killing, a human being, upon conviction the owner shall pay a fine of at least \$499.00 and not more than \$1,000 and the animal control officer or law enforcement officer is empowered to impound the dog, and the dog shall be destroyed. The municipal judge shall have no authority to suspend the fine or any portion thereof.~~ Upon conviction of TMC 6.05.080, a dog shall be impounded and may be destroyed if the dog attacks a human being which results in great bodily harm or death. Upon conviction of TMC 6.05.080, the court may impound and destroy a dog that has been previously determined to be a dangerous dog as defined at TMC 6.05.010(b).

(g) Dangerous Dog – Attack on Other Animal. ~~If any dangerous dog or vicious dog under the previous Topeka City Code 18-8 or TMC 6.05.080 shall kill or wound, or assist in killing or wounding, any domestic animal, upon conviction the owner shall pay a \$250.00 fine, and the animal control officer or law enforcement officer is empowered to impound the dog, and the dog shall be destroyed. The judge shall have no authority to suspend the fine or any portion thereof.~~ Upon conviction of TMC 6.05.080, a dog shall be impounded and may be destroyed if the dog attacks a domestic animal which results in great bodily harm or death. Upon conviction of TMC 6.05.080, the court may impound and destroy a dog that has been previously determined to be a dangerous dog as defined at TMC 6.05.010(b).

Proposed amendments from Public Health and Safety Committee are shown in double underline and double strikethrough and highlighted (Original Ordinance did not include any amendments to § 6.05.010)

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

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

(i) Notwithstanding any other provision of this chapter to the contrary and irrespective of whether the dog has been declared dangerous pursuant to this chapter, the municipal judge may order any dog destroyed if the municipal judge determines that the dog is an immediate threat to public health and safety and that confinement and registration of the dog by the owner or keeper of the dog as provided in this chapter will not adequately protect public health and safety. No person shall harbor, own, or possess a dog that is an immediate threat to public health and safety. In making such determination the municipal judge may consider the severity of the attack and such other relevant information. The municipal judge shall have the authority to sentence the person adjudicated guilty of this section to serve up to a maximum of six months in jail and to pay a fine not to exceed \$1,000.

Section 3. That original § 6.050.010 and § 6.05.080 of The Code of the City of Topeka, Kansas, are hereby specifically repealed.

Proposed amendments from Public Health and Safety Committee are shown in double underline and double strikethrough and highlighted (Original Ordinance did not include any amendments to § 6.05.010)

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 City Council on _____.

CITY OF TOPEKA, KANSAS

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk

Title 6 ANIMALS

Chapters:

[6.05](#) General Provisions

[6.10](#) Administration and Enforcement

[6.15](#) Rabies Control

[6.20](#) Dogs – Generally

[6.25](#) *Repealed*

[6.30](#) Cats

[6.35](#) Livestock

[6.40](#) Fowl

Cross References: Health and sanitation, TMC Title 8, Division 1; hauling of stable manure, offal, house refuse, night soil or dead animals on Kansas Avenue, TMC 9.05.050; animal noise, TMC 9.45.330; animals prohibited on buses, TMC 10.40.060; Topeka Zoological Park, Chapter 11.35 TMC.

State Law References: Livestock and domestic animals, K.S.A. Chapter 47.

Chapter 6.05 GENERAL PROVISIONS

Sections:

- [6.05.010](#) Definitions.
- [6.05.020](#) Violations of title, mandatory minimum punishment.
- [6.05.030](#) Transportation and handling charges imposed in certain cases.
- [6.05.040](#) Cruelty to animals.
- [6.05.050](#) Mistreatment of young fowl, rabbits and other animals.
- [6.05.060](#) Exotic or captive wild animals.
- [6.05.070](#) Injuring or killing of wild and undomesticated animals unlawful – Exceptions.
- [6.05.080](#) Dangerous dogs.
- [6.05.090](#) Keeping or harboring animals on property upon which no person resides.
- [6.05.100](#) Dead animals in public places.
- [6.05.110](#) Animal fighting.

6.05.010 Definitions.

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

- (a) “Animal shelter” means any premises designated by city administrative authority for the purpose of impounding and caring for animals held under authority of this title.
- (b) “Dangerous dog” shall mean any of the following:
 - (1) Any dog with a known propensity, tendency or disposition to attack, to cause injury, or otherwise threaten the safety of human beings or domestic animals; or
 - (2) Any dog which, in a vicious or threatening manner, approaches any person in apparent attack upon the person while on the streets, sidewalks, or any public grounds or places; or on private property other than on the property of the owner; or
 - (3) Any dog which, unprovoked, attacks or bites, or has attacked or bitten a human being or domestic animal; or
 - (4) Any dog which was previously determined to be a vicious animal pursuant to the previous Topeka City Code 18-8 or TMC [6.05.080](#); or
 - (5) Any dog owned or harbored primarily for the purpose of dogfighting shall only be considered dangerous if the dog is evaluated and dangerousness is concluded by a licensed veterinarian or a dog trainer certified by the Certification Council for Professional Dog Trainers with experience in evaluating dogs seized in similar cruelty cases.

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

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

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

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

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

(e) “Humane society” means the Helping Hands Humane Society in the city or any animal shelter contracted with the city of Topeka which is licensed by the state of Kansas.

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

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

- (h) "Supervision" means within visual and auditory range of the owner.
- (i) Tether. When used as a verb, "tether" or "tethering" shall mean fastening a dog or cat to a stationary object, pulley run line or a stake. When used as a noun, "tether" or "tethers" shall mean a chain, leash, rope, cable, chain, string, leather or nylon strap, or any other material used to fasten a dog or cat to a stationary object, pulley run line or a stake.
- (j) "Vicious" means a cross, ferocious or dangerous disposition or a habit, tendency or disposition to snap, attack or bite any person or domestic animal. (Ord. 19473 § 1, 9-28-10.)

Cross References: Definitions generally, TMC 1.10.020.

6.05.020 Violations of title, mandatory minimum punishment.

The judge of the municipal court of the city shall, upon a conviction of any section in this title, other than TMC [6.05.080](#), sentence the owner, harbinger or possessor of such animal as follows:

- (a) Fine. A fine of not less than \$1.00 or more than \$499.00; or
- (b) Imprisonment. Imprisonment in the city jail for not more than 179 days; or
- (c) Both Fine and Imprisonment. Both fine and imprisonment not to exceed subsections (a) and (b) of this section. (Ord. 19473 § 2, 9-28-10.)

Cross References: Municipal judge, TMC 2.25.150.

6.05.030 Transportation and handling charges imposed in certain cases.

If a person is convicted of a violation of a section in this title and the animal was transported by the city police department to an animal shelter, then the judge of the municipal court shall impose and collect \$30.00 for handling and transportation of the animal. (Code 1981 § 8-8. Code 1995 § 18-3.)

Cross References: Municipal judge, TMC 2.25.150; police department, TMC 2.25.230.

6.05.040 Cruelty to animals.

- (a) It shall be unlawful for any person to recklessly or intentionally:
- (1) Kill, injure, maim, torture, burn or mutilate any animal;
 - (2) Abandon or leave any animal in any place without ensuring provisions for its proper care;
 - (3) Have physical custody of any animal and fail to provide such food, potable water, protection from the elements, opportunity for exercise adequate to maintain health, or other care as is needed for the health or well-being of such animal;

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

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

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

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

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

(4) Knowingly leave any animal confined in a vehicle for more than five minutes in extreme weather conditions, defined as more than 80 degrees Fahrenheit or less than 30 degrees Fahrenheit as the heat or cold index taken in the vehicle shall create a legal, rebuttable presumption of violation of this act;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Normal or accepted veterinary practices;

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

- (3) Killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of K.S.A. Chapter 32 or 47;
- (4) Rodeo practices accepted by the Professional Cowboys Rodeo Association;
- (5) The humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of domestic animals, by the owner thereof or by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of an incorporated humane society, law enforcement officer, animal control officer, the operator of an animal shelter or pound, a local or state health officer or a licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound;
- (6) With respect to farm animals, normal or accepted practices of animal husbandry including the normal and accepted practices for the slaughter of such animals for food or byproducts and the careful or thrifty management of one's herd or animals, including animal care practices common in the industry or region;
- (7) The killing by any person of any domestic animal which is found outside on private, owned, or rented property on which the domestic animal is trespassing, and which the animal is found injuring, worrying, or posing an immediate threat to any person, domestic animal, or farm animal;
- (8) An animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, or trained police officer or animal control officer using an electronic control device, when such animal is vicious or could not be captured after reasonable attempts using other methods;
- (9) Laying an equine down for medical or identification purposes;
- (10) Normal or accepted practices of pest control, as defined in K.S.A. 2-2438a(x), and amendments thereto;
- (11) Accepted practices of animal husbandry pursuant to regulations promulgated by the United States Department of Agriculture for domestic pet animals under the Animal Welfare Act, Public Law 89-544, as amended and in effect on July 1, 2006; or
- (12) In situations where delay would result in unnecessary and prolonged suffering of an injured or rabid animal, law enforcement officers may utilize alternative means to euthanize such animal. (Ord. 19473 § 3, 9-28-10.)

Cross References: Police department, TMC 2.25.230.

State Law References: Cruelty to animals, K.S.A. 21-4310, 21-4311.

6.05.050 Mistreatment of young fowl, rabbits and other animals.

- (a) It shall be unlawful for any person to possess, display, sell or to give away any ducklings, chicks, fowls or

rabbits as pets, playthings, novelties, gifts, for advertising or sales promotional purposes, or to suffer or cause such animals or fowl to be dyed, colored or in any way artificially treated.

(b) This section shall not be construed to prohibit the display by hatcheries, stores, owners, dealers or persons regularly and continuously engaged in the business of selling such animals or fowl to be raised for food; but no such hatcheries, stores, owners, dealers or persons shall sell or give away baby chicks, ducks, fowls or rabbits as pets, playthings or novelties, nor shall they suffer or cause such animals or fowl to be dyed, colored or in any way artificially treated. (Code 1981 § 8-3. Code 1995 § 18-5.)

6.05.060 Exotic or captive wild animals.

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

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

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

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

- (1) Domestic dogs.
- (2) Domestic cats.
- (3) Domestic hoofstock.
- (4) Rodents.
- (5) European ferrets.
- (6) Rabbits.
- (7) Birds, except for ostriches, emus, rheas and cassowaries.
- (8) Nonvenomous snakes less than eight feet in length.
- (9) Nonvenomous lizards, except all species of monitor lizards shall be prohibited.
- (10) Turtles, except snapping turtles.
- (11) Amphibians.

(12) Fish.

(13) Invertebrates.

(e) Exemptions.

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

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

(i) Medical institutions.

(ii) Post-secondary educational institutions.

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

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

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

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

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

(A) The service monkey is *Cebus apella* (capuchin monkey);

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

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

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

(f) Sanitary Requirements. All persons and institutions listed in subsection (e) of this section must ensure that all animals and animal quarters conform to the provisions of the nuisance ordinances of the city and are kept in a clean and sanitary condition and so maintained as to limit objectionable odors; and shall ensure that all

animals are maintained in quarters which are adequately constructed so as to prevent their escape.

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

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

(i) Destruction or Removal of Prohibited Animals. Upon conviction of a violation of this section, the judge of the municipal court of the city may order the owner, harborer, keeper or possessor to destroy or remove from the city any animal prohibited under this section. (Ord. 19859 § 1, 11-12-13.)

Cross References: Municipal judge, TMC 2.25.150.

6.05.070 Injuring or killing of wild and undomesticated animals unlawful – Exceptions.

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

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

(c) Notwithstanding the prohibition in subsection (a) of this section, it shall be lawful to kill wild or undomesticated migratory birds, game birds and turkeys by shotgun provided the hunting is done on Kansas Department of Wildlife, Parks and Tourism (KDWPT) owned or managed property during the hunting season by an individual participating in a mentor-youth hunting program administered by KDWPT to whom KDWPT has issued a hunting license, hunting permit and special access permit for that specific tract of land. (Ord. 19703 § 1, 2-14-12.)

Cross References: Police department, TMC 2.25.230.

6.05.080 Dangerous dogs.

(a) In the event that an animal control officer or law enforcement officer has probable cause to believe that a dog

is dangerous, as defined by TMC [6.05.010](#), the animal control officer or law enforcement officer may seize and impound such animal at the humane society unless the owner agrees to impound the animal at the owner's expense at any veterinarian in the city until the conclusion of any pending municipal court charge regarding the animal. If an animal is ordered to be impounded pursuant to this subsection, the person who owns, harbors, keeps or possesses such animal shall be entitled to a hearing in the municipal court within 14 days of such impoundment to review the propriety of such impoundment and whether a bond may be posted. Impoundment expenses shall be assessed as court costs against a convicted owner and any bond may be applied to such costs.

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

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

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

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

(i) Registration and Microchipping. The owner shall annually register the dangerous dog with the city, on such forms designated by the police chief, and shall have a microchip inserted into the dog by the humane society. The microchip shall detail the dangerous dog registration and such other information as may be appropriate to determine the ownership of the dog. The owner shall pay a \$50.00 annual registration fee and shall pay all costs associated with the microchip procedure and registration of the dog. The owner shall be responsible for maintaining with the police department the address of the owner and the dangerous dog. The owner shall notify the police department within seven days of a change in address for the owner and dangerous dog.

(ii) Confinement. All dangerous dogs shall be confined in a secured enclosure. It shall be unlawful for any owner to maintain a dangerous dog upon any premises that does not have a secured enclosure. It shall be unlawful for any owner to allow a dangerous dog to be outside of the dwelling of the owner or outside the secured enclosure unless it is necessary for the owner to obtain veterinary care for the dangerous dog or for the limited purposes of allowing said dangerous dog to urinate or defecate or to sell or give away the dangerous dog or respond to such orders of law enforcement officials as may be

required. In such event, the dangerous dog shall be securely muzzled and restrained with a leash not exceeding four feet in length, and shall be under the direct control and supervision of the owner of the dangerous dog. The muzzle shall be made and used in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.

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

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

(e) Dangerous Dog At-Large. Any dog that has been found to be a dangerous dog, or vicious dog under the previous Topeka City Code 18-8 or TMC [6.05.080](#), that is not confined or registered as required pursuant to this chapter shall be impounded by an animal control officer or a law enforcement officer. Upon conviction, in addition to all costs for impoundment, the owner or keeper shall pay a fine of at least \$250.00 but not more than \$499.00. For a second offense within 24 months, in which the dog is not confined or registered as required pursuant to this section, in addition to all costs for impoundment, the owner or keeper shall pay a \$499.00 fine and the animal control officer or law enforcement officer is empowered to impound the dog, and the dog shall be destroyed. The municipal judge shall have no authority to suspend the fine or any portion thereof.

(f) Dangerous Dog – Attack on Human. If any dangerous dog or vicious dog under the previous Topeka City Code 18-8 or TMC [6.05.080](#) shall attack, assault, wound, bite, or otherwise injure or kill, or assist in such injury or killing, a human being, upon conviction the owner shall pay a fine of at least \$499.00 and not more than \$1,000 and the animal control officer or law enforcement officer is empowered to impound the dog, and the dog shall be destroyed. The municipal judge shall have no authority to suspend the fine or any portion thereof.

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

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

(i) The impounded dog shall not be destroyed pending any appeals of convictions under subsections (e), (f) and

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

(j) Notwithstanding any other provision of this chapter to the contrary and irrespective of whether the dog has been declared dangerous pursuant to this chapter, the municipal judge may order any dog destroyed if the municipal judge determines that the dog is an immediate threat to public health and safety and that confinement and registration of the dog by the owner or keeper of the dog as provided in this chapter will not adequately protect public health and safety. No person shall harbor, own, or possess a dog that is an immediate threat to public health and safety. In making such determination the municipal judge may consider the severity of the attack and such other relevant information. The municipal judge shall have the authority to sentence the person adjudicated guilty of this section to serve up to a maximum of six months in jail and to pay a fine not to exceed \$1,000. (Ord. 19473 § 4, 9-28-10.)

Cross References: City attorney, TMC 2.25.120; police department, TMC 2.25.230; municipal judge, TMC 2.25.150; animal control officer, TMC [6.10.020](#).

State Law References: Permitting dangerous animal to be at large, K.S.A. 21-3418.

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

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

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

- (1) Zoos, as defined by the American Association of Zoological Parks and Association of Zoological Parks and Aquariums.
- (2) Medical institutions.
- (3) Educational institutions.
- (4) Licensed veterinary clinics.
- (5) The humane society.
- (6) Persons or households engaged in the commercial business of buying, selling, training or boarding animals.
- (7) Animals maintained on nonresidential commercial properties for security purposes. (Code 1981 § 8-11. Code 1995 § 18-9.)

6.05.100 Dead animals in public places.

(a) It shall be unlawful for any person to put any dead animal in any street, avenue, alley or other public place in the city and it shall be the duty of the owner, possessor and all persons having knowledge of any dead animal in the city to immediately report it to the city clerk, giving the kind of animal and the place where such animal may be found.

(b) It shall be the duty of the animal control officer, immediately upon the receipt of a report under this section, to remove or provide for the removal of the dead animal. (Code 1981 §§ 8-163, 8-164. Code 1995 § 18-10.)

Cross References: City clerk, TMC 2.25.110; animal control officer, TMC [6.10.020](#).

State Law References: Disposal of dead animals, K.S.A. 47-1201 et seq.

6.05.110 Animal fighting.

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

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

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

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

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

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

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

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

(c) Subsections (b)(1) to (b)(4) of this section do not apply to conduct involving dogs. (Code 1981 § 8-10. Code 1995 § 18-11.)

State Law References: Dog fighting, K.S.A. 21-4315 et seq.

Chapter 6.10 ADMINISTRATION AND ENFORCEMENT

Sections:

- [6.10.010](#) Authority of police officers and parks and recreation department employees.
- [6.10.020](#) Animal control officer.

6.10.010 Authority of police officers and parks and recreation department employees.

The police officers of the city are authorized to enforce this title and to aid and assist the animal control officer in the enforcement of this title. Employees of the department of parks and recreation are authorized to enforce this title and to aid and assist the animal control officer in the enforcement of this title with respect to animals at large in public parks or recreation areas. (Code 1981 § 8-24. Code 1995 § 18-31.)

Cross References: Department of parks and recreation, TMC 2.25.220; police department, TMC 2.25.230.

6.10.020 Animal control officer.

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

(b) The animal control officer shall be appointed by the city manager or designee. The animal control officer shall receive such salary as may be provided by ordinance and shall be responsible to the chief of police. (Ord. 18477 § 1, 7-12-05; Code 1981 §§ 8-22, 8-23. Code 1995 § 18-32.)

Cross References: Police department, TMC 2.25.230.

The following sections refer to animal control officer responsibilities: Municipal court, TMC 2.110.160, 2.110.170, 2.110.180, 2.110.210; animals, TMC [6.05.080](#), [6.05.100](#), [6.20.020](#), [6.20.050](#), [6.20.180](#), [6.20.190](#), [6.30.020](#), [6.30.040](#), [6.30.150](#).

Chapter 6.15 RABIES CONTROL

Sections:

- [6.15.010](#) Report of certain animals.
- [6.15.020](#) Demand to produce animal – Expense.
- [6.15.030](#) Killing or removing certain animals restricted.
- [6.15.040](#) Surrender of animal carcass on demand.

6.15.010 Report of certain animals.

Every person shall promptly report to the public health officer:

- (a) Any animal which bites a person;
- (b) Any rabid animal; or
- (c) Any animal suspected of being rabid. (Code 1981 § 8-181. Code 1995 § 18-56.)

6.15.020 Demand to produce animal – Expense.

An owner, upon demand by the public health officer, shall surrender any rabid animal, any animal which has bitten a human, or any animal suspected as having been exposed to rabies, for supervised quarantine or destruction, which expense shall be borne by the owner, and such animal may be reclaimed by the owner if and when adjudged free of rabies and upon compliance with the permit provisions set forth in this title. (Code 1981 § 8-184. Code 1995 § 18-59.)

6.15.030 Killing or removing certain animals restricted.

No person shall kill or cause to be killed any rabid animal, any animal suspected of having been exposed to rabies, or any animal biting a human, except as provided in this chapter, nor remove any such animal from the city limits, without first obtaining written permission from the public health officer. (Code 1981 § 8-186(d). Code 1995 § 18-62.)

6.15.040 Surrender of animal carcass on demand.

The carcass of any dead animal exposed to rabies shall upon demand be surrendered to the public health officer. (Code 1981 § 8-186(e). Code 1995 § 18-63.)

Chapter 6.20 DOGS – GENERALLY

Sections:

Article I. General Provisions

- [6.20.010](#) Definitions.
- [6.20.020](#) Complaint and notice to appear.
- [6.20.030](#) Running at large prohibited.
- [6.20.040](#) Confinement of certain dogs required.
- [6.20.050](#) Breeding.

Article II. Permit

- [6.20.060](#) Required.
- [6.20.070](#) When required.
- [6.20.080](#) Exception – Nonresidents.
- [6.20.090](#) Exception – Seeing-eye dogs, military and police dogs.
- [6.20.100](#) Application.
- [6.20.110](#) Vaccination certificate prerequisite to issuance.
- [6.20.120](#) Fees.
- [6.20.130](#) Term.
- [6.20.140](#) Obtaining permits after deadline – Enforcement procedure.
- [6.20.150](#) Tag.
- [6.20.160](#) Unlawful use.

Article III. Impoundment

- [6.20.170](#) When at large.
- [6.20.180](#) When without a tag.
- [6.20.190](#) Killing of dog when unable to capture.
- [6.20.200](#) Notification of owner.
- [6.20.210](#) Detention period.
- [6.20.220](#) Redemption.
- [6.20.230](#) Failure to redeem.
- [6.20.240](#) Interference.

Article I. General Provisions

6.20.010 Definitions.

The following words, terms and phrases, when used in this chapter and Chapter [6.25](#) TMC, shall have the

meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

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

“Dog” means any domestic or wild dog.

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

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

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

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

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

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

“Veterinary hospital” means any establishment maintained and operated by a licensed veterinarian for the diagnosis and treatment of diseases and injuries of dogs. (Code 1981 § 8-41. Code 1995 § 18-86.)

Cross References: Definitions generally, TMC 1.10.020.

6.20.020 Complaint and notice to appear.

The animal control officer shall have the power to issue a complaint and notice to appear against the owner of a dog subject to, but not in compliance with, this chapter and Chapter [6.25](#) TMC; provided, that no owner charged with violating the provisions of TMC [6.20.060](#) shall be convicted of violating TMC [6.20.060](#) if the owner produces in court, or at the offices of the animal control officer, a valid permit for the dog, issued prior to the issuance of the complaint and notice to appear. (Code 1981 § 8-43. Code 1995 § 18-87.)

Cross References: Animal control officer, TMC [6.10.020](#).

6.20.030 Running at large prohibited.

It shall be unlawful for the owner, keeper or harborer of any dog to permit such dog to run at large. The fact of a dog being found at large shall be prima facie evidence of a violation of this section. (Code 1981 § 8-42. Code

1995 § 18-88.)

6.20.040 Confinement of certain dogs required.

(a) The owner shall confine within a building or secure enclosure:

- (1) Every fierce, dangerous or vicious dog;
- (2) Every dog having a natural propensity to be fierce, dangerous or vicious; and
- (3) Every unspayed female dog in heat, in such a manner that such female cannot come into contact with another dog except for planned breeding.

(b) It shall be unlawful for the owner of any unspayed female dogs to keep such dogs in such manner as to cause a nuisance by attracting male dogs to the premises of such owner. (Code 1981 § 8-44. Code 1995 § 18-89.)

State Law References: Permitting dangerous animals to be at large, K.S.A. 21-3418.

6.20.050 Breeding.

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

- (a) The date of the sale or transfer of ownership.
- (b) The name and address of the new owner.
- (c) A description of the dog sufficient for identification by an animal control officer.
- (d) Approximate age of the dog. (Ord. 16374 § 1(8-65), 10-1-91. Code 1995 § 18-91.)

Cross References: City treasurer, TMC 2.25.140; animal control officer, TMC [6.10.020](#).

Article II. Permit

6.20.060 Required.

No person shall own, keep or harbor within the corporate limits of this city any dog over six months of age without first obtaining a permit therefor from the city treasurer, or agent authorized by the city treasurer, who may issue such permit when proper application is made in writing. (Code 1981 § 8-56. Code 1995 § 18-101.)

Cross References: City treasurer, TMC 2.25.140.

6.20.070 When required.

The owner of a dog shall be required to have a permit for the dog upon the date it is brought into the city or attains the age of six months, whichever is later. (Code 1981 § 8-62. Code 1995 § 18-102.)

6.20.080 Exception – Nonresidents.

The permit and vaccination requirements of this article shall not apply to a nonresident dog owner who keeps the dog within the city for not longer than 30 days; provided, that at all times such dog is under restraint. (Code 1981 § 8-57. Code 1995 § 18-103.)

6.20.090 Exception – Seeing-eye dogs, military and police dogs.

A person owning, keeping or harboring a dog that has been retired from the United States armed forces, a registered seeing-eye dog used by visually or hearing-impaired persons, or police or sheriff's department dogs shall not be required to pay the permit fee but shall be subject to all other regulations of this article, including but not limited to the requirement of having the rabies vaccination. (Code 1981 § 8-57.5. Code 1995 § 18-104.)

Cross References: Police department, TMC 2.25.230.

6.20.100 Application.

Applications for dog permits shall be made with the city treasurer or authorized agent upon forms provided by the city treasurer, setting forth such information as necessary to properly implement the terms and provisions of this article. Such forms shall be completed by the applicant and submitted to the city treasurer or authorized agent for validation and, after validation and payment of the permit fee, such forms shall serve as the dog permit. (Code 1981 § 8-58. Code 1995 § 18-105.)

Cross References: City treasurer, TMC 2.25.140.

6.20.110 Vaccination certificate prerequisite to issuance.

No permit shall be issued under this article except upon the presentation of a valid rabies vaccination certificate plainly showing the dog's last vaccination is currently effective and payment of the applicable fee under this article. (Code 1981 § 8-59. Code 1995 § 18-106.)

6.20.120 Fees.

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

- | | |
|---|---------|
| (1) For each unspayed or
nonneutered dog | \$20.00 |
| (2) For each spayed or
neutered dog | \$8.00 |
| (3) For any kennel or pet
shop covering all dogs
kept during the year | \$80.00 |

(b) No fee shall be required of any humane society or veterinary hospital. (Ord. 19611 § 1, 7-26-11.)

6.20.130 Term.

The permit term shall be for a period of 12 consecutive months commencing on the date of application for the permit. (Code 1981 § 8-61. Code 1995 § 18-108.)

6.20.140 Obtaining permits after deadline – Enforcement procedure.

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

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

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

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

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

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

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

(e) Fines. Any person charged with a violation of TMC [6.20.060](#) shall, upon a plea or finding of guilt, be sentenced to a fine of not less than \$50.00. The sentence shall not be subject to a reduction or parole unless the person who is convicted or pleads guilty provides evidence that a permit was purchased prior to plea or finding of guilt. However, in no event shall the sentence be reduced or paroled to a fine of less than \$25.00. (Code 1981 § 8-66. Code 1995 § 18-109.)

Cross References: City treasurer, TMC 2.25.140.

6.20.150 Tag.

- (a) Upon full compliance with the terms of this article, the city treasurer or authorized agent shall issue a written permit to the applicant together with a durable permit tag stamped with an identifying number and so designed that it may be securely fastened to a collar or harness.
- (b) The tag issued pursuant to this section shall be securely attached to the collar or harness of the dog for which such permit and tag is issued and shall be worn at all times the dog is off the premises of the owner.
- (c) If a tag issued for a dog is lost, a new tag may be obtained from the city treasurer upon payment of a replacement fee of \$1.00.
- (d) No person shall attach a tag to any dog other than the one for which the tag was issued. (Code 1981 § 8-63. Code 1995 § 18-110.)

Cross References: City treasurer, TMC 2.25.140.

6.20.160 Unlawful use.

- (a) A permit shall be valid only in the permit year for which issued. A new permit shall be obtained for each permit year and a new permit fee paid.
- (b) No person shall use any dog or kennel permit issued for another dog or kennel. (Code 1981 § 8-64. Code 1995 § 18-111.)

Article III. Impoundment**6.20.170 When at large.**

Any dog found to be at large within the city may be impounded in the animal shelter in a humane manner. (Code 1981 § 8-77. Code 1995 § 18-121.)

6.20.180 When without a tag.

The animal control officer may take into custody and impound all dogs not wearing a current registration tag. (Code 1981 § 8-78. Code 1995 § 18-122.)

Cross References: Animal control officer, TMC [6.10.020](#).

6.20.190 Killing of dog when unable to capture.

It shall be lawful for the animal control officer or an assistant, in the performance of duty, to pursue and capture any dog or to kill any dog if they cannot capture such dog. (Code 1981 § 8-79. Code 1995 § 18-123.)

Cross References: Animal control officer, TMC [6.10.020](#).

6.20.200 Notification of owner.

If, by a tag or other reasonable means, the owner can be identified, the animal shelter or its designated agent shall, as soon as possible upon impoundment, notify the owner by telephone or mail of the impoundment of the dog. (Code 1981 § 8-80. Code 1995 § 18-124.)

6.20.210 Detention period.

Impounded dogs shall be kept for a period of not less than 72 hours unless sooner claimed by the owner. (Code 1981 § 8-81. Code 1995 § 18-125.)

6.20.220 Redemption.

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

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

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

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

(e) If a person is adjudicated guilty of the crime of cruelty to animals and the court is satisfied that an animal owned or possessed by such person would be in the future subjected to such crime, such animal shall not be returned to or remain with such person. Such animal may be turned over to a duly incorporated humane society or licensed veterinarian for sale or other disposition. (Ord. 19631 § 1, 8-23-11.)

6.20.230 Failure to redeem.

If an impounded dog is not redeemed within the detention period set forth in TMC [6.20.210](#), then the dog shall be deemed abandoned and title thereto shall pass to the humane society by operation of law. (Ord. 17470 § 1, 2-22-00; Code 1981 § 8-83. Code 1995 § 18-127.)

6.20.240 Interference.

It shall be unlawful for any person to obstruct, hinder or prevent the impounding of any dog running at large contrary to the provisions of this chapter and Chapter [6.25](#) TMC or to break open, destroy or injure the door, gate or enclosure of any impounding area to take or attempt to take therefrom a dog therein impounded. (Code 1981 § 8-84. Code 1995 § 18-128.)

**Chapter 6.25
PIT BULL DOGS**

(Repealed by Ord. 19473)

Chapter 6.30 CATS

Sections:

Article I. Generally

- [6.30.010](#) Definitions.
- [6.30.020](#) Complaint – Notice to appear.
- [6.30.030](#) Confinement of female cats in heat.
- [6.30.040](#) Sale or transfer by certain persons – Disclosures.

Article II. Permit

- [6.30.050](#) Required.
- [6.30.060](#) When required.
- [6.30.070](#) Exception for nonresidents.
- [6.30.080](#) Application.
- [6.30.090](#) Vaccination certificate prerequisite to issuance.
- [6.30.100](#) Fees.
- [6.30.110](#) Term.
- [6.30.120](#) Tags.
- [6.30.130](#) Validity – Renewal.
- [6.30.140](#) Obtaining permit after deadline – Enforcement procedure.

Article III. Impoundment

- [6.30.150](#) Cats without current tag.
- [6.30.160](#) Notification of owner.
- [6.30.170](#) Detention period.
- [6.30.180](#) Redemption.
- [6.30.190](#) Failure to redeem.

Article I. Generally

6.30.010 Definitions.

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

“Cat” means any domestic or wild cat.

“Ear-tipped feral cat” means a cat that is unsocialized to humans and has a temperament of extreme fear or resistance to contact with humans that exhibits a straight-line cutting of the tip of its left ear to indicate that it

has been sterilized and vaccinated against rabies.

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

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

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

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

“Veterinary hospital” means any establishment maintained and operated by a licensed veterinarian for the diagnosis and treatment of diseases and injuries of cats. (Ord. 19473 § 33, 9-28-10.)

Cross References: Definitions generally, TMC 1.10.020.

6.30.020 Complaint – Notice to appear.

The animal control officer shall have the power to issue a complaint and notice to appear against the owner of a cat subject to, but not in compliance with, this chapter; provided, that no owner charged with violating the provisions of TMC [6.30.050](#) shall be convicted of a violation of TMC [6.30.050](#) if the owner produces in court, or at the offices of the animal control officer, a valid permit for the cat, issued prior to the issuance of the complaint and notice to appear. (Code 1981 § 8-202. Code 1995 § 18-202.)

Cross References: Animal control officer, TMC [6.10.020](#).

6.30.030 Confinement of female cats in heat.

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

(b) It shall be unlawful for the owner of any unaltered male or unspayed female cat to keep such cat in such a manner as to cause a nuisance by attracting other cats. (Code 1981 § 8-203. Code 1995 § 18-203.)

6.30.040 Sale or transfer by certain persons – Disclosures.

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

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

(b) Name and address of the new owner.

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

(d) Approximate age of the cat. (Ord. 16375 § 1(8-220), 10-1-91. Code 1995 § 18-204.)

Cross References: City treasurer, TMC 2.25.140; animal control officer, TMC [6.10.020](#).

Article II. Permit

6.30.050 Required.

No person shall own, keep or harbor within the corporate limits of this city any cat over six months of age without first obtaining a permit therefor from the chief of police, or agent authorized by the chief of police, who may issue such permit when proper application is made in writing. This permit requirement shall not apply to ear-tipped feral cats. (Ord. 19473 § 34, 9-28-10.)

Cross References: Police department, TMC 2.25.230.

6.30.060 When required.

The owner of a cat shall be required to have a permit for the cat upon the date it is brought into the city or attains the age of six months, whichever is later. (Code 1981 § 8-217. Code 1995 § 18-217.)

6.30.070 Exception for nonresidents.

The permit and vaccination requirements of this article shall not apply to a nonresident cat owner who keeps the cat within the city for not longer than 30 days; provided, that at all times such cat is under restraint. (Code 1981 § 8-212. Code 1995 § 18-218.)

6.30.080 Application.

Applications for cat permits shall be made with the city treasurer or authorized agent upon forms provided by the city treasurer, setting forth such information as necessary to properly implement the terms and provisions of this article. Such forms shall be completed by the applicant and submitted to the city treasurer or authorized agent for validation, and after validation and payment of the permit fee, such forms shall serve as the cat permit. (Code 1981 § 8-213. Code 1995 § 18-219.)

Cross References: City treasurer, TMC 2.25.140.

6.30.090 Vaccination certificate prerequisite to issuance.

No permit shall be issued under this article except upon the presentation of a valid rabies vaccination certificate plainly showing the cat's last vaccination is currently effective and payment of the applicable fee under this article. (Code 1981 § 8-214. Code 1995 § 18-220.)

6.30.100 Fees.

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

- | | |
|--|---------|
| (1) For each nonneutered
cat | \$20.00 |
| (2) For each neutered
cat | \$8.00 |
| (3) For any pet shop,
covering all cats kept
during the year | \$80.00 |

(b) No fee under this article shall be required of any humane society or veterinary hospital. (Ord. 19611 § 2, 7-26-11.)

6.30.110 Term.

The permit term shall be for a period of 12 consecutive months commencing on the date of application for the permit. (Code 1981 § 8-216. Code 1995 § 18-222.)

6.30.120 Tags.

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

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

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

(d) No person shall attach a tag to any cat other than the one for which the tag was issued. (Code 1981 § 8-218. Code 1995 § 18-223.)

Cross References: City treasurer, TMC 2.25.140.

6.30.130 Validity – Renewal.

A permit shall be valid only in the permit year for which issued. A new permit shall be obtained for each permit year and a new permit fee paid. (Code 1981 § 8-219. Code 1995 § 18-224.)

6.30.140 Obtaining permit after deadline – Enforcement procedure.

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

with the regular permit fee. Any portion of a month shall be considered as a full month for the purposes of late charge computation.

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

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

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

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

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

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

(e) Fines. Any person charged with violation of this article shall, upon a plea or finding of guilt, be sentenced to a fine of not less than \$50.00. The sentence shall not be subject to a reduction or parole unless the person who is convicted or pleads guilty provides evidence that a permit was purchased prior to the plea or finding of guilt. However, in no event shall the sentence be reduced or paroled to a fine of less than \$25.00. (Code 1981 § 8-221. Code 1995 § 18-225.)

Cross References: City treasurer, TMC 2.25.140.

Article III. Impoundment

6.30.150 Cats without current tag.

The animal control officer may take into custody and impound all cats not bearing a current registration tag. (Code 1981 § 8-231. Code 1995 § 18-236.)

Cross References: Animal control officer, TMC [6.10.020](#).

6.30.160 Notification of owner.

If, by a tag or other reasonable means, the owner can be identified, the animal shelter or its designated agent

shall, as soon as possible upon impoundment, notify the owner by telephone or mail of the impoundment of the cat. (Code 1981 § 8-232. Code 1995 § 18-237.)

6.30.170 Detention period.

Impounded cats shall be kept for a period of not less than 72 hours unless sooner claimed by the owner. (Code 1981 § 8-233. Code 1995 § 18-238.)

6.30.180 Redemption.

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

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

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

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

(e) If a person is adjudicated guilty of the crime of cruelty to animals and the court is satisfied that an animal owned or possessed by such person would be in the future subjected to such crime, such animal shall not be returned to or remain with such person. Such animal may be turned over to a duly incorporated humane society or licensed veterinarian for sale or other disposition. (Ord. 19631 § 2, 8-23-11.)

6.30.190 Failure to redeem.

If an impounded cat shall not be redeemed within the detention period set forth in TMC [6.30.170](#), then the cat shall be deemed abandoned and title thereto shall pass to the humane society by operation of law. (Code 1981 § 8-235. Code 1995 § 18-240.)

Chapter 6.35 LIVESTOCK

Sections:

- [6.35.010](#) Keeping near residences or businesses.
- [6.35.020](#) To be kept in sanitary buildings.
- [6.35.030](#) Swine prohibited.
- [6.35.040](#) Exceptions to restrictions on keeping livestock.
- [6.35.050](#) Nonconforming keeping of livestock.
- [6.35.060](#) *Repealed.*
- [6.35.070](#) Running at large or driving herds prohibited.
- [6.35.080](#) Grazing in public prohibited.

6.35.010 Keeping near residences or businesses.

It shall be unlawful for any person to keep cattle, sheep, goats or other food-producing animals in the city in a building or lot within 200 feet of any existing residence or other existing main use structure other than that of the owner of such animals. (Code 1981 § 8-101. Code 1995 § 18-261.)

6.35.020 To be kept in sanitary buildings.

It shall be unlawful for any person to keep cattle, sheep, goats, equine or any such animals in the city unless such animals are kept in a barn, stable or building which is constructed or equipped with sewer connections, watertight floors approved by the director of environmental code services, flyproof windows and doors and such other sanitary requirements as may be ordered by the director of environmental code services. (Ord. 17076 § 1, 1-28-97; Code 1981 § 8-102. Code 1995 § 18-262.)

6.35.030 Swine prohibited.

It shall be unlawful for any person to rear or keep any swine in the city. (Code 1981 § 8-103. Code 1995 § 18-263.)

6.35.040 Exceptions to restrictions on keeping livestock.

The provisions of TMC [6.35.010](#) through [6.35.030](#) shall not apply to any person engaged in the packinghouse business, or in selling or shipping cattle, sheep, goats, equine or swine insofar as it may be necessary for such parties to bring such livestock into the city and keep such livestock in the city in the legitimate transaction and carrying on of business; provided, that TMC [6.35.010](#) and [6.35.020](#) shall not apply to the keeping of equine on any parcel of land within the city, provided there is an intensity of no more than two horses on a minimum of three acres; and, provided further, that each additional equine shall require an additional one and one-half acres of land to the minimum required. (Code 1981 § 8-104. Code 1995 § 18-264.)

Cross References: Parking vehicle having offensive odor, TMC 10.60.030.

6.35.050 Nonconforming keeping of livestock.

The lawful use of a building or a lot for keeping livestock and which was existing at the time of the annexation of the building or lot to the city may be continued although such use does not conform with the provisions in this chapter. If a nonconforming use of any building or lot for keeping livestock is discontinued for a period of one year, the use of such building or lot shall thereafter conform to the provisions of this chapter. (Code 1981 § 8-104.1. Code 1995 § 18-265.)

6.35.060 Livestock as a nuisance.

Repealed by Ord. 19899. (Code 1981 § 8-104.2. Code 1995 § 18-266.)

6.35.070 Running at large or driving herds prohibited.

It shall be unlawful for any person to suffer or permit any livestock owned or controlled by such person to run at large, or to drive any herd of cattle, horses, mules or hogs, or any flock of sheep, upon any street in the city. (Code 1981 § 8-105. Code 1995 § 18-267.)

6.35.080 Grazing in public prohibited.

It shall be unlawful for any person to graze or permit to be grazed any horses, mules, cattle or other livestock upon any street, avenue, alley, public park or the parking of any street or avenue, or to picket out or fasten any such animal upon any such street, avenue, public park or parking of any street or avenue, or upon premises adjoining thereto, in such manner as to permit such stock to go upon or across any street, avenue, sidewalk, public park or parking of any street or avenue in the city. (Code 1981 § 8-106. Code 1995 § 18-268.)

Chapter 6.40 FOWL

Sections:

- [6.40.010](#) Keeping of domestic fowl regulated.
- [6.40.020](#) Running at large prohibited.
- [6.40.030](#) Destruction of birds and bird's nests prohibited – Exceptions.

6.40.010 Keeping of domestic fowl regulated.

It shall be unlawful for any person to keep or maintain any domestic fowl upon any private premises in the city (when such keeping is lawful under other ordinances of the city) within 50 feet of any dwelling other than that of the owner or tenant of the premises on which such fowl are kept or maintained, or to keep or maintain such fowl at any time on any premises in a manner or condition constituting a public nuisance. (Code 1981 § 8-144. Code 1995 § 18-291.)

6.40.020 Running at large prohibited.

It shall be unlawful for any person to allow or permit domestic fowl to run or be at large at any time in the city. For the purpose of this section, the term “at large” shall be defined to include those times during which any domestic fowl shall not be confined or kept in pens sufficiently strong or constructed to keep such fowl on the premises of their owner or keeper. (Code 1981 § 8-145. Code 1995 § 18-292.)

6.40.030 Destruction of birds and bird's nests prohibited – Exceptions.

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

- (a) English sparrows and starlings or the nests thereof may be destroyed at any time by any person or approved pest control firm or company when such destruction may be done without the use of firearms or other weapons or devices;
- (b) Pigeons or other birds of the air that have become public nuisances by reason of their nesting or roosting on any private premises in the city may, upon complaint to the environmental code services division, be destroyed by an approved pest control firm or company under the conditions of the permit issued by the environmental code services division. (Ord. 17076 § 2, 1-28-97; Code 1981 § 8-146. Code 1995 § 18-293.)

COMMITTEE REFERRAL SHEET

COMMITTEE REPORT

**Name of
Committee:**

Public Health and Safety

Title:

AN ORDINANCE introduced by City Manager Jim Colson, concerning dangerous dogs, amending City of Topeka Code § 6.05.080 and repealing original section.

**Date referred
from Council
meeting:**

June 14, 2016

**Date referred
from
Committee:**

September 1, 2016

**Committee
Action:**

Motion by Elaine Schwartz, seconded by Jeff Coen, to recommend to the full Council, approval of the proposed ordinance as amended. Motion passed with a vote of 3-0-0.

Comments:

N/A

Amendments:

See amended ordinance.

**Members of
Committee:**

Councilmembers Sylvia Ortiz, Elaine Schwartz and Jeff Coen

**Agenda Date
Requested:**

October Agenda (date TBD)



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
October 11, 2016

DATE: October 11, 2016
CONTACT PERSON: Bill Fiander/Dan Warner **DOCUMENT #:**
SECOND PARTY/SUBJECT: Misty Harbor Estates **PROJECT #:**
No. 5
CATEGORY/SUBCATEGORY 014 Ordinances – Non-Codified / 001 Annexation
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

DISCUSSION regarding the request to annex land to the City of Topeka, Kansas, in accordance with K.S.A. 12-520, located approximately 400 feet north of SW 45th Street and approximately 2,300 feet west of SW Burlingame Road, within unincorporated Shawnee County, Kansas and adjacent to the City of Topeka corporate limits. (A16/2) (Council District No. 7)

(Approval would annex a 15-acre tract intended for a 40-lot single-family home subdivision in the City of Topeka.)

POLICY ISSUE:

The key issues of the requested annexation relate to the appropriateness of annexing the property and the ability to deliver urban services. The property lies within Tier 2 of the Urban Growth Area as delineated in the updated Land Use and Growth Management Plan 2040. The area is contiguous to city limits, urban infrastructure and services are available and development of these areas will allow the city to grow in a compact pattern.

The property is classified as Tier 2 because it was previously preliminarily platted in 2002 as an urban subdivision but was not annexed and developed. The 40-lot development represents the fifth phase of the continued build-out of the originally approved neighborhood. The property is being final platted as Misty Harbor Estates No. 5, and will be rezoned to a City zoning district following annexation.

The proposal is essentially an infill development which connects to an urbanized single-family housing neighborhood already being served by the City directly to the west and south of the subject property. As future phases of Misty Harbor Estates continue to develop to the north, the neighborhood will ultimately link up with the city to the north.

The subdivision is located immediately adjacent to the corporate limits and would constitute a logical expansion

of the city limits within the area. Annexing and developing the property is consistent with the policies and principles of the Land Use and Growth Management Plan and allows the city to grow in a compact and affordable manner.

STAFF RECOMMENDATION:

Discussion only. Staff recommends the Governing Body move to adopt the ordinance on October 18, 2016.

BACKGROUND:

The applicant has requested annexation in order to develop a 40-lot single-family subdivision. The proposed development is being final platted (Misty Harbor Estates No. 5) and will contain 40 single-family homes. The proposed development will contain public streets and will also be served by all other city services (water, sewer, police, and fire). All essential public utilities, services and facilities are presently available and will not be overburdened by the annexation. The applicant is responsible for paying for the infrastructure within the proposed development, and thus far has installed the water and sewer lines that will serve the subdivision. The property is contiguous to the City boundary and the property owner has provided written consent to annexation. The property is eligible for annexation under KSA 12-520(7), which does not require hearings or public notice. No service extension plan is required. The Governing Body can approve the annexation by adopting an ordinance.

BUDGETARY IMPACT:

All essential public utilities, services and facilities are presently available and will not be overburdened by the annexation.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

Description

Ordinance

Summary Report

Fact Sheet and Department Comments

Aerial

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by Interim City Manager Douglas Gerber, annexing land to the City of Topeka, Kansas, in accordance with K.S.A. 12-520, located approximately 400 feet north of SW 45th Street and approximately 2,300 feet west of SW Burlingame Road, within unincorporated Shawnee County, Kansas, and adjacent to the City of Topeka corporate limits, and said land being annexed for all City purposes. (A16/2) (Council District No. 7)

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

Section 1. That the following described land, meeting the conditions for annexation prescribed in K.S.A. 12-520(a)(7), is hereby annexed and made a part of the City of Topeka, Kansas:

A tract in the East Half of the Southwest Quarter of Section 23, Township 12 South, Range 15 east of the 6th P.M., in Shawnee County Kansas, described as: Beginning at the Northeast corner of Lot 1, Block B in Misty Harbor Estates No 2, the East line of said Lot 1 having an assumed bearing of North 1°29'46" West; thence North 88°30'14" East, 580.41 feet; thence on a curve concave easterly, having a radius measure of 500.00 feet and an arc length of 5.01 feet, the chord of which bears North 3°32'39" West, 5.01 feet; thence North 88°31'10" East, 449.05 feet to a point on the East line of said Southwest Quarter; thence South 1°28'50" East on the East line of said Southwest Quarter, 894.93 feet; thence South 88°30'14" West on the North line of Block B in Misty Harbor Estates No. 4, 669.05 feet to the Northeast corner of Lot 1, Block C in Misty Harbor Estates No. 3; thence North 1°29'46" West, 320.00 feet to the Northeast corner of Lot 1, Block D in Misty Harbor Estates No. 3; thence North 88°30'14" East, 150.00 feet to the Southeast corner of Lot 2, Block D in Misty Harbor Estates No. 3; thence North 7°36'14" West, 241.37 feet to the Northeast corner of Lot 4, Block D in Misty Harbor Estates No. 3; thence South 88°30'14" West, 261.69 feet to the Northwest corner of the last said Lot 4; thence on a curve concave easterly, having a radius measure of 297.20 feet and an arc length of 39.52 feet, the chord of which bears North 5°18'16" West, 39.49 feet; thence South 88°30'14" West, 190.00 feet to the Southeast corner of Lot 10, Block B in Misty Harbor Estates; thence North 1°29'46" West, 160.00 feet; thence South 88°30'14" West, 30.00 feet; thence North 1°29'46" West, 130.63 feet to the point of beginning
Contains 15.39 acres, more or less.

Section 2. That all land described in Section 1 of this Ordinance is taken into and made a part of the City for all City purposes and is assigned to City Council District No. 7.

Section 3. This Ordinance shall take effect and be in force from and after its passage,

41 approval and publication in the official city newspaper.

42 Section 4. Upon passage and publication, the City Clerk shall file a certified copy of this
43 Ordinance with the County Clerk, the Register of Deeds, and the Shawnee County Election
44 Commissioner.

45 PASSED AND APPROVED by the Governing Body of the City of Topeka, ____, 2016.

46
47
48
49
50 ATTEST:

Larry E. Wolgast, Mayor

51
52 _____
53 Brenda Younger, City Clerk

CITY OF TOPEKA PLANNING DEPARTMENT

SUMMARY REPORT

Re: A16/2 by F&L Enterprises, Inc.

The applicant has requested annexation in order to develop the property located approximately 400 feet north of SW 45th Street and approximately 2,300 feet west of SW Burlingame Road, within unincorporated Shawnee County, Kansas and adjacent to the City of Topeka corporate limits.

The property is contiguous to the City boundary and the property owner has provided written consent to annexation. The property is eligible for annexation under KSA 12-520(7), which does not require hearings or public notice. No service extension plan is required. The Governing Body can approve the annexation by adopting an ordinance.

The proposed development is being final platted (Misty Harbor Estates No. 5) and will contain 40 single-family homes. The proposed development will contain public streets and will be served by all other city services (water, sewer, police, and fire). All essential public utilities, services and facilities are presently available and will not be overburdened by the annexation. The applicant is responsible for paying for the infrastructure within the proposed development, and thus far has installed the water and sewer lines that will serve the subdivision.

The key issues of the requested annexation relate to the appropriateness of annexing the property and the ability to deliver urban services. The property lies within Tier 2 of the Urban Growth Area as delineated in the updated LUGMP - 2040. These are areas that are contiguous to the City limits, urban infrastructure and services are available, and development of these areas will allow the City to grow in a compact pattern. The property is classified as Tier 2 because it was previously preliminarily platted in 2002 as an urban subdivision but was not annexed and developed. This 40-lot development represents fifth phase of the continued build-out of the originally approved neighborhood. The property is being final platted as Misty Harbor Estates No. 5, and will be rezoned to a City zoning district following annexation.

The proposal is essentially an infill development which connects to an urbanized single-family housing neighborhood already being served by the city directly to the west and south of the subject property. As future phases of Misty Harbor Estates

continue to develop to the north, the neighborhood will ultimately link up with the city to the north.

The subdivision is located immediately adjacent to the corporate limits and would constitute a logical expansion of the City limits within the area. Annexing and developing this property is consistent with the policies and principles of the Land Use and Growth Management Plan and allows the city to grow in a compact and affordable manner.

A neighborhood information meeting was held at the Topeka Planning Commission meeting on January 21, 2015. No citizens attended the meeting and no comments were received on the plat or annexation prior to the meeting. The Planning Commission discussed the proposal and unanimously recommended approval.

Staff recommends APPROVAL of the ordinance taking such land into and making it a part of the City, for all City purposes and assigning it to Council District No. 7.

Staff requests the Governing Body move to adopt the ordinance.

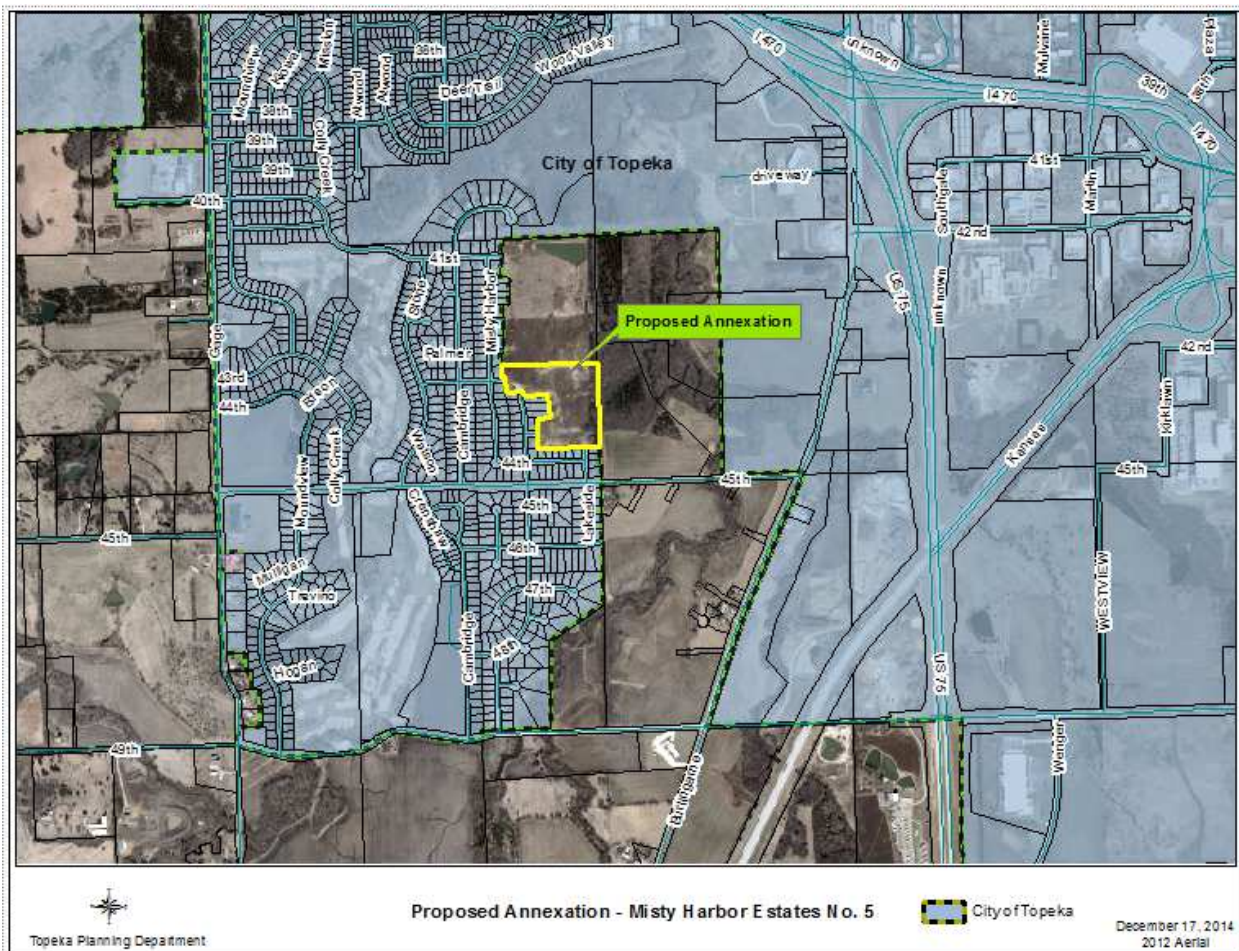
*Annexation Proposal
Misty Harbor Estates Subdivision No. 5
Fact Sheet & Department Comments*

Site

Address/Location: Located north of SW 44th Terrace and east of SW Misty Harbor Avenue
Owner: F & L Enterprises Inc.
Size: Approximately 15 acres, including street right-of-way
Existing Land Use: Agriculture
Proposed Land Use: single-family residential
Subdivision: *Misty Harbor Estates No. 5*

Planning

Existing Zoning: RR-1 (Residential Reserve)
Current Population: 0 residents
Projected Population: 100 residents
Density: 40 units. 3 Dwelling Units/Acre
Comprehensive Plan: Urban Growth Area – Service Tier 2
Municipal Service Area (MSA): Yes
Primary Service Area (Sewer Required): Yes



*Annexation Proposal
Misty Harbor Estates Subdivision No. 5
Fact Sheet & Department Comments*

Annexation Procedure

Contiguous?: Yes.

Consent?: Yes. Owner provided a written consent.

Requirements: Eligible for annexation under KSA 12-520(7). No required hearings or notices. No service extension plan is required.

Approval Method: COT governing body passes ordinance.

Revenue/Expenses Estimates

Property tax revenue to the City of Topeka in 2016 would be approximately **\$14** before any development takes place. **Future annual property tax revenue** to the City of Topeka upon build-out of the 40 lots is estimated to be approximately **\$36,560**.

Additionally, there is currently no water or sewer **utility revenue** collected for this property. **Future annual COT utility revenue** to the City of Topeka upon build-out of the 40 units is estimated to be approximately **\$30,048** (based on 5,000 gallons of water usage per month).

Estimated annual expenses for street maintenance and forestry is **\$5,272**, and the estimated annual expenses for water service is **\$8,078**. All estimated expenses are expected to be carried out by current or anticipated budgets.

Utility and Service Providers

	Current	Proposed
Water	N/A	COT
Wastewater	N/A	COT
Fire	Mission Township	COT
Police	Shawnee County	COT
Streets – Local	N/A	COT (est. 2,000 ft. proposed)
Parks	Shawnee County	Shawnee County
Governing Body	Shawnee County (#3)	COT (#7)

Misty Harbor Estates No. 5 is a proposed single-family development. There will be new public local streets and COT sewer and water mains will serve this development. No parks existing or planned.

*Annexation Proposal
Misty Harbor Estates Subdivision No. 5
Fact Sheet & Department Comments*

Ability to Provide Adequate Public Services

FIRE

- 1) What is the estimated cost (operational and capital) to your Department/Division to provide adequate service to the proposed annexation?**

No additional resources will be provided. Fire Department maintains a fixed budget to provide fire protection.

- 2) Can the estimated cost of service be carried out under your current or anticipated future budget? If not, what would it take to do so?**

Yes, this annexation will have no impact to the current budget.

- 3) Describe any other issues that would affect your ability to provide adequate service to the annexation area, or impact service levels to existing residents/businesses of the city.**

This area is located on the outside of fire protection coverage. Fire response by first in companies will be at the accepted limits.

Ability to Provide Adequate Public Services

FORESTRY

- 1) What is the estimated cost (operational and capital) to your Department/Division to provide adequate service to the proposed annexation?**

\$772.

- 2) Can the estimated cost of service be carried out under your current or anticipated future budget? If not, what would it take to do so?**

Yes.

- 3) Describe any other issues that would affect your ability to provide adequate service to the annexation area, or impact service levels to existing residents/businesses of the city.**

Single small annexations can be taken care of by Forestry without major budget impacts. The cumulative effects of multiple small annexations will ultimately not be sustainable at current budget levels.

*Annexation Proposal
Misty Harbor Estates Subdivision No. 5
Fact Sheet & Department Comments*

**Ability to Provide Adequate Public Services
POLICE**

- 1) What is the estimated cost (operational and capital) to your Department/Division to provide adequate service to the proposed annexation?**

At the present time, the Shawnee County Sheriff's Office provides law enforcement services to the proposed annexed area. The proposed annexed area may require the City of Topeka to add officer in the future once residential and if the call load in the area increases over time, but for the foreseeable future adjacent Topeka Police Department patrol territory units should be able to absorb the call load in the proposed annexed area.

- 2) Can the estimated cost of service be carried out under your current or anticipated future budget? If not, what would it take to do so?**

The Topeka Police Officers in the bordering areas of the proposed annexed area should decrease the response time to the area considerably because of the proximity of the area. In addition, the City of Topeka's Police Department, with its detectives, crime prevention, Community Police Unit, and other police services, will provide added benefits to the future residents of the proposed annexation area.

- 3) Describe any other issues that would affect your ability to provide adequate service to the annexation area, or impact service levels to existing residents/businesses of the city.**

There were no calls for law enforcement services in the in the proposed annexed area. Currently the area has no residences or business located on the property. In the areas adjacent the proposed annexation area there were 93 calls for law enforcement services in 2014 for approximately 41 hours of allocated time. Of those 31 (33%) of the calls were on 1st Shift, 46 (49%) were on 2nd Shift, and 16 (18%) were on 3rd Shift.



*Annexation Proposal
Misty Harbor Estates Subdivision No. 5
Fact Sheet & Department Comments*

In the areas adjacent the proposed annexation area there were 73 calls for law enforcement services in 2015 for approximately 44 hours of allocated time. Of those 19 (26%) of the calls were on 1st Shift, 43 (59%) were on 2nd Shift, and 11 (15%) were on 3rd Shift.



In the areas adjacent the proposed annexation area through June 1, 2016 there have been 46 calls for law enforcement services for approximately 29.5 hours of allocated time. Of those 9 (20%) of the calls were on 1st Shift, 28 (60%) were on 2nd Shift, and 9 (20%) were on 3rd Shift.



**Ability to Provide Adequate Public Services
STREETS**

- 1) What is the estimated cost (operational and capital) to your Department/Division to provide adequate service to the proposed annexation?**

\$1,500 annually for winter treatment and or snow plowing in an average winter.

\$1,000 annually for sweeping streets four times.

\$2,000 for pavement crack sealing after the first year.

- 2) Can the estimated cost of service be carried out under your current or anticipated future budget? If not, what would it take to do so?**

The above costs can be absorbed by current operational funding, as long as all streets are designed and built in accordance with the current City of Topeka Technical Standards.

- 3) Describe any other issues that would affect your ability to provide adequate service to the annexation area, or impact service levels to existing residents/businesses of the city.**

None.

*Annexation Proposal
Misty Harbor Estates Subdivision No. 5
Fact Sheet & Department Comments*

**Ability to Provide Adequate Public Services
WASTEWATER**

- 1) What is the estimated cost (operational and capital) to your Department/Division to provide adequate service to the proposed annexation?**

There will be no capital cost. Operational costs would be minimal.

- 2) Can the estimated cost of service be carried out under your current or anticipated future budget? If not, what would it take to do so?**

Yes.

- 3) Describe any other issues that would affect your ability to provide adequate service to the annexation area, or impact service levels to existing residents/businesses of the city.**

None.

**Ability to Provide Adequate Public Services
WATER**

- 1) What is the estimated cost (operational and capital) to your Department/Division to provide adequate service to the proposed annexation?**

Capital: \$0 (Should be installed by developer)

Operational: \$6,232.40 initial and \$673.24/month ongoing

- 2) Can the estimated cost of service be carried out under your current or anticipated future budget? If not, what would it take to do so?**

Yes.

- 3) Describe any other issues that would affect your ability to provide adequate service to the annexation area, or impact service levels to existing residents/businesses of the city.**

None.

*Annexation Proposal
Misty Harbor Estates Subdivision No. 5
Fact Sheet & Department Comments*

**Ability to Provide Adequate Public Services
STORMWATER**

- 1) What is the estimated cost (operational and capital) to your Department/Division to provide adequate service to the proposed annexation?**

There will be no capital cost. Operational costs would be minimal.

- 2) Can the estimated cost of service be carried out under your current or anticipated future budget? If not, what would it take to do so?**

Yes.

- 3) Describe any other issues that would affect your ability to provide adequate service to the annexation area, or impact service levels to existing residents/businesses of the city.**

None.

