



City Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
<https://www.topeka.org>

Governing Body Agenda

December 5, 2017
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		

City Manager: Brent Trout

Addressing the Governing Body: No person shall address the Governing Body during a Governing Body Meeting, unless they have notified the City Clerk at (785)368-3940 or by email at cclerk@topeka.org by 5:00 P.M. on the day of any Governing Body Meeting or sign up to speak at the meeting by 6:00 P.M. This limitation shall not apply to items added during the course of a meeting. The Governing Body 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 Governing Body.

Persons addressing the Governing Body will be limited to four (4) consecutive minutes on a particular agenda item. Debate, question/answer dialogue or discussion between Governing Body members will not be counted towards the four (4) minute time limitation. The Chair may extend time with the unanimous consent of the Governing Body or by an affirmative vote of five (5) Governing Body members may extend the four (4) minute limitation. The requirement to notify the City Clerk will not apply towards public hearings required by State and Federal law.

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 <https://www.topeka.org>)

CALL TO ORDER:

INVOCATION:

PLEDGE OF ALLEGIANCE:

1. MAYORAL PROCLAMATIONS:

2. PRESENTATIONS:

"Topeka Metropolitan Transit Authority Report"

3. ROLL CALL:

4. CONSENT AGENDA:

A. Resolution - Establishing City Boundaries

A RESOLUTION introduced by City Manager Brent Trout, declaring the entire boundary of the City of Topeka and rescinding City of Topeka Resolution No. 8832.

(Approval would establish the City's boundaries which is required annually by state law when territory has been added during the year.)

B. Denial of Tort Claim - W and W Utility Construction

DENIAL of a Tort Claim submitted by W and W Utility Construction for \$19,500 for extra labor that was allegedly expended due to the City's inability to efficiently locate its water mains.

C. Denial of Tort Claim - Patricia Leal-Mack

DENIAL of a Tort Claim submitted by Patricia Leal-Mack in the amount of \$80,000 to \$100,000 for damages related to a sewer back-up at her rental property.

D. Denial of Tort Claim Appeal - Rost and Rost Consulting

DENIAL of a Tort Claim Appeal submitted by Eric Kjorlie on behalf of Rost and Rost Consulting in the amount of \$845 for alleged damages to its sprinkler system.

E. MINUTES of the regular meeting of November 21, 2017

F. APPLICATIONS:

5. ACTION ITEMS:

A. Public Hearing - 2017 Budget Amendment

A PUBLIC HEARING for the purpose of hearing and answering objections of taxpayers relating to the proposed amendments to the 2017 Operating Budget.

(The Notice of Public Hearing was in the November 20, 2017, edition of the Topeka Metro Newspaper. The amendment would increase the expenditure level of the 2017 Adopted Budget in the specified funds from \$21,776,719 to \$26,534,523, a \$4,758,224 increase.)

B. Approval - 2018 Special Alcohol Grant Recommendations

APPROVAL of funding recommendations by the Alcohol and Drug Abuse Advisory Council in the amount of \$535,000 for the 2018 Special Alcohol Fund.

Voting Requirement: Majority vote of the Governing Body (6).

(The recommended amount is based on the projected Liquor Tax collected by the State and required to be allocated to alcohol and drug programs. The amount is \$85,000 lower than it was in 2017.)

C. Ordinance - Topeka Scottish Rite (Z17/3)

ORDINANCE introduced by City Manager Brent Trout, amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code, by providing for certain changes in zoning on property located at 2300 SW 30th Street from "M-2" Multiple Family Dwelling District TO "O and I-2" Office and Institutional District. (Z17/3) (Council District No. 5)

Voting Options: All Governing Body members must be present because a protest petition has been submitted. (1) Approve or Amend the Planning Commission's recommendation requires 3/4 vote of the Governing Body - 8 votes (2) Reject the Planning Commission's recommendations - 7 votes or (3) Remand back to the Planning Commission - 6 votes.

(Approval would allow re-use of the building for office and institutional uses.)

D. Ordinance - Aqua Blast Self-Service Laundry (PUD) Master Plan

ORDINANCE introduced by City Manager Brent Trout, amending the "District Map" referred to and made a part of the Zoning Ordinance by Section 18.50.050 of the Topeka Municipal Code, by providing for certain changes in zoning on property located at the northeast corner of SW Westport Drive and SW 22nd Terrace FROM "O&I-2" Office and Institutional District TO "PUD" Planned Unit Development for "O&I-2" Office and Institutional use group plus self-service laundry use. (PUD 17/04) (Council District No.9)

Voting Options: (1) Approve the Planning Commission's recommendations 6 votes (2) Amend or Reject the Planning Commission's recommendations 7 votes or (3) Remand back to the Planning Commission 6 votes

(Approval would allow for a 24-hour self service laundry facility.)

E. Ordinance - Title 6, Animals

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

Voting Requirement: Majority vote of the City Council (5). The Mayor does not vote.

(Approval would remove inconsistency and duplication within codified ordinances regarding animals within the city limits and allow miniature pot-belly pigs.)

F. Approval - Downtown Comprehensive Parking Plan Report

REPORT on the Downtown Comprehensive Parking Plan recommendations.

Voting Requirement: Majority vote of the Governing Body (6).

(Approval would adopt the attached Downtown Comprehensive Parking Plan and authorize staff to implement recommendations included in the plan.)

G. Ordinance - Prohibiting Sale/Furnishing of Cigarettes, E-Cigs, Tobacco Products and Liquid Nicotine to Persons Under 21

ORDINANCE introduced by Councilmember Elaine Schwartz, amending Section 9.05.080 of the Code of the City of Topeka, adding a local amendment to the Uniform Public Offense Code concerning the sale or furnishing of cigarettes, electronic cigarettes, tobacco products and liquid nicotine to any person under age 21.

Voting Requirement: Majority vote of the Governing Body (6).

(The amendment would prohibit the sale or furnishing of cigarettes and other tobacco-related products to adults between the ages of 18 and 20.)

6. NON-ACTION ITEMS:

A. Discussion - 2018 Downtown Business Improvement District Fee Structure

DISCUSSION related to the ordinance establishing a service fee levy for 2018 relating to the Capital City Downtown Business Improvement District.

(Discussion on the continued imposition of business improvement service fees on businesses located within the Capital City Downtown Business Improvement District. The ordinance will be considered by the Governing Body on December 12, 2017.)

B. Discussion - Tennessee Town Neighborhood Plan (CPA17/02)

DISCUSSION related to updating the Tennessee Town Neighborhood Plan as an element of the Comprehensive Plan. *(CPA17/02)*

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
December 5, 2017

DATE: December 5, 2017
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:

A RESOLUTION introduced by City Manager Brent Trout, declaring the entire boundary of the City of Topeka and rescinding City of Topeka Resolution No. 8832.

(Approval would establish the City's boundaries which is required annually by state law when territory has been added during the year.)

VOTING REQUIREMENTS:

Majority vote of the Governing Body (6).

POLICY ISSUE:

Approval would insure compliance with K.S.A. 12-517 which requires the City to annually establish boundaries when annexations have occurred during the year.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to approve the resolution.

BACKGROUND:

State law requires that a City enact a resolution annually to establish the City's boundaries if territory has been annexed during the year. In 2017, the City annexed properties owned by Reser's at SE 6th and SE Croco. (Ordinance Nos. 20048 and 20065).

BUDGETARY IMPACT:

There would be no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

Description

Resolution

Reser's Annexation Property Map

City Corporate Limits

1 RESOLUTION NO. _____

2
3 A RESOLUTION introduced by City Manager Brent Trout, declaring the entire boundary
4 of the City of Topeka and rescinding City of Topeka Resolution No.
5 8832.
6

7 WHEREAS, K.S.A. 12-517 provides that municipalities shall, by resolution, declare
8 the entire boundary of the municipality if territory has been added; and

9 WHEREAS, the resolution must be passed before December 31 of the year in which
10 territory was added; and

11 WHEREAS, in 2017, the City annexed property.

12 NOW, THEREFORE, BE IT RESOLVED, BY THE GOVERNING BODY OF THE
13 CITY OF TOPEKA, KANSAS, that it hereby declares the following to be the entire
14 boundary of the City:

15 A. Corporate Limits and Boundaries as Follows to Wit:

16
17 Beginning at the intersection of the West line of the Southeast Quarter of Section
18 34, Township 11 South, Range 16 east of the 6th PM in Shawnee County, Kansas,
19 with a line which is 40 feet north of the South line of said Southeast Quarter; thence
20 North 88°31'07" East, North American Datum 1983, Kansas North Zone, parallel
21 with the South line of said Southeast Quarter, and on the North line of SE 6th St
22 and its extension, 182.36 feet; thence North 0°24'32" West on the North line of SE
23 6th St, 13.00 feet; thence North 88°31'07" East on the North line of SE 6th St,
24 180.38 feet; thence easterly on a curve concave northerly being the North line of SE
25 6th St, having a radius measure of 11,394.16 feet and an arc length of 262.22 feet
26 and a chord which bears North 87°51'34" East, 262.22 feet; thence North
27 80°50'48" East on the North line of SE 6th St, 45.29 feet; thence North 87°11'07"
28 East on the North line of SE 6th St, 73.07 feet; thence North 0°24'32" West on the
29 North line of SE 6th St, 130.12 feet; thence North 87°11'07" East on the North line
30 of SE 6th St, 96.46 feet; thence South 33°51'23" East on the North line of SE 6th St,
31 145.99 feet; thence North 88°58'29" East on the North line of SE 6th St, 351.46
32 feet; thence North 88°31'07" East on the North line of SE 6th St, 100.00 feet; thence
33 North 77°12'31" East on the North line of SE 6th St, 101.98 feet; thence North
34 37°10'42" East on the North line of SE 6th St, 28.62 feet; thence North 0°01'45"
35 West, 188.19 feet; thence South 88°31'07" West, 100.00 feet; thence North
36 0°01'45" 1642.61 feet; thence North 88°41', 34" East parallel with the North line of
37 said Southeast Quarter, 300.00 feet; thence South 0°01'45" East, 399.15 feet;
38 thence North 88°37'58" East, 922 49 feet to the West line of Croco Rd; thence

South 0°01'45" East, on the West line of Croco Rd, and parallel with the East line of said Southeast Quarter, 816.04 feet; thence South 88°31'07" West on the West line of Croco Rd, 15.00 feet; thence South 0°01'45" East on the West line of Croco Rd and its extension, 725.24 feet to an intersection with the North line of the Northeast Quarter of Section 3, Township 12 South, Range 16 east of the 6th P.M.; thence South 0°28'27" East parallel with the East line of said Northeast Quarter, 40.01 feet to an intersection with a line which is 40 feet south of the North line of said Northeast Quarter; thence South 88°31'07" West, parallel with the North line of said Northeast Quarter, on the South line of SE 6th St, 280.62 feet; thence South 0°25'53" West on the South line of SE 6th St, 10.00 feet to the Northeast corner of Lot 2, Block "A" in England Mobile Home Estates Subdivision; thence southerly, on the East line of said Lot 2, 477.03 feet; thence easterly, to a point which is 527.03 feet south of and 12.5 feet west of the Northeast corner of the Northeast quarter of said Section 3; thence on an assumed bearing of South 00°21'23" East, parallel with the East line of said Northeast Quarter, 1248.45 feet; thence South 88°38'12" West, 40 feet; thence southerly, on a line which is 52.50 feet west of the East line of the last said Northeast Quarter, 535.29 feet; thence easterly 2.50 feet; thence southerly, on the East line of the last said Lot 1, and its extension, 360.00 feet, to an intersection with the South line of the Northeast Quarter of Section 3, Township 12 south, Range 16 east; thence South 88°38'15" West, 25.89 feet; thence South 09°10'00" West, 156.20 feet; thence South 50°49'00" West, 907.50 feet; thence South 74°51'00" West, 547.39 feet to the East line of the West Half of the Southeast Quarter of said Section 3; thence southerly on said East line to the South Right-of-Way Line of U.S. Highway 40 as condemned in Case Number 91169; thence northeasterly on said South Right-of-Way Line and on a curve to the left that has a radius of 3969.83 feet, an arc distance of 443.15 feet; thence on an assumed bearing of North 83°34'24" East, on said South Right-of-Way Line, 820.00 feet to a point 80.00 feet west of the East line of said Southeast Quarter; thence south-southeasterly, 325.00 feet to a point that is 10.00 feet east of the Northeast corner of Lot 1, Altair Heights Subdivision; thence westerly 10.00 feet to the Northeast corner of Lot 1, Altair Heights Subdivision, being a point on the West Right-of-Way Line of Croco Road; thence southerly on the West line of Croco Road on an assumed bearing of South 02°34'12" West, 222.94 feet; thence west 300.00 feet; thence south 587.42 feet; thence South 32°26'30" West, 203.21 feet; thence South 61°42'24" West, 671.80 feet; thence South 74°32'18" West, 89.94 feet; thence South 88°25'06" West, 194.71 feet, to a point 30.00 feet north of the Southeast corner of the West Half of the Southeast Quarter of Section 3; thence south to the Northeast corner of the West Half of the Northeast Quarter of Section 10, Township 12 south, Range 16 east of the 6th P.M.; thence on an assumed bearing of South 00°48'00" West, on the East line of the West Half of the Northeast Quarter of said Section 10, 158.83 feet to the North line of the Kansas Turnpike Right-of-Way; thence South 63°15'40" West, on said right-of-way line, 790.86 feet; thence South 69°36'00" West, continuing on said right-of-way line, 452.77 feet; thence North 70°46'40" West, continuing on said right-of-way line, 337.69 feet to the Easterly Right-of-Way Line of Service Road "L" of the Kansas Turnpike Authority; thence southwesterly to the intersection of the Westerly Right-of-Way Line of Service Road

"L" of the Kansas Turnpike Authority, and the Northerly Right-of-Way line of the Kansas Turnpike; thence southwesterly approximately 290 feet on the Northerly Right-of-Way line of the Kansas Turnpike to a point which intersects with a line bearing North 27°15'56" West, extended from the most Northerly corner of Lot 24, Block "N", Aquarian Acres Subdivision; thence South 27°15'56" East, 300 feet, more or less, to said most Northerly corner of Lot 24; thence easterly on the Southerly Right-of-Way Line of the Kansas Turnpike to its intersection with the East line of the West Half of Section 10, also being the Northeast corner of Aquarian Acres Subdivision; thence on an assumed bearing of North 62°16'17" East, on the north line of Capricorn Woods Subdivision No. 2, 308.09 feet, to the North corner of Lot 11, Block 'C' in said subdivision; thence North 08°05'50" West, on the West line of Capricorn Woods Subdivision No. 3, a record distance of 462.28 feet to the most westerly West corner of Lot 11, Block A in said subdivision; thence North 51°49'07" East, on a North line of Capricorn Woods Subdivision No. 3, 399.13 feet; thence North 64°31'42" East, on a North line of Capricorn Woods Subdivision No. 3, a record distance of 896.71 feet to a point on the East line of the West Half of the Northeast Quarter of Section 10, Township 12 South, Range 16 east of the 6th P.M.; thence South 00°19'45" West, on an East line of Capricorn Woods Subdivision No.3, 728.46 feet to the Northwest corner of Lot 1, Block "AA" in Shawnee Gardens Subdivision; thence North 89°29'35" East, 1283.60 feet, to the Northeast corner of Lot 6, Block "B" in said subdivision; thence easterly, on the North line of Shawnee Gardens Subdivision, to an intersection with a line which is 30 feet west of the East line of the Northeast Quarter of Section 10, Township 12 South, Range 16 east of the 6th P.M.; thence on an assumed bearing of North 00°29'01" East, parallel with the East line of said Northeast Quarter, to an intersection with a line which is an extension of the South line of the North 792.0 feet of the Northwest Quarter of Section 11, Township 12 South, Range 16 east of the 6th P.M.; thence North 89°47'56" East, parallel with the North line of said Northwest Quarter, 1356.93 feet, to a point which is 6.99 feet west of the East line of the Northwest Quarter of the Northwest Quarter of said Section 11; thence South 00°27'04" West, 537.79 feet, to a point on the South line of the Northwest Quarter of the Northwest Quarter of said Section 11, which is 5.50 feet west of the Southeast corner of the Northwest Quarter of the Northwest Quarter of said Section 11; thence South 89°58'08" West, on the South line of the Northwest Quarter of the Northwest Quarter of said Section 11, 1287.20 feet, to the Northwest corner of Lot 1, Block 'E' in Belhaze Subdivision No. 2; thence southerly, to the Northwest corner of Lot 8, Block 'D' in Belhaze Subdivision No. 2; thence westerly, to the Northeast corner of Lot 1, Block "D" in Shawnee Gardens Subdivision; thence on an assumed bearing of South 00°15'33" West, parallel with the East line of the Northeast Quarter of Section 10, Township 12 South, Range 16 east of the 6th P.M., to the Southeast corner of Lot 4, Block "D" in Shawnee Gardens Subdivision; thence North 89°44'27" West, 275.00 feet, to an East corner of Lot 15, Block "D" in said subdivision; thence South 00°15'33" West, 215.00 feet, to the most Easterly Southeast corner of Lot 16, Block "D" in said subdivision; thence South 89°44'27" East, 275.00 feet to the Northeast corner of Lot 27, Block "D" in said subdivision; thence South 00°15'33" West, 362.57 feet to the Southeast corner of Lot 12, Block

"E" in said subdivision; thence North 89°26'55" East, on the North line of the Southeast Quarter of Section 10, to an intersection with a line which is 30 feet west of the East line of said Southeast quarter; thence southerly on the West line of Croco Road, 1432.51 feet; thence south on said West line of Croco Road 1176.40 feet to the North Right-of-Way Line of S.E. 29th Street; thence westerly on the North Right-of-Way Line of 29th Street to the East Right-of-Way Line of Wittenberg Road; thence northerly on the East Right-of-Way Line of Wittenberg Road to a point 1689.93 feet north of the South line of Section 10, Township 12 south, Range 16 east of the 6th P.M.; thence westerly parallel with and 1689.93 feet north of the South line of said Section 10 to the West line of Section 10; thence northerly on the West line of Section 10 to its intersection with the North Right-of-Way Line of the Kansas Turnpike; thence southwesterly on the Northerly Right-of-Way Line of the Kansas Turnpike to its intersection with the East line of the West Half of the West Half of Section 16, Township 12 South, Range 16 east of the 6th P.M.; thence south to the Northeast corner of the West Half of the Southwest Quarter of said Section 16; thence easterly, on the North line of said Southwest Quarter, 1324.26 feet, to the Northeast corner of said Southwest Quarter; thence on an assumed bearing of 00°05'54" East on the West line of the Northeast Quarter of said Section 16, 1771.63 feet to an intersection with the Southeast right of way line of United States Interstate Highway 470/335, also known as Kansas Turnpike Tract No. 27-70; thence on said Southeast right of way line, being a curve concave northwesterly, having a radius measure of 5879.58 feet and an arc length of 1005.83 feet, the chord of which bears North 45°01'09" East, 1004.60 feet; thence North 40°07'06" East on said Southeast right of way line, 5.75 feet to the Southwest corner of Kansas Turnpike Tract 27-20E; thence North 84°56'53" East on the South line of said Turnpike Tract 27-20E, 524.39 feet; thence North 60°49'13" East on a South line of said Turnpike Tract 27-20E, 80.71 feet to an intersection with the South right of way line of SE 29th Street; thence South 89°28'02" East on the South right of way line of SE 29th Street, being 50.00 feet south of the North line of the West Half of said Northeast Quarter, 28.16 feet to a point on the East line of said West Half; thence South 00°15'13" West on the East line of said West Half, to a point on a line which is 300.00 feet south of the North line of the Northeast Quarter of Section 16; thence easterly, parallel with the North line of said Northeast Quarter, to the Southwest corner of Franklin Subdivision; thence northerly on the West line of said subdivision to the Northwest corner of Lot 1, Block A in Franklin Subdivision; thence easterly, to the Northeast corner of Lot 9, Block "J" in Shawnee Estates Subdivision; thence southerly, on the East line of Lot 9, to an intersection with a line which is 50 feet south of the North line of the Northeast Quarter of said Section 16, said line being the South line of Southeast 29th Street; thence easterly, parallel with the North line of said Northeast Quarter, to an intersection with a line which is 20 feet west of the East line of said Northeast Quarter, said line being the West line of West Edge Road; thence southerly, parallel with the East line of said Northeast Quarter, to an intersection with the North line of Lakeview Subdivision; thence westerly, on the North line of Lakeview Subdivision, to the Northeast corner of Lot 1 in said subdivision; thence southerly, to the Southeast corner of Lot 28 in Lakeview Subdivision; thence easterly, to an intersection with a line which is 20 feet west of

the East line of the Northeast Quarter of said Section 16, said line also being the West line of West Edge Road; thence southerly, parallel with the East line of said Northeast Quarter, to an intersection with the South line of said Northeast Quarter; thence westerly, on the South line of said Northeast Quarter, to the Northeast corner of Lot 9, Block "D" in Lake Shawnee Subdivision "C"; thence southerly to the Southeast corner of Lot 19, Block "H" in Lake Shawnee Subdivision "C"; thence westerly, on the North line of S.E. 35th Street Terrace, and its extension, to an intersection with the West line of Shoreline Drive; thence southerly on the West line of Shoreline Drive to the Southeast corner of Lot 10, Block N in Shawnee Lake Subdivision 'C'; thence westerly to the Southwest corner of Block K in Shawnee Lake Subdivision 'C'; thence southerly on the East line of the Southwest Quarter of said Section 16 to an intersection with a line 30.00 feet north of the South line of said Southwest Quarter; thence westerly parallel with the South line of said Southwest Quarter to a point 100 feet easterly distant from the West line of the East Half of said Southwest Quarter; thence northerly to the Southeast corner of Lot 1 in Rolling Meadows Subdivision No.2; thence westerly to the Southwest corner of said Lot 1; thence southerly to the Southwest corner of the East Half of the Southwest Quarter of said Section 16; thence continuing southerly on the East line of the West Half of the West Half of Section 21, Township 12 south, Range 16 east of the 6th P.M. to a point 1650.00 feet south of the North line of said Section 21; thence west 1320.00 feet to an intersection with the East line of the Northeast Quarter of Section 20; thence on an assumed bearing of South 01°40'19" West, on the East line of said Northeast Quarter, to a point 660.00 feet north of the Southeast corner of said Northeast Quarter; thence South 88°21'14" West, 1648.96 feet; thence North 01°40'19" West 661.21 feet; thence South 88°21'35" West, on the South line of the North Half of the Northeast Quarter of said Section 20, to the Northeast corner of the Southeast Quarter of the Northwest Quarter of said Section 20; thence southerly, 1320.35 feet, to the Northeast corner of the Southwest Quarter of Section 20, Township 12 South, Range 16 east of the 6th P.M.; thence on an assumed bearing of North 88°21'37" East, 2186.81 feet, to the Southwest corner of Lot 1, Block 'A' KPL Substation Subdivision; thence northerly, to the Northwest corner of said Lot 1; thence easterly, to the Northeast corner of Lot 1; thence southerly, to the Southeast corner of Lot 1; thence North 88°21'37" East, on the South line of KPL Substation Subdivision, to the Northeast corner of the Southeast Quarter of Section 20, said point also being the Northwest corner of the Southwest Quarter of Section 21, Township 12 South, Range 16 east of the 6th P.M.; thence easterly on the North line of said Southwest Quarter, 275.30 feet; thence southerly, on a line which is 275.30 feet east of the West line of said Section 21, 516.00 feet; thence west 8.90 feet; thence southerly, on a line which is 266.40 feet east of the West line of Section 21, 553.00 feet; thence easterly 75.40 feet; thence southerly on a line which is 341.80 feet east of the West line of Section 21, 216.50 feet; thence westerly on the North line of the South Half of the Southwest Quarter of Section 21, Township 12 South, Range 16 east of the 6th P.M., to a point on a line which is 30 feet east of the West line of the Southwest Quarter of Section 21; thence southerly, parallel with the West line of said South Half, 210.00 feet; thence easterly on a north line of Stone Crest Subdivision, to the Northwest corner of Lot 4, Block 'E' in Stone Crest

Subdivision; thence northerly to the Northwest corner of Lot 22, Block 'E' in Stone Crest Subdivision; thence easterly on the North line of the South Half of the Southwest Quarter of said Section 21, to the East corner of Lot 9, Block 'H' in Stone Crest Subdivision; thence southerly on the East line of the South Half of the Southwest Quarter of said Section 21, to the Southeast corner of Lot 1, Block 'I' in Stone Crest Subdivision; thence westerly on the North line of S.E. 45th Street and its extension, to the Southwest corner of Lot 9, Block 'D' in Stone Crest Subdivision; thence northerly at a right angle to the Northwest corner of Lot 4, Block 'D' in Stone Crest Subdivision; thence westerly parallel with the South line of the Southwest Quarter of said Section 21, to a corner of Stone Crest Subdivision on the East line of Lot 8, Block 'C' in said subdivision; thence southerly on the East line of Block 'C' and its extension, in Stone Crest Subdivision, to an intersection with a line which is 50 feet south of the North line of the Northwest Quarter of Section 28, Township 12 South, Range 16 east of the 6th P.M.; thence South 88°35'26" West, North American Datum 1983, Kansas North Zone, 527.09 feet to a point 662.59 feet east of the West line of said Northwest Quarter; thence South 1°43'10" East, 610.78 feet; thence South 88°37'51" West, 662.61 feet to an intersection with the West line of said Northwest Quarter, said intersection also being the Southeast corner of Marlatte Center Subdivision; thence South 88°20'31" West on the South line of Marlatte Center Subdivision to the Southwest corner of said subdivision; thence northerly, on the Westerly line of said subdivision and its extension, to an intersection with a line which is 45 feet north of the North line of Section 29; thence westerly parallel with the South line of Section 20, to the West line of the East Half of said Section 20; thence on an assumed bearing of South 1°23'17" West, on the East line of the Southwest Quarter of said Section 20, 40.00 feet to the Northeast corner of the Northwest Quarter of Section 29, Township 12 South, Range 16 east of the 6th P.M.; thence South 1°52'43" East on the East line of said Northwest Quarter, 1650.18 feet; thence South 88°25'22" West, 1594.70 feet; thence North 2°08'17" West, 1692.12 feet to a point on a line which is 40.00 feet north of the South line of the Southwest Quarter of said Section 20; thence westerly on a line which is 40.00 north of the South line of the Southwest Quarter of said Section 20, to the East line of Section 19; thence continuing westerly to a point 30.00 feet west of the East line of Section 19, also being the West line of Adams Street; thence westerly parallel with and 40.00 feet north of the South line of Section 19, to a point that is 40.00 feet north of the Northeast corner of the West Half of the Northeast Quarter of Section 30, Township 12 South, Range 16 east of the 6th P.M.; thence southerly 2694.79 feet on the East line of South Village Subdivision, to the Southeast corner of said subdivision; thence westerly, on the South line of said subdivision to the Northeast corner of the Southwest Quarter of Section 30, Township 12 South, Range 16 east of the 6th P.M.; thence southerly on an assumed bearing of South 02°24'27" East, on the East line of said Southwest Quarter, to a point which is 44.20 feet north of the Southeast corner of Terra Heights Subdivision, said point also being on the Southwesterly line of the right of way of the former Missouri Pacific Railroad Company; thence South 56°03'19" East on the Southwesterly line of said right of way, 1304.94 feet; thence southeasterly, southerly and southwesterly on said right of way line, on a curve concave westerly

having a radius measure of 419.28 feet and an arc length of 1020.97 feet, the chord of which bears South 20°32'28" West, 786.78 feet; thence South 88°10'41" West on said right of way line, 132.83 feet; thence westerly on said right of way line, on a curve concave southerly having a radius measure of 613.69 feet and an arc length of 207.93 feet, the chord of which bears South 78°26'03" West, 206.93 feet, to a point on a line which is 45 feet north of the South line of said Southeast Quarter; thence South 88°10'41" West parallel with the South line of said Southeast Quarter, 407.12 feet; thence South 88°35'12" West on a line which is 45 feet north of the South line of said Southwest Quarter, 2224.75 feet to a point on the East line of Topeka Boulevard; thence North 02°07'29" West on the East line of Topeka Boulevard, 602.47 feet; thence North 01°34'34" West on the East line of Topeka Boulevard, 878.59 feet; thence northerly on the East line of Topeka Boulevard, to an intersection with the North line of the Southwest Quarter of said Section 30; thence westerly, on the South line of the Northwest Quarter of Section 30 to the Southeast corner of the Northeast Quarter of Section 25, Township 12 South, Range 15 east of the 6th P.M.; thence northerly, on the East line of said Northeast Quarter, 20.00 feet, to the North line of S.W. 49th Street, extended from the west; thence westerly, on a line which is 20.00 feet north of the South line of the Northeast Quarter of said Section 25, to an intersection with the West line of the right of way of the Burlington Northern Santa Fe Railway Company; thence southerly, on the West line of said right of way, to the Northeast corner of Lot 1, Block "A" in Laird Noller Subdivision; thence westerly, to the Northwest corner of said Lot 1; thence southerly, to the Southwest corner of said Lot 1; thence westerly, 33.00 feet, to a corner of Lot 1, Block "A" in S.W. 57th Street Distribution Center Subdivision; thence southerly on the most westerly East line of the last said Lot 1, and its extension, to an intersection with a line which is 30 feet south of the North line of the Southeast Quarter of said Section 36; thence westerly, on an assumed bearing of South 88°03'15" West, parallel with the North line of the Southeast Quarter of said Section 36, to an intersection with a line which is 40 feet west of the East line of the Northwest Quarter of the Southeast Quarter of said Section 36; thence southerly, parallel with the East line of the Northwest Quarter of the Southeast Quarter of said Section 36, to an intersection with a line which is 50 feet south of the North line of said Southeast Quarter; thence South 88°03'15" West, 280.00 feet; thence southerly, parallel with the East line of the Northwest Quarter of the Southeast Quarter of said Section 36, to an intersection with a line which is 60 feet south of the North line of said Southeast Quarter; thence South 88°03'15" West, to a point which is 535.10 feet east of the Northwest corner of the Southeast Quarter of said Section 36, and 60.00 feet south of the North line of said Southeast Quarter, as measured on the North line of, and normal from the North line of said Southeast Quarter; thence South 76°44'39" West, 101.98 feet; thence South 88°03'15" West, 400.00 feet; thence South 61°29'21" West, 55.90 feet; thence South 88°03'13" West, 1535.10 feet; thence North 87°38'30" West, 199.78 feet; thence North 01°56'47" West, normal to the North line of the Southwest Quarter of said Section 36, 90.00 feet, to an intersection with said North line at a point which is 893.59 feet east of the Northwest corner of said Southwest Quarter; thence continuing North 01°56'47" West, 90.00 feet; thence South 88°03'13" West,

parallel with the South line of the Northwest Quarter of said Section 36, 358.12 feet; thence North 07°53'08" East, 679.72 feet; thence North 23°43'11" East, 509.21 feet; thence North 14°17'25" East, 517.29 feet; thence North 00°04'32" West, 210.05 feet; thence northerly, on a curve which is concave westerly, having a radius measure of 5889.58 feet and an arc length of 719.40 feet, the chord of which bears North 06°17'43" East, 718.95 feet, to an intersection with the South line of the Southwest Quarter of said Section 25; thence northerly, on a curve which is concave westerly, having a radius measure of 5889.58 feet and an arc length of 547.79 feet, the chord of which bears North 00°16'44" West, 547.59 feet; thence North 01°48'09" West, 1517.06 feet; thence North 02°03'30" East, 514.28 feet; thence North 01°48'02" West, normal to the South line of the Northwest Quarter of said Section 25, 80.00 feet, to an intersection with said South line at a point which is 1149.74 feet east of the Southwest corner of said Northwest Quarter; thence continuing North 01°48'02" West, to an intersection with a line which is 20 feet north of the South line of the Northwest Quarter of said Section 25; thence westerly, on a line which is 20 feet north of the South line of the Northwest Quarter of said Section 25, to an intersection with the East line of Section 26, Township 12 South, Range 15 east of the 6th P.M.; thence continuing westerly, parallel with and 20.00 feet north of the South line of the North Half of said Section 26 to the East line of Burlingame Road; thence northerly on the East line of Burlingame Road to an intersection with the North line of S.W. 45th Street, extended from the west, said North line of S.W. 45th Street being 30.00 feet north of the South line of Section 23, Township 12 South, Range 15 east of the 6th P.M.; thence westerly, parallel with and 30.00 feet north of the South line of said Section 23 to an intersection with the West line of the East Half of the Southeast Quarter of Section 23; thence northerly on the West line of the East Half of the Southeast Quarter of Section 23, to an intersection with the North line of the Southeast Quarter of said Section 23; thence westerly, on the North line of said Southeast Quarter, to the Northeast corner of the Southwest Quarter of Section 23, Township 12 South, Range 15 east of the 6th P.M.; thence on an assumed bearing of South 87°44'36" West, on the North line of said Southwest Quarter, to the Northeast Quarter of Lot 4, Block 'B' in Misty Harbor Estates No. 2 Subdivision; thence South 08°11'25" West, 149.95 feet; thence on a curve concave southerly, having a radius measure of 537.50 feet and an arc length of 22.92 feet, the chord of which bears South 80°35'17" East, 22.92 feet; thence South 10°38'02" West, 250.08 feet; thence South 88°30'14" East, 53.58 feet; thence South 71°00'42" East, 57.83 feet; thence South 01°29'46" East, 281.87 feet; thence South 88°30'14" West, 75.00 feet; thence South 01°28'50" East, 522.53 feet; thence South 88°30'14" West, 27.13 feet; thence South 01°29'46" East, 130.00 feet, to the Northeast corner of Lot 1, Block 'E' in Misty Harbor Estates No. 2 Subdivision; 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 1°28'50" East, on the East line of said Southwest Quarter, 1280.18 feet to the Northeast corner of the Northwest Quarter of Section 26, Township 12

South, Range 15 east of the 6th P.M.; thence South 00°09'12" East, on the East line of said Northwest Quarter, 1299.00 feet; thence South 56°16'49" West, 720.00 feet; thence South 00°09'12" East, parallel with the East line of said Northwest Quarter, 919.99 feet; thence South 89°02'19" West, on a line which is 45 feet north of the South line of said Northwest Quarter, 708.43 feet; thence westerly, on a curve concave southerly, having a radius measure of 447.50 feet and an arc length of 35.26 feet, the chord of which bears South 86°46'54" West, 35.25 feet, to a point which is 16.84 feet north of the Southeast corner of Lot 9 Block "G", in Colly Creek Subdivision No. 6; thence on an assumed bearing of South 00°13'06" East, on the East line of the West Half of the Northwest Quarter of Section 26, Township 12 South, Range 15 east of the 6th P.M., 16.84 feet, to the Southeast corner of Lot 9, Block "G" in Colly Creek Subdivision No. 6; thence on a 460.00 foot radius curve to the right, 264.29 feet; thence North 79°51'05" West, 493.87 feet; thence on a 540.00 foot radius curve to the left, 410.24 feet; thence South 56°37'15" West, 38.90 feet; thence on a 460.00 foot radius curve to the right, 206.79 feet; thence South 82°22'40" West, 261.54 feet; thence North 83°24'11" West, 163.01 feet; thence westerly, 80 feet south of and parallel with the South line of the Northeast Quarter of Section 27, Township 12 South, Range 15 east of the 6th P.M., 429.69 feet; thence North 73°38'13" West, 382.80 feet; thence North 00°20'44" West, 139.53 feet; thence North 89°44'11" East, 217.86 feet; thence North 00°15'49" West, 400.00 feet; thence South 89°44'11" West, 85.12 feet; thence North 00°15'49" West, 200.00 feet; thence South 89°44'11" West, 58.01 feet; thence North 00°15'49" West, 200.00 feet; thence South 89°44'11" West, to an intersection with the East line of S.W. Gage Boulevard; thence North 00°39'50" West, 860.02 feet; thence North 89°44'11" East, 250.39 feet; thence North 00°15'39" West, 200.00 feet; thence South 89°44'11" West, 251.79 feet; thence North 00°39'50" West, 636.15 feet, to a point on the South line of Section 22, Township 12 South, Range 15 east of the 6th P.M.; thence westerly, on said line 11.76 feet to the Southwest corner of Lot 4 in said Section 22; thence continuing westerly on said South line, to an intersection with a line which is 30 feet west of the East line of Lot 5 in said Section 22; thence northerly, on a line which is 30 feet west of the East line of Lots 5, 6 and 7 in said Section 22, to a point which is 502.00 feet north and 30 feet west of the Southeast corner of said Lot 7; thence westerly, on the South line of S.W. 40th Street, and its extension, to the Southwest corner of Blackburn Subdivision; thence northerly, to the Northwest corner of Lot 1, Block 'A' in Blackburn Subdivision; thence easterly, on the North line of Blackburn Subdivision, and its extension, to an intersection with a line which is 30 feet west of the East line of said Lot 7; thence northerly, on a line which is 30 feet west of the East lines of Lots 7 and 8 in said Section 22 to an intersection with the North line of Section 22; thence west on the North line of Section 22 to a point 527.20 feet east of the Northeast corner of the Northwest Quarter of Section 22, Township 12 South, Range 15 east of the 6th P.M.; thence on an assumed bearing of South 00°47'14" West, 1321.98 feet; thence North 89°29'14" West, 527.19 feet; thence North 89°23'29" West, 2650.19 feet, to an intersection with the West line of Section 22; thence southerly on the West line of said section to the East Quarter corner of Section 21, Township 12 South, Range 15 east of the 6th P.M.; thence on an

assumed bearing of South 88°46'43" West, on the North line of the Southeast Quarter of said Section 21, 464.91 feet; thence South 54°02'14" West, 363.09 feet; thence South 50°29'18" West, 44.16 feet; thence southwesterly, on a curve concave northwesterly, having a radius measure of 1030.00 feet and an arc length of 710.30 feet, the chord of which bears South 70°14'39" West, 696.31 feet; thence South 90°00'00" West, 8.57 feet; thence northwesterly, on a curve concave northeasterly, having a radius measure of 810.00 feet and an arc length of 272.67 feet, the chord of which bears North 80°21'22" West, 271.39 feet; thence North 70°42'44" West, 708.74 feet; thence northwesterly, on a curve concave southwesterly, having a radius measure of 966.50 feet and an arc length of 348.32 feet, the chord of which bears North 81°02'12" West, 346.44 feet; thence South 88°38'20" West, 332.17 feet; thence South 86°43'47" West, 180.10 feet; thence South 88°38'20" West, 35.22 feet; thence South 01°21'40" East, 51.49 feet; thence South 34°56'17" West, 344.26 feet; thence South 03°56'09" West, 122.53 feet; thence South 11°52'54" West, 231.70 feet; ; thence South 89°06'31" East, 71.26 feet; thence South 67°46'48" East, 126.07 feet; thence South 49°59'15" East, 218.99 feet; thence South 28°03'34" East, 130.00 feet; thence South 00°23'53" East, 154.39 feet; thence South 76°03'46" West, 147.76 feet; thence southerly, on a curve concave westerly, having a radius measure of 412.00 feet and an arc length of 155.03 feet, the chord of which bears South 00°28'07" West, 154.12 feet; thence South 70°02'14" East, 187.76 feet; thence South 86°46'44" East, 149.34 feet; ; thence South 67°24'25" East, 163.14 feet; thence South 42°41'52" East, 80.40 feet; thence South 24°46'56" East, 142.36 feet; thence South 68°32'44" East, 173.53 feet; thence South 32°54'02" East, 129.08 feet; thence South 00°32'09" East, 213.07 feet; thence South 16°50'03" West, 30.00 feet; thence westerly, on a curve concave southerly, having a radius measure of 530.00 feet and an arc length of 124.82 feet, the chord of which bears North 79°54'45" West 124.53 feet; thence South 03°20'26" West, 60.00 feet; thence westerly, on a curve concave southerly, having a radius measure of 470.00 feet and an arc length of 28.84 feet, the chord of which bears North 88°25'02" West, 28.83 feet; thence South 00°38'39" East, 149.80 feet; thence South 89°27'34" West, 645.28 feet; thence North 00°40'39" West, 224.59 feet; thence South 89°28'25" West, 896.92 feet; thence North 00°30'03" West, 462.09 feet; thence South 87°33'24" West, 826.16 feet; to the northeast corner of Elevation Hill Subdivision; thence South 88°36'57" West, 227.50 feet; thence North 01°10'51" West, on a line which is 52.50 feet east of the west line of the southwest quarter of said Section 21, to an intersection with a line which is 30.00 feet north of the South line of the North Half of the Southeast Quarter of Section 20, Township 12 South, Range 15 east of the 6th P.M.; thence westerly, on said extension, to an intersection with the East line of said Southeast Quarter; thence westerly, on a line which is 30.00 feet north of the South line of the North Half of said Southeast Quarter, 100.00 feet; thence southerly, parallel with the East line of said Southeast Quarter, to an intersection with the South line of the North Half of said Southeast Quarter; thence on an assumed bearing of South 89°28'33" West, on the South line of the North Half of said Southeast Quarter, 726.34 feet, to the Northeast corner Lot 4, Block 'D' in Brian's Addition No. 3; thence South 25°50'40" East 202.34 feet to the East corner

of Lot 5, Block 'D' in Brian's Addition No. 3; thence southwesterly on a curve concave southeasterly, having a radius measure of 280.00 feet and an arc length of 55.87 feet, the chord of which bears South 58°22'32" West, 55.78 feet; thence southwesterly on a curve concave northwesterly, having a radius measure of 220.00 feet and an arc length of 23.68 feet, the chord of which bears South 55°44'31" West, 23.67 feet; thence South 31°09'29" East, 312.31 feet to the most northerly East corner of Lot 1, Block 'E' in Brian's Addition No. 3; thence South 00°49'39" East 78.55 feet to the Southeast corner of Brian's Addition No. 3; thence North 89°28'53" East on the North line of Lauren's Bay Villas No.2, to the Northeast corner of Lot 15, Block A in said subdivision; thence South 0°54'31" East on a line which is 60.00 feet west of the East line of the Southeast Quarter of Section 20, Township 12 South, Range 15 east of the 6th P.M., to an intersection with the South line of said Southeast Quarter; thence South 0°18'18" East, on a line which is 60.00 feet west of the East line of the Northeast Quarter of Section 29, Township 12 South, Range 15 east of the 6th P.M., to the Southeast corner of Lot 30, Block B in Lauren's Bay Villas No. 2; thence North 89°45'29" West, 375.60 feet to the Southwest corner of Lot 29, Block B in said subdivision; thence South 0°18'18" East, 200.00 feet to the Southeast corner of Lot 7 in Block B in said subdivision; thence North 89°45'29" West on the South line of the Pottawatomie Reserve, 820.94 feet to the Northwest corner of Lot 1, Block E in Woodland Heights 2nd Subdivision; thence South 0°15'48" East on the West line of Woodland Height 2nd Subdivision, 405.65 feet; thence South 0°10'48" East on the West lines of Woodland Heights Subdivision No. 3 and Woodland Heights 2nd Subdivision, 220.00 feet; thence North 89°39'50" East on the South line of SW 46th Terrace, formerly SW 47th Street Terrace as platted in Woodland Heights 2nd Subdivision, 195.70 feet; thence South 0°17'38" East on the West line of Lot 2, Block "G" in Woodland Heights 2nd Subdivision, 155.00 feet; thence North 89°42'22" East on the South line of Lot 2, Block "G" in Woodland Heights 2nd Subdivision, 244.57 feet; thence South 0°18'26" East on a West line of Woodland Heights 2nd Subdivision, 214.07 feet; thence North 89°40'25" East on a South line of a public street platted in Woodland Heights 2nd Subdivision, 107.64 feet; thence northeasterly on a South line of a public street platted in Woodland Heights 2nd Subdivision, on a curve concave northwesterly, having a radius measure of 282.00 feet and an arc length of 168.26 feet, the chord of which bears North 72°34'49" East, 165.78 feet; thence South 34°33'36" East on the Southwest line of Lot 5, Block "C" in Woodland Heights 2nd Subdivision, 261.85 feet; thence South 30°20'26" East, 182.33 feet; thence North 89°45'39" East, 44.40 feet; thence South 30°23'44" East, 59.89 feet to a point on the South line of Algonquin Trafficway as platted in Woodland Heights Subdivision; thence North 59°44'00" East on the South line of Algonquin Trafficway, 31.97 feet; thence northeasterly on the South line of Algonquin Trafficway on a curve concave southeasterly, having a radius measure of 222.00 feet and an arc length of 116.20 feet, the chord of which bears North 75°02'50" East, 114.89 feet; thence North 89°41'27" East on the South line of Algonquin Trafficway, 40.04 feet to an intersection with a line which is 60 feet west of the East line of said Northeast Quarter; thence South 0°19'43" East parallel with the East line of said Northeast Quarter, 386.19 feet to a point on the North line of Algonquin

499 Trafficway as platted in Woodland Heights Subdivision; thence South 89°40'16"
500 West on the North line of said Algonquin Trafficway, 40.00 feet; thence westerly on
501 the North line of said Algonquin Trafficway, on a curve concave northerly, having a
502 radius measure of 792.00 feet and an arc length of 142.16 feet, the chord of which
503 bears North 84°50'50" West, 141.97 feet to an intersection with an extension of the
504 West line of Block D in Woodland Heights Subdivision; thence South 10°30'07"
505 West on the West line of said Block D and its extension, 636.35 feet to the
506 Southwest corner of Lot 3 in said Block D; thence South 89°16'56" West on the
507 South line of said Northeast Quarter, 398.96 feet; thence South 0°15'47" East
508 parallel with the East line of the Southeast Quarter of said Section 29, 1128.48 feet
509 to a point 198.0 feet north of the South line of the Northeast Quarter of said
510 Southeast Quarter; thence North 88°57'31" East, 99.94 feet; thence South
511 0°17'00" East, 198.12 feet to a point on the South line of the Northeast Quarter of
512 said Southeast Quarter which is 660.00 feet west of the Southeast corner of the
513 Northeast Quarter of said Southeast Quarter; thence North 89°11'00" East on the
514 North line of the Southeast Quarter of the Southeast Quarter of said Section 29,
515 620.00 feet to an intersection with a line which is 40.00 feet west of the East line of
516 said quarter-quarter section; thence South 0°15'52" East, parallel with the East line
517 of said quarter-quarter section, 1189.27 feet; thence South 16°46'48" West, 53.30
518 feet to a point which is 85.00 feet north of the South line of the Southeast Quarter of
519 the Southeast Quarter of said Section 29 and 55.62 feet west of the East line of
520 said quarter-quarter section; thence South 77°37'36" West, 80.57 feet to a point
521 which is 69.00 feet north of the South line of said quarter-quarter section; thence
522 South 0°57'05" East, 29.00 feet; thence South 89°02'55" West on a line which is
523 40.00 feet north of the South line of said quarter-quarter section, 335.89 feet;
524 thence South 0°57'05" East, 15.00 feet; thence South 89°02'55" West on a line
525 which is 25.00 feet north of the South line of the Southeast Quarter of the Southeast
526 Quarter of said Section 29, 848.08 feet to an intersection with the West line of said
527 quarter-quarter section; thence North 0°19'05" West on the West line of said
528 quarter-quarter section, 1303.00 feet to the Northwest corner of the Southeast
529 Quarter of the Southeast Quarter of said Section 29; thence South 89°11'00" West
530 on the South line of the North Half of the Southeast Quarter of said Section 29,
531 1319.04 feet to the Southwest corner of the Northwest Quarter of the Southeast
532 Quarter of said Section 29; thence North 0°30'27" West on the West line of the
533 North Half of the Southeast Quarter of said Section 29, 1329.04 feet to the
534 Northwest corner of the Southeast Quarter of said Section 29; thence South
535 89°19'02" West, on the South line of the Southeast Quarter of the Northwest
536 Quarter of said Section 29, 1319.13 feet; thence North 0°30'32" West on the West
537 line of the Southeast Quarter of the Northwest Quarter of said Section 29 and on
538 the West line of the East Half of Lot 2 in the Northwest Quarter of said Section 29,
539 1693.97 feet; thence North 89°49'59" East, 676.36 feet; thence North 0°32'21"
540 West, 673.72 feet to a point on the North line of Lot 2 in the Northwest Quarter of
541 said Section 29, also being the Southwest corner of Lot 3, Block C in Bridle Path
542 Acres Subdivision; thence North 89°51'00" East on the North line of Lot 2 in the
543 Northwest Quarter of said Section 29, 650.24 feet to the Northeast corner of said
544 Lot 2; thence North 00°25'18" West, on the West line of the Northeast Quarter of

Section 29, Township 12 South, Range 15 east of the 6th P.M., 308.95 feet, to the Southwest corner of the Southeast Quarter of said Section 20; thence North 00°39'49" West, 1314.81 feet, to the Northwest corner of the Southwest Quarter of said Southeast Quarter; thence northerly, on the West line of said Southeast Quarter, also being on the West line of Monarch Meadow Subdivision, 1320.79 feet, to the Northwest corner of said Southeast Quarter; thence on an assumed bearing of North 00°39'56" West, on the West line of the Northeast Quarter of said Section 20, 1321.86 feet, to the Northwest corner of Lot 8, Block "B" in South Branch Subdivision; thence on an assumed bearing of North 00°39'11" West, 376.40 feet; thence South 57°47'36" East, 129.93 feet; thence North 18°16'12" East, 45.99 feet; thence North 89°19'37" East, 91.26 feet; thence South 07°42'39" West, 111.46 feet to the front common lot corner of Lots 9 and 10, Block "A", Glenwood Subdivision also being on the North line of S.W. 38th Place; thence southerly and easterly on said North line and its extension across S.W. Arvon Place to the Southwest corner of Lot 28, Block "B", Glenwood Subdivision; thence North 00°40'23" West, on the West lines of Lots 28 through 15, Block "B" to the Northwest corner of said Lot 15, being on the South line of S.W. 37th Street; thence easterly on said South line, to an intersection with the West line of Shadywood West Subdivision, when extended southerly; thence northerly on said extension to the North line of S.W. 37th Street; thence North 00°47'12" West, 1280.10 feet; thence North 00°13'15" East, 529.59 feet; thence South 89°20'15" West, 340.00 feet; thence North 00°13'15" East, 200.00 feet to the South line of S.W. 34th Terrace; thence South 89°20'15" West, 100.00 feet; thence North 00°13'15" East, 270.02 feet; thence North 89°20'15" East, 100.00 feet; thence North 00°13'15" East, 321.13 feet, to the North line of the Southeast Quarter of Section 17, Township 12 South, Range 15 east of the 6th P.M.; thence easterly on the North line of said Southeast Quarter, 1424.63 feet; thence on an assumed bearing of South 00°17'23" East, 208.71 feet; thence North 89°20'50" East, to the West line of S.W. Wanamaker Road; thence northerly on the West line of Wanamaker Road to the South line of Crestridge Square Subdivision No. 2; thence on an assumed bearing of South 89°37'17" West, to the Southwest corner of Lot 9, Block "A" of said subdivision; thence westerly, on the South line of Mission Center Subdivision No. 1, to the Southwest corner of said subdivision also being on the West line of the Northeast Quarter of Section 17; thence northerly, on said West line to the Southeast corner of the Southwest Quarter of Section 8, Township 12 South, Range 15 east of the 6th P.M.; thence northerly, on the East line of said Southwest Quarter, to the Southeast corner of Lot 19, Block "A", Southwest Meadows Subdivision; thence westerly, on the North line of S.W. 29th Street, and its extensions to the Southeast corner of Lot 1, Block "A", Mission Woods Subdivision No. 2; thence westerly on a line which is 50 feet north of the South line of the Southwest Quarter of Section 8, Township 12 South, Range 15 east of the 6th P.M. to a point which is 738.59 feet east of the Southwest corner of said Southwest Quarter; thence westerly on the North line of S.W. 29th Street, to an intersection with an extension of the East line of Sherwood Estates Subdivision No. 23; thence southerly on the East line of Sherwood Estates Subdivision No. 23, and its extension, to the Southeast corner of said subdivision; thence westerly on the South

line of said subdivision to an intersection with the East line of S.W. Urish Road, being a line which is 40 feet east of the West line of the Northwest Quarter of Section 17, Township 12 South, Range 15 east of the 6th P.M.; thence northerly, parallel with the West line of the Northwest Quarter of said Section 17 to an intersection with the North Line of said Northwest Quarter; thence northerly on a line which is 40 feet east of the West line of the Southwest Quarter of Section 8, Township 12 South, Range 15 east of the 6th P.M., to an intersection with an extension of the North line of SW 29th Street from the East, also being a line which is 50 feet north of the South line of said Southwest Quarter; thence westerly parallel with the South line of the Southwest Quarter of said Section 8 to an intersection with the West line of said Southwest Quarter; thence west-southwesterly to the intersection of the West line of Urish Road and the North line of SW 29th Street, being an intersection of a line which is 40 feet west of the East line of the Southeast Quarter of Section 7, Township 12 South, Range 15 east of the 6th P.M. with a line which is 40 feet north of the South line of said Southeast Quarter; thence northerly on said West line of Urish Road to the Southeast corner of Lot 1, Block "A", Good Shepherd Lutheran Church Subdivision; thence westerly on the South line of said Lot 1, 458.98 feet, to the East line of Lot 2, Block "A", of said subdivision; thence southerly on the East line of said Lot 2 to the North line of S.W. 29th Street; thence westerly on said North line to the Southwest corner of Lot 1, Block "A", Tallgrass Subdivision; thence northerly on the West line of said Lot 1, 1268.94 feet, to an intersection with the South line of the North Half of the South Half of Section 7, Township 12 south, Range 15 East of the 6th P.M.; thence westerly on the South line of the North Half of said South Half to a point that is 694.00 feet easterly of the West line of the Southwest Quarter of said Section 7; thence northerly, parallel with said West line, 200.00 feet; thence westerly parallel with the South line of the North Half of the Southwest Quarter, 654.00 feet, more or less, to an intersection with a line which is 25 feet east of the West line of said Southwest Quarter; thence southerly, parallel with the West line of said Southwest Quarter, to an intersection with the South line of the North Half of said Southwest Quarter; thence westerly on the South line of the North Half of said Southwest Quarter, to the Northeast corner of the South Half of the Southeast Quarter of Section 12, Township 12 South, Range 14 east of the 6th P.M.; thence westerly on the North line of the South Half of said Southeast Quarter, to an intersection with a line which is 52.50 feet west of the East line of said Southeast Quarter; thence on an assumed bearing of South 00°01'43" West, on a line which is parallel with the East line said Southeast Quarter, also being the West line of S.W. Indian Hills Road, to the most southerly Northeast corner of Lot 9, Block "D" in Sherwood Park Subdivision; thence South 05°44'27" West, 120.60 feet to an East corner of Lot 8, Block "D" in Sherwood Park Subdivision; thence South 00°01'43" West, 161.79 feet to an East corner of Lot 7, Block "D" in Sherwood Park Subdivision; thence South 45°31'42" West, 39.25 feet to a South corner of said Lot 7; thence North 88°58'19" West, 11.79 feet to a South corner of said Lot 7; thence South 87°12'50" West, 180.40 feet to a South corner of Lot 6, Block "D" in Sherwood Park Subdivision which is 50.50 feet east of the Southwest corner of said Lot 6; thence North 88°58'19" West, on a line which is 52.50 feet north of the South line of said Southeast Quarter, to an intersection with

the West line of said Southeast Quarter; thence on an assumed bearing of North 88°58'19" West, on a line which is 52.50 feet north of the Southwest Quarter of said Section 12, 748.83 feet to the Southwest corner of Lot 4, Block 'A' in Sherwood Park Subdivision No. 8; thence North 01°01'41" East, 1290.30 feet to the Northwest corner of Lot 31, Block 'A' in said subdivision; thence North 88°58'19" West, 64.07 feet to the Southwest corner of S.W, 27th Street in Sherwood Park Subdivision No. 8; thence North 00°09'46" East, 227.81 feet to the Northwest corner of Lot 1, Block 'C' in said subdivision; thence North 89°50'11" West 291.66 Feet; thence North 61°14'14" West, 478.62 feet; thence North 00°09'49" East, 900.00 feet to an intersection with the North line of said Southwest Quarter; thence South 89°01'00" East on the North line of said Southwest Quarter, 1494.56 feet to the Northwest corner of the Southeast Quarter of said Section 12; thence North 89°47'32" East, North American Datum 1983, Kansas North Zone, on the North line of said Southeast Quarter to an intersection with a line which is 25 feet westerly distant from the East line of the Northeast Quarter of said Section 12; thence North 1°22'07" West, parallel with the East line of said Northeast Quarter, 206.59 feet; thence South 88°37'53" West, 102.50 feet; thence North 51°38'47" West, 185.34 feet; thence South 89°47'32" West, 633.35 feet; thence North 2°56'05" West, 153.41 feet; thence North 26°38'39" East, 263.84 feet; thence North 36°58'43" East, 108.14 feet; thence North 46°11'26" East, 411.41 feet; thence North 37°52'30" East, 86.96 feet; thence North 34°50'57" West, 212.84 feet to a point on the South line of Lot 1, Block 'A' in Miller's Glen Subdivision; thence North 01°22'07" West, 130.00 feet; thence South 88°37'53" West, 125.00 feet; thence South 70°02'33" West, 411.40 feet; thence South 43°37'53" West, 472.50 feet; thence North 01°19'36" West, on the West line of the East Half of the Northeast Quarter of Section 12, Township 12 South, Range 14 east of the 6th P.M., 1623.48 feet to a point on a line which is 52.50 feet south of the North line of said Northeast Quarter; thence North 89°33'47" East, parallel with the North line of said Northeast Quarter, 765.65 feet; thence South 00°26'13" East, 38.58 feet; thence southeasterly, on a curve concave northeasterly, having a radius measure of 100.00 feet and an arc length of 78.54 feet, the chord of which bears South 22°56'13" East, 76.54 feet; thence South 45°26'13" East, 193.72 feet; thence southeasterly, on a curve concave southwesterly, having a radius measure of 200.00 feet and an arc length of 107.09 feet, the chord of which bears South 30°05'49" East, 105.82 feet; thence South 14°45'26" East, 41.00 feet; thence southeasterly, on a curve concave northeasterly, having a radius measure of 200.00 feet and an arc length of 110.34 feet, the chord of which bears South 30°33'47" East, 108.95 feet; thence South 46°22'07" East, 168.38 feet; thence North 88°37'53" East, 110.00 feet, to a point on a line which is 52.50 feet west of the East line of said Northeast Quarter, thence South 01°22'07" East, parallel with the East line of said Northeast Quarter, 329.06 feet; thence North 87°04'11" East, 52.52 feet, to the Southwest corner of the North 966.50 feet of the Northwest Quarter of Section 7, Township 12 South, Range 15 east of the 6th P.M.; thence on an assumed bearing of North 88°26'14" East, on the South line of said North 966.50 feet, to an intersection with the West line of the Northeast Quarter of Section 7, Township 12 South, Range 15 east of the 6th P.M.; thence northerly on the West line of the Northeast Quarter of said Section

7 to the Northwest corner of said Northeast Quarter; thence northerly to the Southwest corner of Tract 16 in Busby Subdivision; thence easterly to the Southwest corner of Tract 2 in Busby Subdivision; thence northerly to the Northwest corner of said Tract 2; thence easterly on the North line of Busby Subdivision, and its extension, to an intersection with a line which is 30 feet east of the West line of the Southwest Quarter of Section 5, Township 12 South, Range 15 east of the 6th P.M.; thence southerly parallel with the West line of said Southwest Quarter to the Southwest corner of Lot 45 in Broadview Acres; thence westerly on an extension of the South line of said Lot 45 to an intersection with a line which is 25 feet east of the West line of said Southwest Quarter; thence southerly parallel with the West line of said Southwest Quarter to an intersection with a line which is 30 feet north of the South line of said Southwest Quarter; thence easterly parallel with the South line of said Southwest Quarter to an intersection with an extension of the East line of Lot 4, Block "D" in Brookfield West Subdivision No. 3; thence southerly on said extension to the North line of the Northwest Quarter of Section 8, Township 12 South, Range 15 east of the 6th P.M.; thence southerly on said extension and on the East line of said Lot 4, 268.00 feet; thence east 163.00 feet; thence northerly on the West lines of Lots 10 and 11, Block "D" in Brookfield West Subdivision No. 3, to the Northwest corner of said Lot 11; thence easterly on a line which is 50 feet south of the North line of said Northwest Quarter to an intersection with an extension of the West line of the East Half of the East Half of the Southwest Quarter of Section 5, Township 12 South, Range 15 east of the 6th P.M.; thence North 0°1'15" East, North American Datum 1983, Kansas North Zone, on the West line of the East Half of the East Half of said Southwest Quarter, to a point on the South line of SW 17th Street, 52.56 feet southerly distant from the Northwest corner of the East Half of the East Half of said Southwest Quarter; thence South 87°43'46" West on a line which is 52.50 feet south of the North line of said Southwest Quarter, also being the South line of SW 17th Street, to an intersection with the West line of Lot 20 in Broadview Acres; thence northerly on the West line of Lot 20 to a point 15.02 feet southerly distant from the Northwest corner of said lot; thence westerly on a line which is 15 feet south of the North line of Lot 38 in Broadview Acres, and its extension, to a point 105.00 feet westerly distant from the East line of Lot 38; thence North 65°05'26" East, 32.84 feet to the North line of Lot 38; thence westerly on the North line of Lots 38 and 39 in Broadview Acres to a point which is 65.00 feet easterly distant from the Northwest corner of Lot 39; thence South 36°58'08" West, 47.74 feet; thence South 16°29'26" West, 52.37 feet to a point on a line which is 52.5 feet east of the West line of said Southwest Quarter; thence North 0°43'59" East parallel with the West line of said Southwest Quarter, to an intersection with the South line of the Northwest Quarter of said Section 5; thence North 0°53'14" East, on a line which is 52.5 feet east of the West line of said Northwest Quarter, 1589.09 feet; thence North 87°53'48" East parallel with the North line of said Northwest Quarter, 1601.67 feet to a point on the West line of Lot 1, Block A, Arbor Valley Subdivision; thence North 0°39'21" West on the West line of said Lot 1, to a point on a line which is 30 feet south of the North line of said Northwest Quarter; thence South 87°53'48" West on a line which is 30 feet south of the North line of the Northwest Quarter of said Section 5, 1601.44 feet to a point on a line which is 25 feet east of the West

line of said Northwest Quarter; thence North 00°53'14" East, parallel with the West line of said Northwest Quarter, 30.04 feet to a point on the North line of said Northwest Quarter; thence North 01°50'24" West, on a line which is 25 feet east of the West line of the Southwest Quarter of Section 32, Township 11 South, Range 15 east of the 6th P.M., 552.48 feet; thence North 87°53'51" East, 620.82 feet; thence north-northeasterly on a curve concave easterly, having a radius measure of 288.50 feet and an arc length of 236.75 feet, the chord of which bears North 22°25'24" East, 230.03 feet; thence North 37°31'27" East, 73.75 feet; thence North 87°53'51" East, 67.65 feet; thence South 61°37'24" East, 93.15 feet; thence North 87°18'00" East, 381.34 feet to a point on the West line of the Southeast Quarter of the Southwest Quarter of said Section 32; thence South 01°46'12" East on the West line of the Southeast Quarter of the Southwest Quarter of said Section 32, 111.59 feet to the Northwest corner of the South Half of the Southeast Quarter of the Southwest Quarter of said Section 32; thence North 87°54'38" East on the North line of said South Half, 1316.47 feet to a point on the West line of the Southeast Quarter of said Section 32; thence North 01°41'55" West on the West line of the Southeast Quarter of said Section 32, 666.05 feet, to the Northwest corner of the South Half of the Southeast Quarter of Section 32; thence easterly on the North line of the South Half of said Southeast Quarter, 186.92 feet, to the Westerly right-of-way line of U.S. Interstate Highway 470; thence northwesterly, on said Westerly right-of-way line, to a point on the North line of S.W. 10th Street; thence westerly on the North line of S.W. 10th Street, to an intersection with an extension of the East line of Red Oaks Place; thence on an assumed bearing of South 01°35'05" East, on the East line of Red Oaks Place, and its extension, 1367.31 feet, to the Southeast corner of Red Oaks Place; thence South 87°55'48" West, 1090.50 feet, to the East line of Urish Road; thence North 01°50'38" West, on the East line of Urish Road, and its extensions, 1327.96 feet, to an intersection with the North line of the Southwest Quarter of Section 32, Township 11 South, Range 15 east of the 6th P.M.; thence South 87°57'54" West, on the North line of said Southwest Quarter, to the Southeast corner of the Northeast Quarter of Section 31, Township 11 South, Range 15 east of the 6th P.M.; thence South 87°16'57" West on the South line of said Northeast Quarter, 40.01 feet; thence North 01°42'41" West parallel with the East line of said Northeast Quarter, 40.01 feet to the Southeast corner of Lot 1, Block 'A' in Gail Subdivision; thence South 87°16'57" West on the South line of Lot 1, 418.68 feet; thence South 89°11'01" West on the North line of SW 10th Street, 509.17 feet; thence North 70°28'23" West on the North line of SW 10th Street, 251.06 feet to the West corner of Lot 12, Block 'A' in Gail Subdivision; thence North 58°39'21" West, 60.29 feet to the South corner of Lot 2, Block 'A' in Gail Subdivision; thence northwesterly on the Southwest line of Lot 2 being a curve concave northeasterly, having a radius measure of 527.96 feet and an arc length of 130.17 feet, the chord of which bears North 43°36'28" West, 129.84 feet; thence North 01°04'20" West on the West line of Gail Subdivision, 631.43 feet to the Northwest corner thereof; thence North 87°24'52" East on the North line of Gail Subdivision, 835.00 feet; thence South 89°30'42" East on the North line of Gail Subdivision, 375.50 feet to a point on the West line of SW Urish Road; thence South 11°48'27" East on the West line of Urish Road, 409.64 feet;

775 thence North 88°17'19" East, 75.00 feet to an intersection with a line which is 25
776 feet east of the West line of the Northwest Quarter of Section 32, Township 11
777 South, Range 15 east of the 6th P.M.; thence North 01°42'41" West, parallel with
778 the West line of said Northwest Quarter, to an intersection with the North line of said
779 Northwest Quarter; thence North 87°45'17" East, 2613.78 feet, to the Northwest
780 corner of the Northeast Quarter of Section 32, Township 11 South, Range 15 east
781 of the 6th P.M.; thence easterly, on the South line of the Southeast Quarter of
782 Section 29, Township 11 South, Range 15 east of the 6th P.M., 134.78 feet; thence
783 northerly, at a right angle, 30.00 feet; thence westerly, parallel with the South line of
784 said Southeast Quarter, 134.33 feet; thence Northerly, on the West line of said
785 Southeast Quarter, to the Northwest corner of Lot 15, Block 'A' in River Hill
786 Residential Subdivision; thence westerly on the North line of the South Half of the
787 Southwest Quarter of said Section 29, to the most westerly Southwest corner of Lot
788 13, Block 'A' in River Hill Residential Subdivision; thence northerly to the Northwest
789 corner of said Lot 13; thence easterly, to the Northeast corner of Lot 11, Block 'A' in
790 River Hill Residential Subdivision; thence southerly, to the Northwest corner of Lot
791 10, Block 'A' in River Hill Residential Subdivision; thence on an assumed bearing of
792 North 87°45'41" East, on a North line of River Hill Residential Subdivision, 996.42
793 feet; thence North 00°42'20" West, 39.40 feet; thence North 87°45'41" East, on a
794 North line of River Hill Residential Subdivision, 330.00 feet, to an intersection with
795 the West line of the Southwest Quarter of Section 28, Township 11 South, Range
796 15 east of the 6th P.M.; thence on an assumed bearing of North 01°23'09" East, on
797 the West line of the last said Southwest Quarter, to the Southwest corner of the
798 Northwest Quarter of said Section 28; thence North 00°27'26" East, on the West
799 line of said Northwest Quarter, to the Northwest corner of Lot 1, Block A in
800 Menninger Subdivision; thence easterly, on the North line of said Lot 1, to the
801 Northeast corner of said Lot 1; thence northerly, on the West line of the Northeast
802 Quarter of said Section 28, to the South bank of the Kansas River; thence
803 continuing northerly on the West lines of the East Halves of Sections 28 and 21,
804 Township 11 south, Range 15 east of the 6th P.M., to the North line of Lower Silver
805 Lake Road; thence east on the North line of Lower Silver Lake Road to the East line
806 of Menoken Road; thence northerly on the East line of Menoken Road, 1281.10
807 feet; thence easterly on the North line of Sun Valley Subdivision No. 2 to the
808 Northeast corner thereof; thence southerly on the East line of said subdivision,
809 1279.38 feet, to the North line of Lower Silver Lake Road; thence easterly on said
810 North line to the West line of Kaw Half-Breed Reserve No. 1; thence north on the
811 West line of Kaw Half-Breed Reserve No. 1, to the Northwest corner of said
812 Reserve No. 1; thence northeasterly to the intersection of the North right-of-way line
813 of U.S. Highway No. 24 and the West line of the Southwest Quarter of Section 14,
814 Township 11 South, Range 15 east of the 6th P.M. said point being 100.00 feet
815 north of the Centerline of U.S. Highway 24; thence on an assumed bearing of North
816 00°25'08" West, 1065.79 feet, to a point which is 287.2 feet south of the Northwest
817 corner of said Southwest Quarter, being an intersection with the Northwest line of
818 US Highway 75; thence South 52°13'52" West, on the Northwest line of US
819 Highway 75, 25.16 feet; thence North 00°25'08" West, on a line which is 20 feet
820 west of the East line of Lot 3 in Section 15, Township 11 South, Range 15 east of

821 the 6th P.M., 302.19 feet, to a point on the North line of said Lot 3; thence North
822 01°18'04" East, on a line which is 20 feet west of the East line of Lot 2 in said
823 Section 15, 18.96 feet; thence North 88°12'36" East, on a line which is 30 feet
824 north of the Centerline of Northwest 25th Street, 1010.99 feet; thence North
825 01°47'24" West, 92.55 feet; thence North 37°59'36" East on the Southeast line of
826 US Highway 75, 364.65 feet to the Northwest corner of Lot 1, Block A in ADR
827 Industrial Park; thence North 38°01'44" East on the Southeast line of US Highway
828 75, 266.26 feet to the North corner of said Lot 1; thence South 51°59'33" East on
829 the Northeast line of Lot 1, 89.98 feet to the Northeast corner of said lot; thence
830 North 38°03'02" East on a West line of Lot 4, Block A in ADR Industrial Park, 89.91
831 feet; thence North 51°59'33" West on a West line of said Lot 4, 90.03 feet; thence
832 North 37°44'54" East on a West line of Lot 4, 15.74 feet; thence North 4°25'54"
833 West on the East line of US Highway 75, 367.87 feet; thence North 3°20'43" East
834 on the East line of US Highway 75, 87.90 feet to a corner of Lot 7, Block A in ADR
835 Industrial Park; thence South 86°36'56" East on a West line of said Lot 7, 89.99
836 feet; thence North 3°26'25" East on a West line of Lot 7, 89.99 feet; thence North
837 86°36'56" West on a West line of Lot 7, 90.12 feet; thence North 3°30'12" East,
838 189.43 feet to the most westerly Northwest corner of Lot 7; thence South 79°14'42"
839 East on the North line of Lot 7, 165.81 feet; thence North 28°08'28" East on a West
840 line of Lot 7, 224.70 feet; thence North 46°43'13" East on a Northwest line of Lot 7,
841 53.39 feet; thence South 85°46'45" East, 24.67 feet to the Northeast corner of Lot 7;
842 thence South 2°00'04" East, on the East line of Lot 7, 82.48 feet to the Northwest
843 corner of Lot 8, Block A in ADR Industrial Park; thence South 41°23'22" East,
844 645.35 feet to the most easterly Northeast corner of Lot 9, Block A in ADR Industrial
845 Park; thence South 1°42'26" East, 988.68 feet to the Southeast corner of Lot 11,
846 Block A in ADR Industrial Park; thence South 1°41'17" East, 37.50 feet to an
847 intersection with the South line of the Northwest Quarter of said Section 14; thence
848 continuing on South 1°41'17" East to the South line of NW 25th Street; thence
849 South 89°49'44" West on a line which is 30 feet south of the Centerline of NW 25th
850 Street, also being the South line of NW 25th Street, 437.89 feet; thence South
851 75°49'43" West on the South line of NW 25th Street, 163.8 feet; thence South
852 84°49'43" West on the North line of Lot 1, Block "A" in Midwest Subdivision No. 2,
853 136.9 feet to the Northwest corner of said lot; thence South 87°12'27" West, 200.66
854 feet to the Northeast corner of Lot 1, Block 'A' in BRB Subdivision No. 2; thence
855 South 04°20'53" East, 375.00 feet; thence South 11°14'02" West, 519.20 feet;
856 thence South 41°56'26" West, 471.70 feet, to the south corner of BRB Subdivision
857 No.2; thence easterly, on a line which is 150.00 feet north of the Centerline of US
858 Highway 24 to the East right-of-way line of the Chicago Rock Island and Pacific
859 Railroad; thence northerly on the East right-of-way line of said railroad to its
860 intersection with the West line of Section 18, Township 11 south, Range 16 east of
861 the 6th P.M.; thence north on the West line of said Section 18 to the South line of
862 Menninger Road; thence west on the South line of Menninger Road to its
863 intersection with the West line of Green Hills Road; thence north on said West line
864 to its intersection with the South line of the Southeast Quarter of Section 12,
865 Township 11 South, Range 15 East of the 6th P.M.; thence westerly on said South
866 line to the East right-of-way line of the Chicago Rock Island and Pacific Railroad;

thence northwesterly on said East line to the South line of N.W. 35th Street; thence easterly on said South line to the Northeast corner of Lot 1, Block "D", Forest Hills Estates Subdivision; thence southerly on the East lines of Lots 1 and 2, Block "D" in said subdivision to the Southeast corner of Lot 2, Block "D" in said subdivision; thence easterly, 242.00 feet south of and parallel with the North line of said Southeast Quarter, to an intersection with the East line of Green Hills Road; thence southerly on the said East line of Green Hills Road to an intersection with a line which is 20 feet north of the South line of the Southwest Quarter of Section 7, Township 11 South, Range 16 east of the 6th P.M.; thence easterly, parallel with the South line of the Southwest Quarter of said Section 7, to an intersection with an the West line of Daisy Brown Martin Subdivision; thence northerly, to the Southwest corner of Lot 11 in said subdivision; thence easterly, on the North line of Menninger Road, to the Southeast corner of Lot 36 in Daisy Brown Martin Subdivision; thence southerly, on an East line of Daisy Brown Martin Subdivision, to an intersection with a line which is 20 feet north of the South line of the Southwest Quarter of said Section 7; thence easterly, on an assumed bearing of North 88°20'01" East, parallel with the South line of the Southwest Quarter of said Section 7, to an intersection with the West line of Rochester Cemetery; thence North 00°51'36" West, 1467.73 feet; thence North 89°40'29" East, on the North line of Rochester Cemetery, 98.5 feet to the Southeast corner of Lot 49 in Daisy Brown Martin Subdivision; thence North 01°24'25" West, 323.50 feet, to the Northeast corner of said Lot 49; thence South 86°51'36" West, 434.00 feet, to the Northwest corner of said Lot 49; thence North 01°24'25" West, parallel with the West line of the Southwest Quarter of said Section 7, 467.64 feet; thence South 88°05'43" West, parallel with the North line of the Southwest Quarter of said Section 7, 50.0 feet; thence North 01°24'25" West, parallel with the West line of the Southwest Quarter of said Section 7, 300.0 feet; thence North 88°05'43" East, parallel with the North line of the Southwest Quarter of said Section 7, 50.0 feet; thence North 01°24'25" West, 60.0 feet, to an intersection with a line which is 20 feet south of the North line of the Southwest Quarter of said Section 7; thence North 88°05'43" East, parallel with the North line of the Southwest Quarter of said Section 7, 970.09 feet; thence South 01°26'37" East, parallel with the East line of said Southeast Quarter, 580.0 feet; thence North 88°05'43" East, parallel with the North line of said Southwest Quarter, 179.50 feet, to an intersection with the West line of the Southeast Quarter of said Section 7; thence North 88°17'11" East, parallel with the North line of the Southeast Quarter of said Section 7, 200.0 feet; thence South 01°26'37" East, parallel with the West line of the Southeast Quarter of said Section 7, 1739.28 feet; thence South 88°01'54" West, parallel with the South line of said Southeast Quarter, 200 feet; thence South 01°26'37" West, on the West line of said Southeast Quarter, 289.97 feet, to an intersection with a line which is 20 feet north of the South line of the Southeast Quarter of said Section 7, also being the North line of Menninger Road; thence easterly, parallel with the South line of said Southeast Quarter, to an intersection with an extension of the West line of Lot 2A in Tolin Subdivision; thence northerly, to the Southwest corner of Lot 2A in Tolin Subdivision; thence easterly, to the Southeast corner of Lot 1A in Tolin Subdivision; thence southerly, on an extension of the East line of Lot 1A in Tolin Subdivision to

an intersection with a line which is 20 feet north of the South line of the Southeast Quarter of said Section 7; thence easterly, parallel with the South line of said Southeast Quarter, to an intersection with the West line of Ward Lot Subdivision; thence northerly, to the Southwest corner of Ward Lot; thence easterly, to the Southeast corner of Ward Lot; thence southerly, on the East line of Ward Lot Subdivision, to an intersection with a line which is 20 feet north of the South line of the Southeast Quarter of said Section 7; thence easterly, parallel with the South line of said Southeast Quarter, to an intersection with the Centerline of Rochester Road; thence northerly on the Centerline of Rochester Road, to an intersection with a line which is 50 feet north of the South line of the Southeast Quarter of said Section 7; thence easterly parallel with the South line of said Southeast Quarter, to an intersection with the West line of the Southwest Quarter of Section 8, Township 11 South, Range 16 east of the 6th P.M.; thence northerly to the Southwest corner of Lot 1 in Dale Lots; thence easterly, to the Southeast corner of Lot 2 in Dale Lots; thence southerly, on an extension of the East line of Dale Lots subdivision, to an intersection with a line which is 50 feet north of the South line of the Southwest Quarter of said Section 8; thence easterly, parallel with the South line of said Southwest Quarter, to an intersection with the West line of the East Half of said Southwest Quarter; thence southerly, to an intersection with a line which is 8 feet north of the South line of said Southwest Quarter; thence easterly, parallel with the South line of said Southwest Quarter, to a point which is 496 feet east of the Southwest corner of the East Half of the Southwest Quarter of said Section 8, as measured on and normal from said South line; thence east-northeasterly, to an intersection with a line which is 20 feet north of the South line of the East Half of said Southwest Quarter, at a point which is 678 feet east of the Southwest corner of the East Half of said Southeast Quarter, as measured on and normal from said South line; thence easterly, parallel with the South line of the East Half of said Southwest Quarter, to an intersection with the West line of the Southeast Quarter of said Section 8; thence easterly, on a line which is 20 feet north of the South line of said Southeast Quarter, to an intersection with a line which is 30 feet east of the West line of said Southeast Quarter; thence southerly, parallel with the West Line of said Southeast Quarter, to an intersection with the North line of Section 17, Township 11 south, Range 16 east of the 6th P.M.; thence easterly, on the North line of said Section 17, to the East Right-of-way line of Soldier Creek Cutoff and Channel Improvement; thence southerly and easterly on said right-of-way line to the East line of Kaw Half-Breed Reserve No. 5; thence southerly, 592.92 feet on said East line to its intersection with the Centerline of Indian Creek, the same being the Northwest corner of Hillyers Subdivision; thence in an easterly direction, following the meandering of said Indian Creek, to a point which is 17.00 chains west of the East line and 14.13 chains north of the Southeast corner of the Northeast Quarter of Kaw Half-Breed Reserve No. 6; thence southerly, parallel with the East line of said Kaw Reserve No. 6 about 51.50 chains distance to the North Bank of the Kansas River; thence northwesterly on the said Kansas River bank to the intersection with the East line of Oakland Addition when extended north; thence southerly, on said extension of the East line of Oakland Addition to the Northeast corner of said addition; thence continuing southerly on the East line of said addition, to a point

2657.77 feet north of the Southwest corner of Section 22; thence on an assumed bearing of North 88°34'44" East, 139.90 feet; thence South 47°09'21" East, 1915.20 feet; thence North 00°12'26" East, 2260.65 feet; thence South 61°49'02" East, 353.78 feet; thence South 53°47'05" East, 788.21 feet; thence South 74°58'05" East, 119.87 feet, to the West line of N.E. Lahr Avenue; thence South 00°06'44" East, on the West line of Lahr Avenue, 1569.01 feet, to the South line of the North Half of the Southwest Quarter of said Section 22; thence easterly on said South line, 30.00 feet, to the Northeast corner of the South Half of the Southwest Quarter of said Section 22; thence southerly, 1320 feet, more or less, to the Southeast corner of the Southwest Quarter of said Section 22; thence easterly, on the North line of Section 27, Township 11 South, Range 16 east, of the 6th P.M., to the Northeast corner of said section; thence southerly, on the East line of said Section 27, 2656.13 feet, to the Southwest corner of the Northwest Quarter of Section 26, Township 11 South, Range 16 east, of the 6th P.M.; thence easterly 35 rods to the East Bank of the Shunganunga Creek (old channel); thence northeasterly on said East Bank, 35 rods; thence northwesterly, at right angles to the East Bank, to the Centerline of said creek; thence northeasterly, easterly and southeasterly down the Centerline of said creek and along its meandering to its intersection with the North line of the South Half of the Southwest Quarter of said Section 26; thence east on the North line of the South Half of the Southwest Quarter to the West line of N.E. Kincaid Road; thence southerly, on the West line of N.E. Kincaid Road, 1279.71 feet to the North line of Seward Avenue; thence westerly on the North line of Seward Avenue to the West line of Section 26, also being the East line of Section 27; thence on an assumed bearing of South 88°31'13" West, on a line which is 40.00 feet north of the South line of said Section 27, 195.00 feet; thence North 00°07'48" East, 869.29 feet; thence North 47°02'26" West, 599.73 feet, to a point on the North line of the South Half of the Southeast Quarter of Section 27; thence west on the North line of the South Half of the Southeast Quarter of Section 27, Township 11 South, Range 16 east of the 6th P.M., 97.87 feet; thence southerly 664.53 feet, to the North line of the South Half of the South Half of the Southeast Quarter of said Section 27; thence westerly 200.00 feet; thence southwesterly 640.00 feet, more or less, to a point 330 feet north of the South line of Section 27; thence westerly, on a line 330 feet north of and parallel with the South line of said Section 27, 750.00 feet, more or less; thence south to the North line of Section 34, Township 11 South, Range 16 east of the 6th P.M.; thence west 464.21 feet to the Northeast corner of the Northwest Quarter of said Section 34; thence southerly, to the Northeast corner of the Southwest Quarter of said Section 34; thence southerly, to the point of beginning.

EXCEPTION I:

Beginning at the intersection of the South line of the Northwest Quarter of Section 21, Township 12 South, Range 15 east with a line which is 25 feet east of the West line of said Northwest Quarter; thence North 88°38'20" East, on the South line of said Northwest quarter, 1947.07 feet, to the Northeast corner of Clarion Lakes Subdivision; thence South 01°21'40" East, on an East line of Clarion Lakes Subdivision, 81.00 feet; thence North 88°38'20" East, 34.88 feet; thence North

1005 86°43'47" East, 180.10 feet; thence North 88°38'20" East, 332.51 feet; thence
1006 southeasterly, on a curve concave southwesterly, having a radius measure of
1007 977.50 feet an arc length of 352.28 feet, the chord of which bears South 81°02'12"
1008 East, 350.38 feet; thence South 70°42'44" East, 708.74 feet; thence southeasterly,
1009 on a curve concave northeasterly, having a radius measure of 790.00 feet and an
1010 arc length of 265.94 feet, the chord of which bears South 80°21'22" East, 264.69
1011 feet; thence South 90°00'00" East, 8.57 feet; thence northeasterly, on a curve
1012 concave northwesterly, having a radius measure of 1010.00 feet and an arc length
1013 of 696.50 feet, the chord of which bears North 70°14'39" East, 682.79 feet; thence
1014 North 50°29'18" East, 44.78 feet; thence North 50°29'18" East, 44.78 feet; thence
1015 North 54°02'14" East, 334.87 feet; thence South 88°46'43" West, on the South
1016 line of the Northeast quarter of said Section 21, to an intersection with a line which
1017 is 658.38 feet east of the West line of said Northeast Quarter; thence northerly, on a
1018 line which is 658.38 feet east of the West line of said Northeast Quarter, 1322.05
1019 feet; thence westerly, on the South line of Clarion Woods Subdivision No.2, 658.38
1020 feet to the Southeast corner of the North Half of the Northwest Quarter of said
1021 Section 21; thence westerly, on the South line of the North Half of said Northwest
1022 Quarter, to an intersection with a line which is 25 feet east of the West line of said
1023 Northwest Quarter; thence southerly, parallel with the West line of said Northwest
1024 Quarter, to the point of beginning.

1025 EXCEPTION II:

1026 Beginning at the Northeast corner of Lot 22, Block A in Kankis Square Subdivision;
1027 thence southerly to the Southeast corner of Lot 17, Block A in said subdivision;
1028 thence westerly, to the Southwest corner of Lot 1, Block A in said subdivision;
1029 thence northerly, to the Northwest corner of Lot 4, Block A in said subdivision;
1030 thence easterly, to the point of beginning.

1031 EXCEPTION III:

1032 A tract in the North Half of the Southwest Quarter of Section 7, Township 12 South,
1033 Range 15 east of the 6th P.M., in Shawnee County Kansas, described as:
1034 Commencing at the Southwest corner of the North Half of said Southwest Quarter;
1035 thence North 1°09'04" West, North American Datum 1983, Kansas North Zone, on
1036 the West line of said Southwest Quarter, 260.34 feet to the North line of SW 27th
1037 Street; thence North 86°49'01" East on the North line of SW 27th Street, 25.00 feet
1038 to the point of beginning; thence continuing on North 86°49'01" East, 343.96 feet to
1039 the Southwest corner of Lot 1, Block 'A' in West Indian Hills Subdivision No. 12;
1040 thence North 1°12'01" West, 199.88 feet to the Northwest corner of said Lot 1;
1041 thence South 86°49'01" West on the South line of West Indian Hills Subdivision,
1042 343.79 feet to an intersection with a line which is 25 feet east of said Southwest
1043 Quarter; thence South 1°09'04" East, 199.89 feet to the point of beginning.

1044 EXCEPTION IV:

1045 Beginning at the intersection of an extension of the North line of S.W. 26th Street in
1046 West Indian Hills Subdivision with a line which is 25 feet east of the West line of the
1047 Southwest Quarter of Section 7, Township 12 South, Range 15 east of the 6th P.M.;
1048 thence easterly to the Southwest corner of Lot 8, Block B in West Indian Hills
1049 Subdivision; thence northerly to the Southeast corner of Lot 3, Block B in said
1050 subdivision; thence easterly, on the South lines of Lots 3, 2, 1 and the extension of

the South line of Lot 1, to an intersection with a line which is 25 feet east of the west line of said Southwest Quarter; thence southerly to the point of beginning.

EXCEPTION V:

Commencing at the Northwest corner of the Northwest Quarter of Section 28, Township 12 South, Range 16 east of the 6th PM; thence South 1°43'04" East, North American Datum 1983, Kansas North Zone, on the West line of said Northwest Quarter, 50.00 feet to an intersection with a line which is 50 feet south of the North line of said Northwest Quarter; thence North 88°35'26" East, parallel with the North line of said Northwest Quarter, 336.57 feet to the point of beginning; thence South 1°34'44" East, 250.41 feet; thence North 88°35'26" East, 145.00 feet; thence North 1°32'08" West, 250.41 feet to a point on a line which is 50 feet south of the North line of said Northwest Quarter; thence South 88°35'26" West, parallel with the North line of said Northwest Quarter, 144.97 feet to the point of beginning.

B. Outer Corporate Boundary:

Beginning at the Northeast corner of the Northwest Quarter of Section 1, Township 13 South, Range 15 east of the 6th P.M.; thence on an assumed bearing of South 00°16'44" East, on the East line of said Northwest Quarter, 2517.10 feet, to a point 81.00 feet north of the Southeast corner of said Northwest Quarter; thence South 88°25'05" West, 1319.37 feet, to a point on the West line of the East Half of said Northwest Quarter which is 53.50 feet north of the Southwest corner of the East Half of said Northwest Quarter; thence North 00°13'17" West, 2539.18 feet, to the Northwest corner of the East Half of said Northwest Quarter; thence North 89°22'35" East, 1316.51 feet, to the point of beginning. EXCEPT, a strip of land 20.00 feet in width, in the Northwest Quarter of Section 1, Township 13 south, Range 15 east of the 6th P.M. lying 10.00 feet on each side of the following described centerline: Beginning at a point on the North line of said Northwest Quarter of Section 1, which is 40.00 feet west of the Northeast corner of said Northwest Quarter; thence southerly parallel to the East line of said Northwest Quarter, 2097.40 feet; thence easterly parallel with the North line of said Northwest Quarter, 40.00 feet to the East line of said Northwest Quarter, containing 75.50 acres, more or less.

Also: Beginning at a point which is 40.00 feet south and 40.00 feet east of the Northwest corner of the Northwest Quarter of Section 14, Township 12 south, Range 16 east of the 6th P.M.; thence easterly, parallel with and 40.00 feet south of the North line of said section, 1290.45 feet to the Northwest corner of Lot 1, Block "A", Fair Meadows Subdivision; thence southerly, on the West line of said subdivision, 1278.42 feet to the Southeast corner of Lot 1, Block "D", Thunderbird Subdivision No. 2; thence westerly, on an assumed bearing of South 89°51'12" West, 9.34 feet; thence South 00°20'18" East, 439.60 feet; thence South 89°48'15" West, 1320.00 feet, to a point on the West line of said Northwest Quarter; thence North 00°23'05" West, on the West line of said Northwest Quarter, 440.65 feet; thence North 89°51'12" East, 40.00 feet; thence northerly, parallel with

and 40.00 feet east of the West line of said Northwest Quarter, 1278.42 feet, to the point of beginning.

A tract of land in the Southwest Quarter and the Southeast Quarter of Section 7, and in the Southwest Quarter and the Southeast Quarter of Section 8, and the Northeast Quarter and the Southeast Quarter of Section 18, all in Township 13 South, Range 16 east of the 6th P.M., in Shawnee County, Kansas described as: Commencing at the Northwest corner of said Southwest Quarter of Section 7, thence on an assumed bearing of North 88°07'18"East, on the North line of the Southwest Quarter of Section 7, 213.70 feet to a point on the Easterly Right of Way line of former U.S. Highway No. 75 and the point of beginning; thence continuing North 88°07'18"East, on the North line of said Southwest Quarter, said North line being coincident with the South line of Forbes Field Subdivision, 2268.55 feet, to the Northeast corner of said Southwest Quarter of Section 7; thence continuing North 88°07'18"East, on the North line of said Southeast Quarter of Section 7, said North line being coincident with the South line of Forbes Field Subdivision, 1409.90 feet; thence South 02°04'31" East, parallel with the East line of said Southeast Quarter of Section 7 and on a boundary line of Forbes Field Subdivision, 650.00 feet; thence North 88°07'18" East, parallel with the North line of said Southeast Quarter of Section 7 and on a Southerly line of Forbes Field Subdivision, 1240.00 feet to a point on the East line of said Southeast Quarter of Section 7; thence North 88°27'18" East, parallel with the North line of said Southwest Quarter of Section 8, and on a Southerly line of Forbes Field Subdivision, 1147.85 feet; thence South 63°25'07" East, on said Southerly line of Forbes Field Subdivision, 1670.29 feet, to a point on the East line of said Southwest Quarter of Section 8; thence continuing South 63°25'07"East, on said Southerly line of Forbes Field Subdivision, 900.22 feet; thence North 86°16'27" East, on said Southerly line of Forbes Field Subdivision, 1053.80 feet; thence North 55°11'33" East, on said Southerly line of Forbes Field Subdivision, 910.15 feet to a point on the East line of said Southeast Quarter of Section 8; thence South 02°32'18" East, on the East line of said Southeast Quarter, 1318.30 feet to the Southeast corner of the Southeast Quarter of said Section 8; thence South 88°14'08" West, on the South line of said Southeast Quarter, 2612.01 feet to the Southwest corner of said Southeast Quarter; thence South 88°19'21" West, on the South line of said Southwest Quarter of Section 8, 2621.19 feet to the Southwest corner of said Southwest Quarter; thence South 02°22'39" East, on the East line of said Northeast Quarter of Section 18, 2638.05 feet to the Southeast corner of said Northeast Quarter of Section 18; thence South 02°22'27" East, on the East line of said Southeast Quarter of Section 18, 1318.96 feet, to the Southeast corner of the North Half of said Southeast Quarter of Section 18; thence South 88°00'15" West on said South line of the North Half of said Southeast Quarter of Section 18, 2638.04 feet to the Southwest corner of said North Half of the Southeast Quarter of Section 18; thence North 02°18'32" West, on the West line of said Southeast Quarter of Section 18, 1319.82 feet to the Northwest corner of said Southeast Quarter; thence North 02°18'22" West, on the West line of said Northeast Quarter of Section 18, 2629.66 feet to the Northwest corner of said Northeast Quarter; thence South 88°23'32" West, on the

South line of the Southwest Quarter of Section 7, 2146.71 feet, thence on a bearing of North 01°52'44" West, parallel with the West line of said Southwest Quarter of Section 7, 361.50 feet; thence South 88°23'32" West, parallel with the South line of said Southwest Quarter of Section 7, 216.30 feet, to the Southeast corner of Quality Oil Subdivision No. 3; thence North 01°52'44" West, on the East line of said Quality Oil Subdivision No. 3, and parallel with the West line of said Southwest Quarter of Section 7, 299.83 feet (300.00 feet plat) to the Northeast corner of said Quality Oil Subdivision No. 3; thence South 88°23'32" West, on the North line of said Quality Oil Subdivision No. 3, and parallel with the South line of said Southwest Quarter of Section 7, 94.74 feet, to the Northwest corner of said Quality Oil Subdivision No. 3; thence North 01°55'59" West, on the Easterly Right of Way line of former US Highway 75, 906.14 feet; thence North 88°07'18" East, on the Easterly Right of Way line of said highway and parallel with the North line of said Southwest Quarter of Section 7, 9.90 feet; thence North 04°18'42" East, on said Easterly Right of Way line, 288.60 feet; thence North 06°49'42" East, on said Easterly Right of Way line, 813.00 feet to the point of beginning. Contains 689.944 acres, more or less.

A tract of land in the North Half of the Southwest Quarter of Section 9, Township 13 south, Range 16 east of the 6th P.M., in Shawnee County, Kansas, described as:

Beginning at the Southwest corner of said North Half of said Southwest Quarter; thence on an assumed bearing of North 33°02'55" East, on the Southerly line of Forbes Field Subdivision, 484.30 feet; thence North 26°33'23" East, on said Southerly line, 580.54 feet; thence North 02°21'27" East, on said Southerly line, 412.03 feet to a point on the North line of the North Half of said Southwest Quarter; thence North 88°27'10" East, on said North line, 2064.05 feet to the Northeast corner of the North Half of said Southwest Quarter; thence South 00°19'58" East, on the East line of the North Half of said Southwest Quarter, 1325.13 feet to the Southeast corner of the North Half of said Southwest Quarter; thence South 88°31'16" West, on the South line of the North Half of said Southwest Quarter, 2658.73 feet to the point of beginning. Contains 69.093 acres, more or less.

A tract of land in the Southwest Quarter of Section 10, Township 12 south, Range 16 east of the 6th P.M., in Shawnee County, Kansas, described as:

Beginning at a point which is 250.00 feet east and 50.00 feet north of the Southwest corner of said Southwest quarter, thence on an assumed bearing of North 89°04'15" East, on the North line of 29th Street, 365.00 feet; thence North 00°00'00" East, 32.64 feet measured (35.00 feet described); thence on a curve to the left, having a radius measure of 146.09 feet measured (146.11 described) an arc distance of 229.48 feet measured (229.51 feet described); thence South 00°00'00" East, 35.28 feet; thence North 56°00'00" West, 264.00 feet; thence South 00°00'00" West, 297.00 feet to the point of beginning. Contains 1.62 acres.

A tract in the South Half of Section 22, Township 12 South, Range 16 east of the 6th P.M., in Shawnee County, Kansas, described as: Beginning at the Southeast corner of the Southeast Quarter of said Section 22; thence on an assumed bearing

1189 of North 89°52'00" West on the South line of said Southeast Quarter, 2643.81 feet,
1190 to the Southwest corner thereof; thence South 89°54'30" West, on the South line of
1191 the East Half of the Southeast Quarter of the Southwest Quarter of said Section 22,
1192 660.93 feet, to the Southwest corner of said East Half; thence North 00°11'08"
1193 West on the West line of said East Half, 1319.23 feet, to the Northwest corner of
1194 said East Half; thence North 89°55'34" East, on the North line of said East Half,
1195 661.52 feet, to the Northeast corner of said East Half; thence North 00°09'36"
1196 West, on the West line of the Southeast Quarter of said Section 22, 185.85 feet;
1197 thence North 14°08'29" East, 588.22 feet; thence North 29°50'56" East, 179.74
1198 feet; thence North 45°33'23" East, 581.97 feet, to a point on the North line of the
1199 Southeast Quarter of said Section 22; thence North 89°56'57" East, on the North
1200 line of the last said Southeast Quarter, 1998.36 feet, to the Northeast corner of said
1201 Southeast Quarter; thence South 00°01'17" East, on the East line of said
1202 Southeast Quarter, 2646.58 feet, to the point of beginning.
1203 Contains 174.81 acres, more or less.
1204

1205 A tract in the Southwest Quarter and in the Southeast Quarter of Section 12, and in
1206 the Northwest, Northeast, Southeast and Southwest Quarters of Section 13, all in
1207 Township 13 South, Range 15 east of the 6th P.M. in Shawnee County, Kansas,
1208 described as: Beginning at the Southwest corner of the Southwest Quarter of said
1209 Section 12; thence on an assumed bearing of North 1°51'46" West, on the West line
1210 of said Southwest Quarter, 599.36 feet to a point on the Centerline of Gary Ormsby
1211 Drive; thence North 61°43'34" East on said Centerline, 1339.14 feet; thence
1212 northeasterly on a curve concave northwesterly, being the Centerline of Gary
1213 Ormsby Drive, having a radius measure of 1640.42 feet and an arc length of 643.64
1214 feet, the chord of which bears North 50°29'09" East, 639.51 feet; thence North
1215 39°14'48" East on said Centerline, 837.48 feet; thence northeasterly and easterly on
1216 a non-tangential curve concave southeasterly, being the Centerline of Gary Ormsby
1217 Drive, having a radius measure of 1312.33 feet and an arc length of 858.20 feet, the
1218 chord of which bears North 57°56'40" East, 843.00 feet to a point on the North line
1219 of the Southeast Quarter of said Section 12; thence North 88°31'48" East on the
1220 North line of said Southeast Quarter, 2113.26 feet to an intersection with the West
1221 line of the 100 feet wide strip of the Burlington North Santa Fe Railway Company;
1222 thence South 16°11'04" West on the West line of said 100 feet wide strip, 2824.31
1223 feet to a point on the South line of said Southeast Quarter; thence continuing on
1224 South 16°11'04" West on the West line of said 100 feet wide strip, 1180.97 feet;
1225 thence continuing south-southwesterly on the West line of said 100 feet wide strip
1226 being a curve concave westerly, having a radius measure of 2722.53 feet and an
1227 arc length of 565.36 feet, the chord of which bears South 22°08'01" West, 564.34
1228 feet; thence South 28°04'57" West on the West line of said 100 feet wide strip,
1229 1149.58 feet to an intersection with the South line of the Northeast Quarter of said
1230 Section 13 at a point 422.07 feet easterly distant from the Southwest corner of said
1231 Northeast Quarter; thence continuing on South 28°04'57" West on the West line of
1232 said 100 feet wide strip, 644.33 feet; thence continuing southwesterly on the West
1233 line of said 100 feet wide strip being a curve concave easterly, having a radius
1234 measure of 3869.83 feet and an arc length of 211.12 feet, the chord of which bears

South 26°31'11" West, 211.09 feet to an intersection with the West line of the Southeast Quarter of said Section 13 at a point 746.69 feet southerly distant from the Northwest corner of the last said Southeast Quarter; thence continuing southwesterly on the West line of said 100 feet wide strip being a curve concave easterly, having a radius measure of 3869.83 feet and an arc length of 311.50 feet, the chord of which bears South 22°39'03" West, 311.42 feet to an intersection with the East right of way line of US 75 Highway; thence North 42°32'49" West on said East right of way line, 510.92 feet; thence North 38°07'05" West on said East right of way line, 803.03 feet to an intersection with the North line of the Southwest Quarter of said Section 13 at a point 937.10 feet westerly distant from the Northeast corner of the last said Southwest Quarter; thence North 36°49'35" West on said East right of way line, 600.40 feet; thence North 41°50'35" West on said East right of way line, 401.50 feet; thence North 35°42'46" West on said East right of way line, 1981.44 feet to an intersection with the West line of the Northwest Quarter of said Section 13; thence North 1°43'56" West on the West line of said Northwest Quarter, 208.94 feet to the point of beginning.
Contains 405.17 acres, more or less.

A tract in the Southeast Quarter of Section 12 and in the Northeast Quarter of Section 13, all in Township 13 South, Range 15 east of the 6th P.M. in Shawnee County, Kansas, described as: Commencing at the Northeast corner of said Northeast Quarter; thence on an assumed bearing of South 1°52'42" East on the East line of said Northeast Quarter, 61.94 feet; thence South 88°07'18" West, 180.74 feet to the Northeast corner of Lot 1, Block 'A' in Williamsport Subdivision as recorded in Plat Book 40, page 67 in the Office of the Shawnee County Register of Deeds, said Northeast corner of Lot 1 being the point of beginning; thence North 79°08'42" West on the North line of said Lot 1, 292.24 feet to the North line of said Northeast Quarter; thence South 88°25'32" West on the North line of said Northeast Quarter, 489.32 feet to an intersection with the East line of the 100 feet wide strip of the Burlington North Santa Fe Railway Company; thence North 16°11'04" East on the East line of said 100 feet wide strip, 2422.46 feet to an intersection with the South line of a tract recorded in Volume 4882, page 136 in the Office of the Shawnee County Register of Deeds; thence North 88°18'23" East on the South line of the last said tract, 131.05 feet to an intersection with the West right of way line of Southwest Topeka Boulevard; thence South 9°17'20" West on said West right of way line, 329.80 feet; thence South 2°28'32" West on said West right of way line, 536.40 feet; thence South 0°57'28" East on said right of way line, 1375.10 feet; thence South 9°46'07" East, 137.64 feet to the point of beginning.
Contains 21.90 acres, more or less.

The area within the corporate limits is 62.037 square miles, more or less.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed, in accordance

with the provisions of K.S.A. 12-518 to file a certified copy of this resolution with the County

1279 Clerk, the Register of Deeds office, the State Transportation Engineer and Election
1280 Commissioner.

1281 BE IT FURTHER RESOLVED that City of Topeka Resolution No. 8832 is hereby
1282 specifically repealed.

1283 ADOPTED and APPROVED by the Governing Body on _____.

1284 CITY OF TOPEKA, KANSAS

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Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk

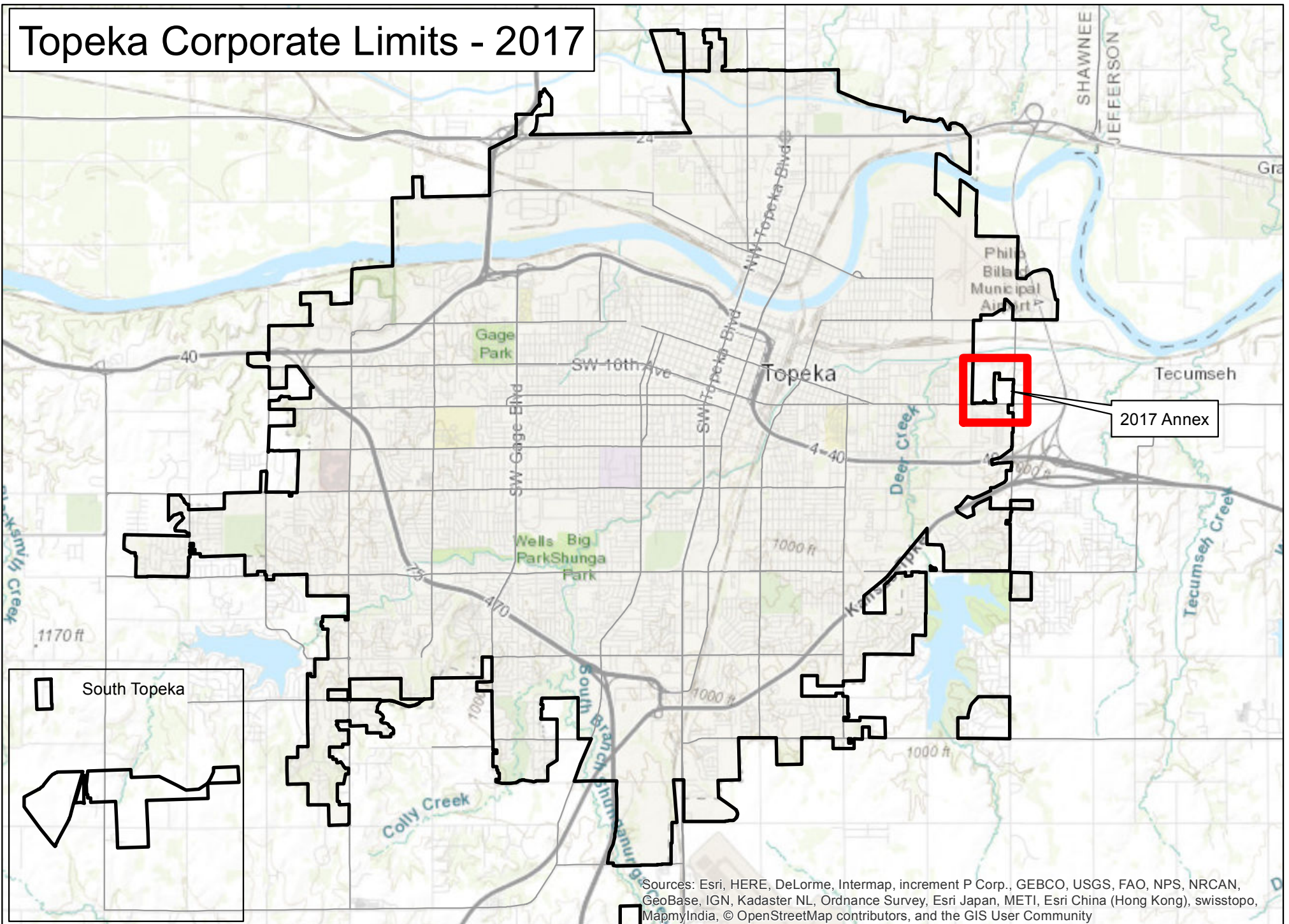


A17/2 - Proposed Annexation by Reser's Fine Foods



City of Topeka

Topeka Corporate Limits - 2017



Sources: Esri, HERE, DeLorme, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community

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Date: 11/27/2017
Created by: dfish

Map created for the Novus Agenda system.



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
December 5, 2017

DATE:	December 5, 2017	
CONTACT PERSON:	Nick Jefferson	DOCUMENT #:
SECOND PARTY/SUBJECT:	W and W Utility Construction	PROJECT #:
CATEGORY/SUBCATEGORY	011 Lawsuits / 001 State Court	
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

DENIAL of a Tort Claim submitted by W and W Utility Construction for \$19,500 for extra labor that was allegedly expended due to the City's inability to efficiently locate its water mains.

VOTING REQUIREMENTS:

Majority vote of the Governing Body (6).

POLICY ISSUE:

The recommendation for denial is based on the fact the claimant has failed to substantially support its claims.

STAFF RECOMMENDATION:

Staff recommends denial of the claim in the amount of \$19,500.

BACKGROUND:

The claimant is a contractor that was working on a project in the city in January and February of 2017. The claimant contends that it had to spend over 100 additional hours of labor during that time period because the City's "Water Department could not efficiently locate the City's water lines ." The claimant has estimated the additional time cost approximately \$19,500 in additional labor costs.

BUDGETARY IMPACT:

If approved the claimant would be paid \$19,500.

SOURCE OF FUNDING:

Special Liability Fund



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
December 5, 2017

DATE:	December 5, 2017	
CONTACT PERSON:	Nick Jefferson	DOCUMENT #:
SECOND PARTY/SUBJECT:	Rost and Rost Consulting/Eric Kjorlie	PROJECT #:
CATEGORY/SUBCATEGORY	011 Lawsuits / 001 State Court	
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

DENIAL of a Tort Claim Appeal submitted by Eric Kjorlie on behalf of Rost and Rost Consulting in the amount of \$845 for alleged damages to its sprinkler system.

VOTING REQUIREMENTS:

Majority vote of the Governing Body (6).

POLICY ISSUE:

A property owner is financially responsible for any damage that occurs to any structures, improvements, or additions that are placed within the City's right of way. The construction crews did not perform any work outside the easement.

STAFF RECOMMENDATION:

Staff recommends the Governing Body deny the appeal.

BACKGROUND:

Claimant states that sometime during the fall of 2016, the claimant's sprinkler system was damaged by a contractor, working under contract for the City, doing curb and water line replacement in the 800 block of Southwest Topeka Boulevard.

BUDGETARY IMPACT:

If approved claimant will receive \$845.

SOURCE OF FUNDING:

Special Liability Fund



**City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
December 5, 2017**

DATE:	December 5, 2017	
CONTACT PERSON:	Nick Hawkins, Budget and Performance Manager	DOCUMENT #:
SECOND PARTY/SUBJECT:		PROJECT #:
CATEGORY/SUBCATEGORY	018 Public Hearings / 006 Budget	
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

A PUBLIC HEARING for the purpose of hearing and answering objections of taxpayers relating to the proposed amendments to the 2017 Operating Budget.

(The Notice of Public Hearing was in the November 20, 2017, edition of the Topeka Metro Newspaper. The amendment would increase the expenditure level of the 2017 Adopted Budget in the specified funds from \$21,776,719 to \$26,534,523, a \$4,758,224 increase.)

VOTING REQUIREMENTS:

n/a

POLICY ISSUE:

K.S.A. 79-2929 allows for governing bodies to amend a budget based upon a standard process outlined in statute that follows a similar process for the budget adoption. Any amended budgets for proposed increases in expenditures are required to be balanced by previous unbudgeted revenues or balances other than ad valorem property taxes. At no time after setting the maximum taxes levied can the governing body increase the ad valorem property taxes.

During budget planning, staff are planning for budgets typically eight months in advance of the beginning of the upcoming fiscal year. The governing body typically will adopt the budget four months in advance of the upcoming fiscal year. Amendments are needed due to the changing nature of the City's budget, especially if more revenues are received than estimated.

As required by State law, the governing body must hold a public hearing to consider amendments to the 2017 Operating Budget. On November 14th the Governing Body set a public hearing date of December 5, 2017, and

authorized the publication of the public hearing notice in the Topeka Metro Newspaper on November 20, 2017. Approval of the amendments will be considered on December 12th.

STAFF RECOMMENDATION:

Staff recommends the Governing Body hold the public hearing date on December 5, 2017.

BACKGROUND:

Transient Guest Tax Funds (271/272/273)

The 2017 adopted budget was \$2,781,121, and is recommended to increase to \$3,285,000. These funds account for revenues received from the 7% transient guest tax that is imposed on hotel and motel room rentals and is utilized for promotion of conventions and tourism in the City of Topeka. 5% is spent on general tourism with the majority going to Visit Topeka; 1% on Sunflower Soccer; and 1% on 4 projects (Downtown Plaza, Evel Knievel, Jayhawk Theatre and Constitution Hall). The primary reason for this amendment is due to the timing of the payments to the 4 projects. The distribution of 2016 funding was made in 2017 due to the timing of the development agreement approvals, making the 2017 expenditures higher than anticipated.

The proposed amendments for the 2017 budget would increase the adopted budget from \$21,776,719 to \$26,534,523, a \$4,758,224 increase for the following funds:

Citywide Half Cent Sales Tax (292)

The 2017 adopted budget was \$18,805,175, and is recommended to increase to \$23,000,000. The fund accounts for revenues received from citywide half cent sales tax and is utilized for maintenance of existing streets. While the entire \$23m will not be spent in 2017, a budget amendment is required as encumbrances have been established to accommodate for a large amount of projects that will be completed in 2017 and 2018.

BUDGETARY IMPACT:

The amendment would increase the expenditure level of the 2016 Adopted Budget from \$41,312,719 to \$46,788,445, a \$5,475,726 increase.

Citywide Half Cent Sales Tax (292)

The 2017 adopted budget was \$18,805,175, and is recommended to increase to \$23,000,000. The fund accounts for revenues received from citywide half cent sales tax and is utilized for maintenance of existing streets. While the entire \$23m will not be spent in 2017, a budget amendment is required as encumbrances have been established to accommodate for a large amount of projects that will be completed in 2017 and 2018.

Transient Guest Tax Funds (271/272/273)

The 2017 adopted budget was \$2,781,121, and is recommended to increase to \$3,285,000. These funds account for revenues received from the 7% transient guest tax that is imposed on hotel and motel room rentals and is utilized for promotion of conventions and tourism in the City of Topeka. 5% is spent on general tourism with the majority going to Visit Topeka; 1% on Sunflower Soccer; and 1% on 4 projects (Downtown Plaza, Evel Knievel, Jayhawk Theatre and Constitution Hall). The primary reason for this amendment is due to the timing of the payments to the 4 projects. The distribution of 2016 funding was made in 2017 due to the timing of the development agreement approvals, making the 2017 expenditures higher than anticipated.

Tax Increment Financing Fund (220)

The 2017 adopted budget was \$190,000, and is recommended to increase to \$250,000. These funds were established to monitor the amount of property taxes received for tax increment financing districts created for redevelopment of blighted areas. The City currently has one district: College Hill. Revenues from the fund are transferred to the Debt Service fund to pay for capital projects within the College Hill district. Revenues have been higher than anticipated due to growth within the district.

SOURCE OF FUNDING:

The following source of funding includes:

Citywide Half Cent Sales Tax (292): Fund Balance
Transient Guest Tax Funds (271/272/273): Fund Balance
Tax Increment Financing (220): Revenue

ATTACHMENTS:

Description

Public Hearing Notice
2017 Budget Amendments State Form
2017 Budget Amendments Summary

2017

**Notice of Budget Hearing for Amending the
2017 Budget**

The governing body of
Topeka

will meet on the day of December 5, 2017 at 6:00 p.m. at City Council Chambers, 214 E Eighth Street for the purpose of hearing and answering objections of taxpayers relating to the proposed amended use of funds.

Detailed budget information is available at Office of the City Clerk at City Hall
and will be available at this hearing.

Summary of Amendments

Fund	2017 Adopted Budget			2017 Proposed Amended Expenditures
	Actual Tax Rate	Amount of Tax that was Levied	Expenditures	
Transient Guest Tax			2,781,124	3,284,523
Tax Increment Financing			190,000	250,000
Half Cent Sales Tax (Street)			18,805,175	23,000,000
			0	0
			0	0
			0	0


Official Title: City Clerk

2017

**Amended
Certificate
For Calendar Year 2017**

To the Clerk of Shawnee, State of Kansas
We, the undersigned, duly elected, qualified, and acting officers of
Topeka
certify that: (1) the hearing mentioned in the attached publication was
held;(2) after the Budget Hearing this Budget was duly approved and
adopted as the maximum expenditure for the various funds for the year.

			2017 Amended Budget		
			Amount of 2016 Tax that was Levied	Adopted 2017 Expenditures	Proposed Amended 2017 Expenditures
Table of Contents:			Page No.		
Fund	<u>K.S.A.</u>				
Transient Guest Tax	Charter Ord 69	2		2,781,124	3,284,523
Tax Increment Financing	12-1775 (b)(2)	3		190,000	250,000
Half Cent Sales Tax (Street)	Admin; Code Sec. 138-36	4		18,805,175	23,000,000
Totals		xxxxxxxx	0	21,776,299	26,534,523
Summary of Amendments		5			

Attested date: _____

County Clerk

Assisted by: _____

Address: _____

Email: _____

Governing Body

Topeka

2017

Adopted Budget

Transient Guest Tax	2017 Adopted Budget	2017 Proposed Budget
Unencumbered Cash Balance January 1	178,119	966,680
Receipts:		
Ad Valorem Tax		
Delinquent Tax		
Motor Vehicle Tax		
Recreational Vehicle Tax		
16/20M Vehicle Tax		
Transient Guest Tax	2,268,256	2,268,256
Transient Guest Tax - Sunflower Soccer	380,482	380,482
Other	132,386	132,386
Interest on Idle Funds		
Total Receipts	2,781,124	2,781,124
Resources Available:	2,959,243	3,747,804
Expenditures:		
Visit Topeka	1,663,239	2,105,000
Grants Other Agencies	372,535	670,000
Transfer Capital Sunflower Soccer	372,535	284,523
Transfer to General Fund (Zoo)	184,804	200,000
Admin Fees	55,622	25,000
Contingency	132,389	0
Total Expenditures	2,781,124	3,284,523
Unencumbered Cash Balance December 31	178,119	463,281

Topeka

2017

Adopted Budget

Tax Increment Financing	2017 Adopted Budget	2017 Proposed Budget
Unencumbered Cash Balance January 1	0	0
Receipts:		
Ad Valorem Tax		
Delinquent Tax		
Motor Vehicle Tax		
Recreational Vehicle Tax		
16/20M Vehicle Tax		
College Hill	190,000	250,000
Interest on Idle Funds		
Total Receipts	190,000	250,000
Resources Available:	190,000	250,000
Expenditures:		
Other	190,000	250,000
Total Expenditures	190,000	250,000
Unencumbered Cash Balance December 31	0	0

Topeka

2017

Adopted Budget

Half Cent Sales Tax (Street)	2017 Adopted Budget	2017 Proposed Budget
Unencumbered Cash Balance January 1	4,155,570	13,607,220
Receipts:		
Ad Valorem Tax		
Delinquent Tax		
Motor Vehicle Tax		
Recreational Vehicle Tax		
16/20M Vehicle Tax		
Sales Tax	14,619,605	14,619,605
Private Contributions	30,000	30,000
Interest on Idle Funds		
Total Receipts	14,649,605	14,649,605
Resources Available:	18,805,175	28,256,825
Expenditures:		
Projects	12,980,272	17,175,097
Personnel	169,328	169,328
Contractual	700,500	700,500
Commodities	800,000	800,000
Capital Outlay	4,155,075	4,155,075
Total Expenditures	18,805,175	23,000,000
Unencumbered Cash Balance December 31	0	5,256,825

2017

**Notice of Budget Hearing for Amending the
2017 Budget**

The governing body of

Topeka

will meet on the day of December 5, 2017 at 6:00 p.m. at City Council Chambers, 214 E Eighth Street for the purpose of hearing and answering objections of taxpayers relating to the proposed amended use of funds.

Detailed budget information is available at Office of the City Clerk at City Hall
and will be available at this hearing.

Summary of Amendments

Fund	2017 Adopted Budget			2017 Proposed Amended Expenditures
	Actual Tax Rate	Amount of Tax that was Levied	Expenditures	
Transient Guest Tax			2,781,124	3,284,523
Tax Increment Financing			190,000	250,000
Half Cent Sales Tax (Street)			18,805,175	23,000,000
			0	0
			0	0
			0	0

Brenda Younger

Official Title: City Clerk

2017 Budget Amendment Summary



Below is a summary of each of the proposed amendments to the 2017 budget.

Citywide Half Cent Sales Tax (292) – The 2017 adopted budget was \$18,805,175, and is recommended to increase to \$23,000,000. The fund accounts for revenues received from citywide half cent sales tax and is utilized for maintenance of existing streets. While the entire \$23m will not be spent in 2017, a budget amendment is required as encumbrances have been established to accommodate for a large amount of projects that will be completed in 2017 and 2018.

Transient Guest Tax Funds (271/272/273) – The 2017 adopted budget was \$2,781,121, and is recommended to increase to \$3,285,000. These funds account for revenues received from the 7% transient guest tax that is imposed on hotel and motel room rentals and is utilized for promotion of conventions and tourism in the City of Topeka. 5% is spent on general tourism with the majority going to Visit Topeka; 1% on Sunflower Soccer; and 1% on 4 projects (Downtown Plaza, Evel Knievel, Jayhawk Theatre and Constitution Hall). The primary reason for this amendment is due to the timing of the payments to the 4 projects. The distribution of 2016 funding was made in 2017 due to the timing of the development agreement approvals, making the 2017 expenditures higher than anticipated.

Tax Increment Financing Fund (220) – The 2017 adopted budget was \$190,000, and is recommended to increase to \$250,000. These funds were established to monitor the amount of property taxes received for tax increment financing districts created for redevelopment of blighted areas. The City currently has one district: College Hill. Revenues from the fund are transferred to the Debt Service fund to pay for capital projects within the College Hill district. Revenues have been higher than anticipated due to growth within the district.



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
December 5, 2017

DATE:	December 5, 2017	
CONTACT PERSON:	Sasha Haehn/Nick Hawkins	DOCUMENT #:
SECOND PARTY/SUBJECT:	Special Alcohol Grant Fund	PROJECT #:
CATEGORY/SUBCATEGORY	006 Communication / 005 Other	
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

APPROVAL of funding recommendations by the Alcohol and Drug Abuse Advisory Council in the amount of \$535,000 for the 2018 Special Alcohol Fund.

Voting Requirement: Majority vote of the Governing Body (6).

(The recommended amount is based on the projected Liquor Tax collected by the State and required to be allocated to alcohol and drug programs. The amount is \$85,000 lower than it was in 2017.)

VOTING REQUIREMENTS:

Majority vote of the governing body (6).

POLICY ISSUE:

Whether to approve the recommendations of the Alcohol & Drug Abuse Advisory Council.

STAFF RECOMMENDATION:

Staff recommends the Governing Body approve the 2018 Special Alcohol Fund grant recommendations as provided by the Alcohol and Drug Abuse Advisory Council. The Governing Body previously discussed the item at the November 21, 2017 meeting and heard a presentation from the committee.

BACKGROUND:

The City receives the liquor tax collected by the State of Kansas. State statute requires that one-third of the proceeds be deposited in the City's special alcohol and drug program fund. Those funds can be used only for "the purchase, establishment, maintenance or expansion of services or programs whose principal purpose is alcoholism and drug abuse prevention and education, alcohol and drug detoxification, intervention in alcohol and

drug abuse or treatment of persons who are alcoholics or drug abusers or are in danger of becoming alcoholics or drug abusers."

The amount to be allocated is \$85,000 less than in 2017. The review team is recommending the following amounts for 2018:

- Prevention Programs (PARS) \$171,000 - 10% decrease from 2017
- PARS Youth Evaluation Program \$51,300 - 10% decrease from 2017
- Valeo (Social Detox Program) \$258,460 - 8.5% decrease from 2017
- Third Judicial District (Drug Court Program) \$27,450 - 4% decrease from 2017
- Kansas Children Service League (Successful Connections Drug Endangered Child Program) \$12,300 - 13% decrease from 2017
- Boys and Girls Club (Smart Moves Teen Ctr) \$8,800 - 12.85% increase from 2017
- Boys and Girls Club (Logan Center) \$5,720 - 100% increase from 2017

BUDGETARY IMPACT:

\$535,000 will be expended from the Special Alcohol Program Fund in 2018.

SOURCE OF FUNDING:

Liquor Tax collected by the State and allocated to the City for the purpose of awarding grants to alcohol and drug programs.

ATTACHMENTS:

Description

2018 Special Alcohol Grant Recommendations

**Topeka-Shawnee County Alcohol-Drug Abuse Advisory Council's
2018 Recommendations for
2018 City of Topeka Special Alcohol and Drug Program Grant Requests
Total funds projected: \$535,000**

The Topeka-Shawnee County Alcohol-Drug Abuse Advisory Council recommends the following programs for funding from 2018 City of Topeka Special Alcohol-Drug (liquor-by-the-drink) Program tax funds as authorized in State of Kansas Statute-K.S.A. Chapter 79, Article 41a and K.A.R. Agency 92, Article 42:

“Moneys in the special alcohol and drug programs fund shall be expended only for the purchase, establishment, maintenance or expansion of services or programs whose principle purpose is alcoholism and drug abuse or treatment of persons who are alcoholics or drug abusers or are in danger of becoming alcoholics or drug abusers. In any county in which there has been organized an alcohol and drug advisory committee, the board of county commissioners shall request and obtain, prior to making an expenditures from the special alcohol and drug programs fund, the recommendations of the advisory committee concerning such expenditure.”

Agency	Program	2016 Funded	2017 Funded	2018 Request	Review Committee Recommendations
Boys & Girls Club	Logan Center	0	0	6,500	\$5,720
Boys & Girls Club	Smart Moves Teen Ctr	0	7,798	10,000	\$8,800
Ks Big Brother Big Sisters	Community and Site Based Mentoring	0	0	20,000	\$0
Prevention and Recovery Services (PARS)	Prevention Programs	180,450	190,000	190,000	\$171,000
Prevention & Recovery Services (PARS)	Eval & Intervention aka Youth Eval Progm	56,133	57,000	57,000	\$51,300
Third Judicial District	Drug Court	28,600	28,600	30,000	\$27,450
Topeka Youth Project	Jobs for Young Adults	38,800	40,000	40,000	\$0
Ks Children's Service League (KCSL)	Drug Endangered Child	13,580	14,165	14,165	\$12,300
VALEO	Social Detox	282,437	282,437	282,437	\$258,430
TOTAL		600,000	620,000	650,102	\$535,000

City of Topeka 2018 Recommendations

The following programs meet the “principal purpose” criteria for funding as stated and also use the Institute of Medicine’s core strategies and/or programs and strategies that are represented in the National Registry of Evidence-Based Programs.

Program Name: Smart Moves at Boys & Girls Clubs of Topeka’s Logan Unit

The SMART (Skills Mastery and Resistance Training) Moves program is a nationally acclaimed prevention program originally developed in the 1980s with the help of prevention specialists and Boys & Girls Clubs around the country. Newly revised in 2011, the program incorporates the latest information and approaches that Boys & Girls Clubs of America has learned about effective prevention. Participants will be exposed to various activities designed to hone their decision-making and critical-thinking skills, as well as learn how to avoid and/or resist alcohol, tobacco, and other drugs.

Agency	Program	2016 Funded	2017 Funded	2018 Request	2018 Review Committee Recommendation
Boys & Girls Club	Smart Moves at Logan Center	Did not apply	Did not apply	\$6,500	\$5,720

Program Name: Smart Moves at Boys & Girls Clubs of Topeka’s Teen Center

The SMART (Skills Mastery and Resistance Training) Moves program is a nationally acclaimed prevention program originally developed in the 1980s with the help of prevention specialists and Boys & Girls Clubs around the country. Newly revised in 2011, the program incorporates the latest information and approaches that Boys & Girls Clubs of America has learned about effective prevention. Participants will be exposed to various activities designed to hone their decision-making and critical-thinking skills, as well as learn how to avoid and/or resist alcohol, tobacco, and other drugs.

Agency	Program	2016 Funded	2017 Funded	2018 Request	2018 Review Committee Recommendation
Boys & Girls Club	Smart Moves at Teen Center	Did not apply	\$7,798	\$10,000	\$8,800

Program Name: Kansas Big Brothers-Big Sisters Substance Abuse Prevention for At-Risk Youth

Through KSBBBS' Substance Abuse Prevention for At-Risk Youth project, 14 youth (littles), ages 9-17, with family histories of drug and/or alcohol abuse will be matched to a carefully screened mentor (Big) through KSBBBS' community-based mentoring program. These mentors are caring volunteers for the youth to learn life skills that help ensure their success in school and in life. Matches in our community-based program will spend 2-3 hours together each week outside of school hours. Meetings between the volunteer and youth may include going to a community event, playing catch, baking cookies, or participating in other activities that interest the volunteer and youth. On average it costs \$1,500 to make and support one mentoring match a year.

Agency	Program	2016 Funded	2017 Funded	2018 Request	2018 Review Committee Recommendation
KS Big Brothers-Big Sisters	Community and Site Based Mentoring	\$0	Did not apply	\$20,000	\$0

Program Name: Prevention and Recovery Services (PARS) Community Prevention Program

The Community Prevention Program at PARS is comprised of an array of services designed to work together to decrease substance abuse amongst area youth. Services are provided to youth, families and the community at-large using a multi-faceted approach. PARS uses the Institute of Medicine's Behavioral Health Continuum of Care model as a basis for overall program operations, a portion of which is funded by this application. A combination of strategies will contribute to population-level results, yielding a large impact on Topeka/Shawnee County.

Agency	Program	2016 Funded	2017 Funded	2018 Request	2018 Review Committee Recommendation
PARS	Community Prevention Program	\$180,450	\$190,000	\$190,000	\$171,000

Program Name: Prevention and Recovery Services (PARS) Evaluation & Intervention aka Youth Evaluation Program

The Substance Abuse Evaluation & Intervention program complements an array of services offered by PARS that are designed to work together to decrease substance abuse among area youth. Services are provided to youth, families and the community at-large using a multi-faceted approach. PARS provides substance abuse evaluations in English and Spanish for youth and adults. PARS uses the Institute of Medicine's (IOM) Behavioral Health Continuum of Care model as a basis for overall program operations. Most youth who access this service are referred as a result of a violation of school policy concerning alcohol and/or drugs on campus. PARS has a long-standing partnership with all public Shawnee County Schools and a few private schools to provide evaluations free of charge. In fact, this program is even mentioned in many school policies regarding alcohol and drug violations. Youth referred from other sources receive services at a greatly reduced fee. Evaluations for adults, although part of the overall program, are paid for by other sources.

Agency	Program	2016 Funded	2017 Funded	2018 Request	2018 Review Committee Recommendation
PARS	Evaluation & Intervention	\$56,133	\$57,000	\$57,000	\$51,300

Program Name: 3rd Judicial District's Drug Court

The Drug Court Program is a voluntary pre-adjudication/conviction diversion program that combines judicial supervision, probation supervision and substance abuse treatment to improve communication and provide support structure for drug addicted offenders. These City funds pay for a portion of treatment services.

Agency	Program	2016 Funded	2017 Funded	2018 Request	2018 Review Committee Recommendation
3 rd Judicial District	Drug Court	\$28,600	\$28,600	\$30,000	\$27,450

Program Name: Topeka Youth Project's Jobs for Young Adults

Jobs for Young Adults (JYA) is a drug alcohol prevention program for youth 16-20. Workshops are held monthly providing 28-32 hours of job readiness, life skills and healthy living training. Participants gain employment with a 4 month follow-up with employers. Youth aging out of foster care and the juvenile justice system will also attend our new addition "Connecting to Knowledge" a Kansas Gold Star mentoring program. JYA works with more than 200 employers.

Agency	Program	2016 Funded	2017 Funded	2018 Request	2018 Review Committee Recommendation
Topeka Youth Project	Jobs for Young Adults	\$38,800	\$40,000	\$40,000	\$0.00

Program Name: Kansas Children's Service League's Drug Endangered Children (DEC) Program

KCSL's Drug Endangered Children's (DEC) program proposes serving 60 families in Shawnee County during 2017. This program is based on evidence regarding the importance of home visitation and strengths based work with people using substances. KCSL's DEC program includes early identification of substance using parents and intensive (weekly) support to families facing multiple challenges with the goals to: 1) prevent child maltreatment; 2) engage the parent into substance abuse assessment and treatment services; 3) provide recovery support; and 4) increase positive parenting skills and parent-child interactions.

Agency	Program	2016 Funded	2017 Funded	2018 Request	2018 Review Committee Recommendation
Ks Children's Service League	Drug Endangered Child	\$13,580	\$14,165	\$14,165	\$12,300

Program Name: VALEO Recovery Center (VRC) Social Detoxification Program

Social Detox is a safe, non-medical, therapeutic environment for acute withdrawal from substance use. The goals of Social Detox are: 1) to provide timely access for persons in need of Social Detox services; 2) to facilitate successful completion of the detoxification process, which includes reduction of symptoms associated with withdrawal from substance use and completion of a clinical assessment of treatment needs, and 3) to transfer clients to appropriate treatment modalities based on the assessment determination of need for care. The length of stay in Social Detox ranges from 24 hours to six days. Social Detox is a service that is provided 24 hours a day, 7 days a week, including weekends and holidays. VRC Social Detox currently provides more than three hundred and twenty bed days per month as a crisis service for the community. Social Detox is an unduplicated service in this community which has been in continuous operation for approximately 35 years.

Agency	Program	2016 Funded	2017 Funded	2018 Request	2018 Review Committee Recommendation
VALEO	Social Detox	\$282,437	\$282,437	\$282,437*	\$258,430



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
December 5, 2017

DATE: December 5, 2017
CONTACT PERSON: Bill Fiander **DOCUMENT #:**
SECOND PARTY/SUBJECT: Topeka Scottish Rite/Dale Fritz **PROJECT #:** Z17/3
CATEGORY/SUBCATEGORY 014 Ordinances – Non-Codified / 007 Zoning
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

ORDINANCE introduced by City Manager Brent Trout, amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code, by providing for certain changes in zoning on property located at 2300 SW 30th Street from "M-2" Multiple Family Dwelling District TO "O and I-2" Office and Institutional District. (Z17/3) (Council District No. 5)

Voting Options: All Governing Body members must be present because a protest petition has been submitted. (1) Approve or Amend the Planning Commission's recommendation requires 3/4 vote of the Governing Body - 8 votes (2) Reject the Planning Commission's recommendations - 7 votes or (3) Remand back to the Planning Commission - 6 votes.

(Approval would allow re-use of the building for office and institutional uses.)

VOTING REQUIREMENTS:

All Governing Body members must be present. Voting options include:

- (1) Approve or Amend the Planning Commission's recommendation requires 3/4 vote of the Governing Body (8) votes;
- (2) Reject the Planning Commission's recommendation (7) votes; or
- (3) Remand back to the Planning Commission with an explanation (6) votes.

POLICY ISSUE:

The key policy issues related to the re-zoning include:

- The timely and likely re-use of the property so that it does not sit vacant and negatively impact the neighborhood. "M-2" Multi-Family District does not accommodate potential office and institutional uses

- that are most likely to be interested in the property.
- The proposed O and I-2 Office and Institutional District is compatible with the neighborhood given the existing use of the property and the O and I-2 zoning to the north and south of the property along a collector street.

As a transition from higher intensive multi-family and office/institutional uses to lower intensity single family uses, the request is consistent with the land use policies and principles of the Topeka Land Use and Growth Management Plan 2040.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to adopt the ordinance.

BACKGROUND:

Z17/3 is a request by the Topeka Scottish Rite organization to change the zoning from “M-2” Multiple-Family Dwelling District to “O&I-2” Office and Institutional District on property located at 2300 SW 30th Street.

Approval of the zone change will allow for office and institutional uses which is a more likely fit for the Scottish Rite buildings which has accommodated an institutional use since 1970. At the time of the zone change application, there was no known buyer of the property.

The property is 3.2 acres and contains a 15,239 square foot building used as a fraternal organization meeting hall since 1970 when it was constructed. The applicant is selling the property because the building no longer suits their organization’s needs as their membership has diminished over time. They believe the “O&I-2” zoning allows for more compatible uses with the building and property than the “M-2” zoning since it is not set up to accommodate multi-family uses.

The applicant held a Neighborhood Information Meeting on August 30, 2017. Approximately 12 surrounding owners attended the meeting. The key concerns expressed at the meeting related to some uses the O&I-2 zoning permits that the residents felt were undesirable and not compatible with the surrounding area.

No public testimony in opposition to the zone change was expressed at the public hearing.

The Planning Commission recommended the proposal be approved by a vote of 6-0-0 on September 18, 2017 as well as the Planning Department recommended approval of the request.

BUDGETARY IMPACT:

There would be no budgetary impact to the City.

SOURCE OF FUNDING:

Not applicable

ATTACHMENTS:

Description

Ordinance
Staff Report
Aerial Map
Zoning Map
Protest Petitions
Neighborhood Improvement Meeting report
Neighborhood Improvement Meeting Attendance Sheet
Planning Commission Minutes

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by Brent Trout, City Manager amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code (TMC), by providing for certain changes in zoning on property located at 2300 SW 30th Street from "M-2" Multiple Family Dwelling District TO "O&I-2" Office and Institutional District. **(Z17/3) (Council District No. 5)**

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

Section 1. That the "District Map" referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code (TMC), be and the same is hereby amended, by reclassifying the follow described property:

Legal Description

Lot 1, Block A, Sunnymede Subdivision No. 4, in the City of Topeka, Shawnee County, Kansas, LESS all of Briarcliff Subdivision, also LESS: Beginning at the Northeast corner of said Briarcliff Subdivision; thence South 89 degrees 53 minutes 30 seconds East, a distance of 12.55 feet; thence South 01 degrees 06 minutes 57 minutes West, along a line which is the back face of an existing curb, a distance of 279.61 feet to the South line of said Lot 1; thence South 89 degrees 59 minutes 24 seconds West, along the South line of said Lot 1, a distance of 7.63 feet to the Southeast corner of said Briarcliff Subdivision; thence North 00 degrees 06 minutes 30 seconds East along the East line of said Briarcliff Subdivision, a distance of 279.59 feet to the point of beginning.

from "M-2" Multiple-Family Dwelling District TO "O&I-2" Office and Institutional District.

Section 2. This Ordinance Number shall be fixed upon the "District Map".

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

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

PASSED AND APPROVED by the Governing Body of the City of Topeka,
_____, 2017.

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk

To Be Codified _____
Not To Be Codified X

STAFF REPORT – ZONING CASE

TOPEKA PLANNING DEPARTMENT

PLANNING COMMISSION DATE: September 18, 2017

APPLICATION CASE NUMBER / NAME:	Z17/3 By: Ancient and Accepted Scottish Rite of Topeka and Appendant Bodies (AKA: Topeka Scottish Rite)
REQUESTED ACTION / CURRENT ZONING:	Zoning reclassification FROM “M-2” Multiple Family Dwelling District TO “O&I-2” Office and Institutional District
APPLICANT / PROPERTY OWNER:	Ancient and Accepted Scottish Rite of Topeka and Appendant Bodies (AKA: Topeka Scottish Rite)
APPLICANT REPRESENTATIVE:	Mr. Dale Fritz, Scottish Rite
PROPERTY LOCATION / PARCEL ID:	2300 SW 30 th Street / PID: 1461401001010000
PARCEL SIZE:	3.2 acres
STAFF PLANNER:	Annie Driver, AICP, Planner II
RECOMMENDATION:	<u>APPROVAL</u>
RECOMMENDED MOTION:	Based on the findings and analysis listed below in the staff report I move to recommend to the Governing Body approval of the reclassification of the subject property from “M-2” Multiple Family Dwelling District TO “O&I-2” Office and Institutional District.

PROJECT AND SITE INFORMATION

PROPOSED USE / SUMMARY:	The building was constructed in 1970 for use by the Scottish Rite. The current building no longer suits the needs of their organization, which has declined in membership from 3000 members to 500 members from 1970 to the present. The building has actively been on the market for one year. The Scottish Rite is currently still using the assembly space for their meetings. The owners are requesting rezoning because they believe the “M-2” zoning classification does not realistically allow for adaptive reuse of the building and the requested “O&I-2” District would allow uses that are more consistent with the needs of potential buyers of this building. There has been interest from cultural, educational, and religious users to purchase the building. (NOTE: Religious Assembly uses are already permitted in “M-2” zoning.) Realistically, a potential buyer would need to make extensive interior renovations to use the building for a professional office or residential use.
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DEVELOPMENT / CASE HISTORY:

The existing building is 15,239 sq. ft. and has been used as a fraternal organization (i.e. Scottish Rite) meeting hall since constructed for this purpose in 1970. There are 68 paved parking stalls. The site also contains a 6,096 sq. ft. former poultry barn that is used for accessory storage and has been on the subject property since the time this was farmland (prior to 1970).

The building itself contains a large, open gathering hall (no fixed seating), 284 seat capacity horseshoe-shaped auditorium, commercial kitchen, and smaller offices.

The property has been zoned for multiple family uses since 1968 when it was rezoned from the single- family dwelling district for the purpose of developing retirement townhomes (Case #Z67/52). The property was annexed in 1950 and was originally zoned as single-family residential.

PHOTO:

View of Scottish Rite building from their parking lot:

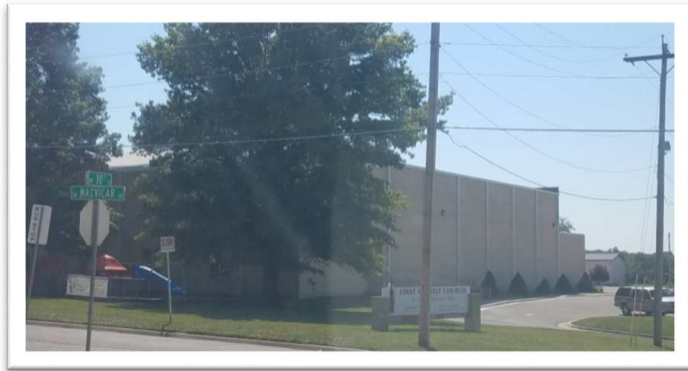


Accessory storage building (former poultry barn):

**ZONING AND CHARACTER OF SURROUNDING PROPERTIES:**

South: Zoning - "O&I-2" Office and Institutional and "R-1" Single Family Dwelling District and Land Uses - First Baptist Church/Jardine Elementary and Middle School

First Baptist Church:



North: Zoning - “M-2” Multiple Family Dwelling District and “O&I-2” Office and Institutional District and Land Use - one Single Family dwelling and an office complex



West: Zoning - “M-2” Multiple Family Dwelling District and Land Use - Apartment complex/duplexes along SW 30th Street



East: Zoning - “M-2” Multiple Family Dwelling District and “R-1” Single Family Dwelling District and Land uses - Apartment complex and Single Family residences



DEVELOPMENT STANDARDS AND POLICIES

PROPOSED ZONING COMPARED TO EXISTING ZONING

PURPOSE, USE STANDARDS:

The purpose of the “O&I-2” District is to “*provide for a limited range of nonresidential and noncommercial uses such as general purpose office, professional, or administrative operations. . . Among others, an objective of this district is to provide for a transitional buffer between the districts of lesser and greater intensity; and to restrict the intensity of use to a low to moderate range and to encourage a compatible design with the adjacent use and development.*”

Permitted uses in “O&I-2” and not permitted in “M-2” include: professional offices, medical care facility (i.e. nursing home); private club or lodge; cultural facilities, museums, and libraries; governmental administrative offices; indoor recreation, type I (such as dance studios, exercise studios, gyms, music academies, martial arts, etc); community centers, outdoor recreation, type I (such as pools, basketball courts, tennis, etc); financial institutions; and business/vocational schools.

Permitted uses in “M-2” and not permitted in “O&I-2” include: Most residential uses unless they are secondary to non-residential uses, apartment complexes, boarding houses, group homes, group residences.

“M-2” and “O&I-2” zoning both permit Religious Assembly uses and Assisted Living Facilities.

Retail uses, auto repair, storage and warehousing as the primary use, outside product storage and display, and other vehicle service-oriented uses are not permitted in “O&I-2”.

DIMENSIONAL STANDARDS:

Setbacks: Side – 7’; Rear/Front – 25’ No exterior changes are anticipated to be made to the existing building.

Building height is restricted to sixty feet (60’) in “O&I-2”.

OFF-STREET PARKING:	The off-street parking requirement for office uses is 1 stall per 300 sq. ft. of net floor area or 1 stall per 400 sq. ft. of net floor area. Religious Assembly uses require 1 stall per 4 seats in the largest room or sanctuary. Off-street parking requirements are determined by land uses not zoning district. The site contains 68 stalls, which should be adequate for most uses allowed in the proposed zoning district.
LANDSCAPING:	Site Plan Review approval and landscaping is required if the building or parking area is expanded by at least 50% of the existing building and parking lots.
SIGNS:	The "O&I-2" zoning district allows free-standing signs (ground signs) up to a maximum of 50 sq. ft., 5 ft. tall and wall signs up to 40 sq. ft.
COMPREHENSIVE PLANS:	<u>Land Use and Growth Management Plan - 2040</u>
TRANSPORTATION/MTPO PLANS:	The <u>Topeka Pedestrian Master Plan</u>: • Actions 1B and 1D require sidewalks to be part of new developments (pages 19 and 24). These policies should be implemented at the time, or if, new improvements are made to the site and/or building. • Action 1E requires sidewalks within proximity to schools. This subject property is located within proximity to Jardine Elementary/Middle School where new sidewalks along MacVicar, Randolph, and 30th Street are a high priority. The <u>Topeka Bikeways Master Plan</u>: • Randolph Ave and SW 33rd Street are designated bike routes. SW 30th Street is not a designated bike route.

OTHER FACTORS

SUBDIVISION PLAT:	A part of Lot 1, Block A, Sunnymead Subdivision #4. A lot split or replat may required prior to future development of the site.
FLOOD HAZARDS, STREAM BUFFERS:	None
UTILITIES:	The site is served by the full range of utilities and services.
TRANSPORTATION/TRAFFIC:	At this location, SW MacVicar and 30 th are both classified as local streets on the MTPo Functional Classification Map (30 mph speed limit). SW 30 th is located in a school zone (20mph). Sidewalks are a high priority in this location. A school crossing is planned at the 30 th and MacVicar intersection. However, MacVicar is functioning similarly to collector street at this location because of school traffic traveling to Jardine.
HISTORIC PROPERTIES:	None

NEIGHBORHOOD INFORMATION MEETING

The owners conducted a neighborhood information meeting on Wednesday, August 30, 2017 at 5:30 pm on-site. Property owners within 500 feet were notified. Approximately 12 surrounding owners attended the meeting. Three representatives of the Scottish Rite attended the meeting. The main concern of attendees was the uncertainty that arises with a speculative rezoning where there is no proposed development for the site and potential uses allowed in "O&I-2" zoning versus those allowed in "M-2" zoning.

REVIEW COMMENTS BY CITY DEPARTMENTS AND EXTERNAL AGENCIES

PUBLIC WORKS/ENGINEERING:	None at this time
WATER POLLUTION CONTROL:	None at this time
FIRE:	None at this time
DEVELOPMENT SERVICES:	Buildings Permits will be required for a Change of Use or Change of Occupancy.

KEY DATES

SUBMITTAL:	August 4, 2017
NEIGHBORHOOD INFORMATION MEETING:	August 30, 2017
LEGAL NOTICE PUBLICATION:	August 23, 2017
PROPERTY OWNER NOTICE MAILED:	August 25, 2017

STAFF ANALYSIS

CHARACTER OF NEIGHBORHOOD: The character of the neighborhood is comprised of a mix of educational and religious institutional uses, multiple-family residential, two-family residential, office, and single-family residential land uses.

ZONING AND USES OF PROPERTY NEARBY: The subject property is surrounded by the "O&I-2" Office and Institutional District zoning both to the north and south and by the "M-2" Multiple Family Dwelling District to the east and west. There is also "R-1" Single Family Dwelling zoning to the south. However, that site contains a new school campus facility for elementary and middle school students recently constructed by USD 501 (Jardine). First Baptist Church also lies to the south and is already zoned for "O&I-2" uses. Apartment complexes lie to the east and west and an office complex lies to the northeast of the subject site. Duplex residential buildings front along the north side of SW 30th Street (across the street from Jardine).

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT CLASSIFICATION: The building located on the subject site has been used for the present use as a fraternal organization since constructed for this purpose in 1970. This 3.2-acre subject site also contains a former

poultry barn that has been located on the property since the neighborhood was farmland (prior to construction of the primary building in 1970) and is permitted only as accessory storage to the primary building.

CONFORMANCE TO COMPREHENSIVE PLAN: The Land Use and Growth Management Plan-2040 (LUGMP) contains policies related to Tier 1 (City) development and redevelopment. The LUGMP “*encourages infill and redevelopment within Topeka to take advantage of existing urban infrastructure and services and that promote a range of uses to fit within the overall character of the area.*” Building adaptive reuse and renovation are important to the implementation of the LUGMP policies regarding infill and compact development within the core areas of the city. The subject property is located in an area designated “Medium/High Density Residential” on the Future Land Use Map. However, the map is a broad brush approach and is not intended to be a site specific guide for each individual lot or parcel, but rather a general guide for future development. The “Medium/High Density Residential” land use category allows for a mixing of uses and may also include office/institutional as a transitional use. The subject property is located in a “transitional area” with office and multi-family uses to the north, and Jardine Elementary/Middle School and First Baptist Church to the south.

THE SUITABILITY OF THE SUBJECT PROPERTY FOR THE USES OF WHICH IT HAS BEEN RESTRICTED: The subject property and the existing building are not suitable for the primarily residential uses to which it is restricted under the current “M-2” Multiple Family Dwelling District zoning since there are no sleeping quarters and shower accommodations inside the building. Adding these accommodations would require significant investments be made to the existing building. An “O&I-2” zoning classification allows for more uses that may be better adapted to this building.

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES: The change in zoning and re-use of the building on the subject property should not have a detrimental effect upon surrounding properties as it is consistent with the zoning and land uses of the surrounding area. Permitted uses in “O&I-2” include: professional offices, medical care facility (i.e. nursing home); private club or lodge; cultural facilities, museums, and libraries; governmental administrative offices; indoor recreation, type I (such as dance studios, exercise studios, gyms, music academies, martial arts, etc); community centers, outdoor recreation, type I (such as pools, basketball courts, tennis, etc); financial institutions; and business/vocational schools. Most of these uses are generally compatible with the land uses and zoning in the surrounding area. The detrimental effect upon nearby property owners arises primarily from the uncertainty of future development of the site due to the size of the property and ability to expand in the future and the fact that there is no known purchaser. The property contains 3.2 acres and leaves a large area on the site for future expansion. However, a building remaining vacant and not maintained also can have a negative impact on nearby properties.

THE RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE OWNER’S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNER: The zoning change will have no apparent gains to the public health, safety and welfare although it does provide more options for future use so the building does not lie vacant. The hardship imposed upon the individual landowner is the current zoning does not reflect the potential uses of the building since the building does not have sleeping quarters or showering accommodations that are necessary for residential uses.

AVAILABILITY OF PUBLIC SERVICES: Adjacent public streets are adequate to serve the building. All essential public utilities, services and facilities are presently available to this area. If improvements are needed to the existing infrastructure, these will be made at the expense of a future owner or developer of the site.

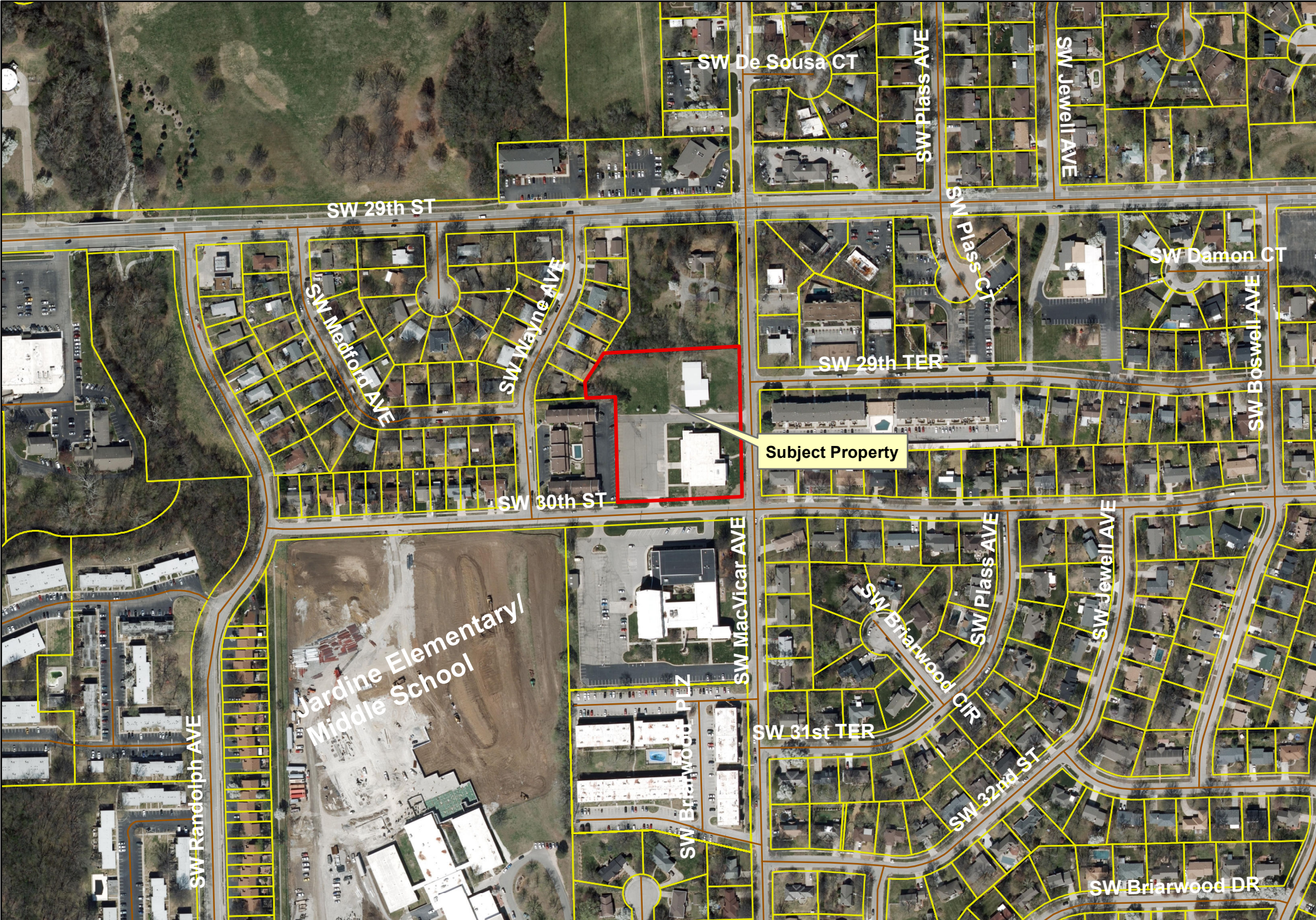
STAFF RECOMMENDATION:

RECOMMENDATION: Based on the above findings and analysis the Planning Department recommends **APPROVAL** of the zoning reclassification **TO** “O&I-2” Office and Institutional as proposed.

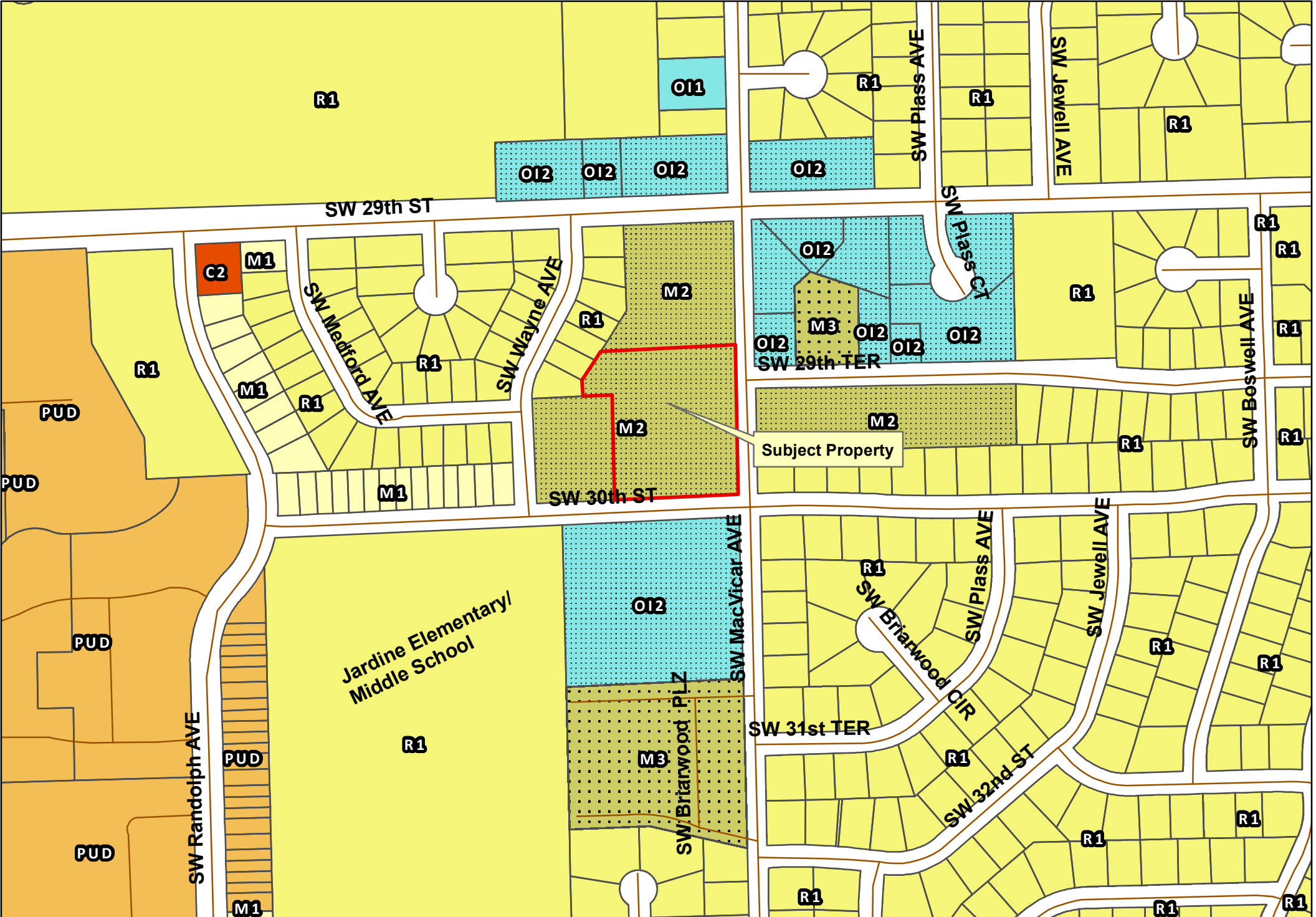
RECOMMENDED MOTION: Based on the findings and analysis in the staff report I move to recommend to the Governing Body **APPROVAL** of the reclassification of the property from “M-2” Multiple-Family Dwelling District **TO** “O&I-2” Office and Institutional District.

Attachments:

- Aerial Map
- Zoning Map
- Neighborhood Information Meeting Notes
- Neighborhood Meeting Attendance list



Z17/3 By: Topeka Scottish Rite



Z17/3 By: Topeka Scottish Rite

Z17/3 By: Topeka Scottish Rite



Requested Area

Notification
Area (200')

Protest Map

 Z17_3_protest_parcel



Legal Protest Computation Z17/3

TOTAL AREA	<u>574066.438</u>
Less Request Area	<u>139400.581</u>
Less R/W Area	<u>117302.098</u>
NET AREA	<u>317363.759</u>
PROTEST AREA	<u>78273.730</u>
	<u> </u>
<u>PROTEST AREA</u>	<u>78273.730</u>
Net Area	<u>317363.759</u>

Land Area:	24.66%
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ZONING AMENDMENT PROTEST PETITION
CITY OF TOPEKA, KANSAS

SECTION I

The undersigned property owner(s) protest the proposed change in district zoning classification on property described in Topeka Planning Commission Case Number (see agenda) 217/3 requesting a zoning classification change
FROM M2 District
TO O & I-2 District
and located at/about 2300 SW 30TH ST. in the City of Topeka, Kansas.

SECTION II—Protestor(s)

NAME(s)

Brooks E. Reynolds, Jr.
Signature

BROOKS E. REYNOLDS, JR.

Typed or Printed Name

MEMBER, BRIARCLIFF APARTMENTS LLC

Signature

Typed or Printed Name

ADDRESS & LEGAL DESCRIPTION
OF PROTESTER'S PROPERTY

2946 SW WAYNE AVE.
TOPEKA, KS 66611

BLK A LOT 1
BRIARCLIFF SUB
& PT OF SUNNY MEDE
SUB

TOPEKA, KANSAS

OCT - 2 A 11:41

RECEIVED
CITY CLERK

ACKNOWLEDGEMENT

STATE OF KANSAS)

COUNTY OF SHAWNEE) ss

Be it remembered that on this 15 day of OCTOBER, 2017, before me a Notary Public in and for said County and State, came BROOKS E. REYNOLDS, JR.

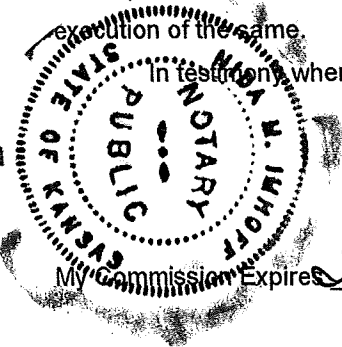
MEMBER, BRIARCLIFF APARTMENTS LLC

to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the

execution of the same.

In testimony whereof I have hereunto set my hand and affixed my notarial seal the day and year above written.

Nida M. Smith
Notary Public



ALL SIGNATURES MUST BE ACKNOWLEDGED

Additional statements of acknowledgement may be attached and made a part of this petition as necessary.

ZONING AMENDMENT PROTEST PETITION
CITY OF TOPEKA, KANSAS

SECTION I

The undersigned property owner(s) protest the proposed change in district zoning classification on property described in Topeka Planning Commission Case Number (see agenda) 217/3 requesting a zoning classification change FROM M2 District TO O & I-2 District and located at/about 2300 SW 30TH ST. in the City of Topeka, Kansas.

SECTION II—Protestor(s)

NAME(s)

Ann Michel
Signature

ANN MICHEL
Typed or Printed Name

Signature

Typed or Printed Name

ADDRESS & LEGAL DESCRIPTION
OF PROTESTER'S PROPERTY

2400 SW 29TH TERRACE
TOPEKA, KS 66611

LOT 35
SUNNY MEDE SUB # 2

TOPEKA, KANSAS

2011 OCT - 2 A 11:40

RECEIVED
CITY CLERK

ACKNOWLEDGEMENT

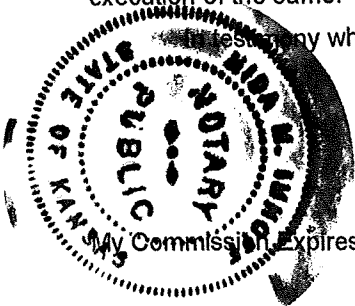
STATE OF KANSAS)

COUNTY OF SHAWNEE) ss

Be it remembered that on this 15th day of OCTOBER, 2017, before me a Notary Public in and for said County and State, came ANN MICHEL

to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of the same.

Witness my hand and seal the day and year above written.



Nida M. Phelps
Notary Public

ALL SIGNATURES MUST BE ACKNOWLEDGED

Additional statements of acknowledgement may be attached and made a part of this petition as necessary.

ZONING AMENDMENT PROTEST PETITION
CITY OF TOPEKA, KANSAS

SECTION I

The undersigned property owner(s) protest the proposed change in district zoning classification on property described in Topeka Planning Commission Case Number (see agenda) 217/3 requesting a zoning classification change FROM M2 District TO O & I-2 District and located at/about 2300 SW 30TH ST. in the City of Topeka, Kansas.

SECTION II—Protestor(s)

NAME(s)

Mark A. Foltz
Signature

MARK FOLTZ

Typed or Printed Name

Angela Hardy-Foltz
Signature

ANGELA HARDY-FOLTZ

Typed or Printed Name

ADDRESS & LEGAL DESCRIPTION
OF PROTESTER'S PROPERTY

2221 SW 30TH ST.
TOPEKA, KS 66611

BLK G LOT 1+

BRIARWOOD SUB REPLAT #1

TOPEKA, KANSAS

OCT - 2 A 11:40

RECEIVED
CITY CLERK

ACKNOWLEDGEMENT

STATE OF KANSAS)

COUNTY OF SHAWNEE) ss

Be it remembered that on this 1ST day of OCTOBER, 2017, before me a Notary Public in and for said County and State, came MARK FOLTZ
& ANGELA HARDY-FOLTZ

to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of the same.

In testimony whereof I have hereunto set my hand and affixed my notarial seal the day and year above written.



Nida M. Inhoff
Notary Public

ALL SIGNATURES MUST BE ACKNOWLEDGED

Additional statements of acknowledgement may be attached and made a part of this petition as necessary.

**ZONING AMENDMENT PROTEST PETITION
CITY OF TOPEKA, KANSAS**

SECTION I

The undersigned property owner(s) protest the proposed change in district zoning classification on property described in Topeka Planning Commission Case Number (see agenda) 217/3 requesting a zoning classification change FROM M2 District TO O & I-2 District and located at/about 2300 SW 30TH ST. in the City of Topeka, Kansas.

SECTION II—Protestor(s)

NAME(s)

Mary Sue Carreno
Signature

MARY SUE CARRENO
Typed or Printed Name

Signature

Typed or Printed Name

ADDRESS & LEGAL DESCRIPTION
OF PROTESTER'S PROPERTY

2212 SW 30TH ST.
TOPEKA, KS 66611

BLK A, LOT 2+

BRIARWOOD SUB REPLAT #1

RECEIVED
CITY CLERK
2011 OCT -2 A 11:40
TOPEKA, KANSAS

ACKNOWLEDGEMENT

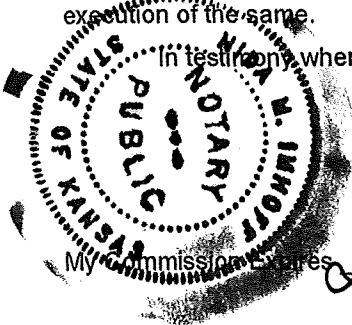
STATE OF KANSAS)

COUNTY OF SHAWNEE) ss

Be it remembered that on this 1ST day of OCTOBER, 2017, before me a Notary Public in and for said County and State, came MARY SUE CARRENO

to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of the same.

In testimony whereof I have hereunto set my hand and affixed my notarial seal the day and year above written.



Nida M. Inhoff
Notary Public

ALL SIGNATURES MUST BE ACKNOWLEDGED

Additional statements of acknowledgement may be attached and made a part of this petition as necessary.

ZONING AMENDMENT PROTEST PETITION
CITY OF TOPEKA, KANSAS

SECTION I

The undersigned property owner(s) protest the proposed change in district zoning classification on property described in Topeka Planning Commission Case Number (see agenda) 217/3 requesting a zoning classification change
FROM M2 District
TO O & I-2 District
and located at/about 2300 SW 30TH ST. in the City of Topeka, Kansas.

SECTION II—Protestor(s)

NAME(s)

ADDRESS & LEGAL DESCRIPTION
OF PROTESTER'S PROPERTY

Signature

2931 SW WAYNE AVE.
TOPEKA, KS 66611

LLOYD WILLES, JR.
Typed or Printed Name

LOT 34

Lloyd Willes Jr.
Signature

SUNNYMEDE SUB #2

Typed or Printed Name

TOPEKA, KANSAS

OCT - 2 A 11:40

RECEIVED
CITY CLERK

ACKNOWLEDGEMENT

STATE OF KANSAS)

COUNTY OF SHAWNEE) ss

Be it remembered that on this 1st day of OCTOBER, 20 17, before me a Notary Public in and for said County and State, came LLOYD WILLES, JR.

to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of the same.

In testimony whereof I have hereunto set my hand and affixed my notarial seal the day and year above written.



Nide M. M. M.
Notary Public

ALL SIGNATURES MUST BE ACKNOWLEDGED

Additional statements of acknowledgement may be attached and made a part of this petition as necessary.

ZONING AMENDMENT PROTEST PETITION
CITY OF TOPEKA, KANSAS

SECTION I

The undersigned property owner(s) protest the proposed change in district zoning classification on property described in Topeka Planning Commission Case Number (see agenda) 217/3 requesting a zoning classification change
FROM M2 District
TO O & I-2 District
and located at/about 2300 SW 30TH ST. in the City of Topeka, Kansas.

SECTION II—Protestor(s)

NAME(s)

Joseph Steinbock
Signature

JOSEPH STEINBOCK

Typed or Printed Name

TRUSTEE, STEINBOCK FAMILY TRUST

Signature

Typed or Printed Name

ADDRESS & LEGAL DESCRIPTION
OF PROTESTER'S PROPERTY

2913 SW WAYNE AVE.
TOPEKA, KS 66611

LOT 31

SUNNY MEDE SUB #2

TOPEKA, KANSAS

2017 OCT -2 A 11:41

RECEIVED
CITY CLERK

ACKNOWLEDGEMENT

STATE OF KANSAS)

COUNTY OF SHAWNEE) ss

Be it remembered that on this 1ST day of OCTOBER, 20 17, before me a Notary Public in and for said County and State, came JOSEPH STEINBOCK
TRUSTEE, STEINBOCK FAMILY TRUST

to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of the same.

In testimony whereof I have hereunto set my hand and affixed my notarial seal the day and year above written.

Nida M. Ambrose
Notary Public

My Commission Expires

February 24, 2021

ALL SIGNATURES MUST BE ACKNOWLEDGED

Additional statements of acknowledgement may be attached and made a part of this petition as necessary.

ZONING AMENDMENT PROTEST PETITION
CITY OF TOPEKA, KANSAS

SECTION I

The undersigned property owner(s) protest the proposed change in district zoning classification on property described in Topeka Planning Commission Case Number (see agenda) 217/3 requesting a zoning classification change
FROM M2 District
TO O & I-2 District
and located at/about 2300 SW 30TH ST. in the City of Topeka, Kansas.

SECTION II—Protestor(s)

NAME(s)

Penny Roberts
Signature

PENNY ROBERTS
Typed or Printed Name

Signature

Typed or Printed Name

ADDRESS & LEGAL DESCRIPTION
OF PROTESTER'S PROPERTY

2919 SW WAYNE AVE.
TOPEKA, KS 66611

LOT 32

SUNNYMEDE SUB #2

TOPEKA, KANSAS

2017 OCT -2 A 11:41

RECEIVED
CITY CLERK

ACKNOWLEDGEMENT

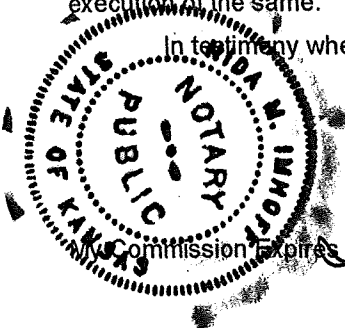
STATE OF KANSAS)

COUNTY OF SHAWNEE) ss

Be it remembered that on this 1ST day of OCTOBER, 20 17, before me a Notary Public in and for said County and State, came PENNY ROBERTS

to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of the same.

In testimony whereof I have hereunto set my hand and affixed my notarial seal the day and year above written.



Nida M. [Signature]
Notary Public

ALL SIGNATURES MUST BE ACKNOWLEDGED

Additional statements of acknowledgement may be attached and made a part of this petition as necessary.

Report from Topeka Scottish Rite zoning public meeting.

A public meeting was held August 30th at 2300 SW 30th St for the purpose of informing the neighborhood of the Topeka Scottish Rite's plan to have their property rezone from M2 to OI & 2. There were approximately 12 property owners that attended the meeting, three Scottish Rite representatives, and City planning staff. The presentation was made by Scottish Rite Secretary Dale Fritz. Fritz gave a history of the building as well as current status of the property being up for sale. There were questions from the public about the rezoning process and dimensional standards (i.e. setbacks, parking, etc). The owners of the apartments west of the property expressed concerns of halfway housing and or correction facilities being allowed in OI&2. These concerns were addressed by Annie Driver who indicated a "correctional placement facility" is not allowed in O&I-2, except by CUP. However, I believe that Mr. Reynolds was not satisfied with her answers because "O&I-2" does permit other types of group residences such as, "Community Living Facilities". The overall conclusion from the public was a concern of the zoning change without a specific buyer for the building. If you look at the zoning map, OI&2 is already in this neighborhood so it will not amount to much of a change or impact to existing property owners.

Dale Fritz
Executive Secretary
Topeka Scottish Rite
4228 SW 29th Terrace
Topeka Ks, 66614
Office 785-266-3191
Cell 785-207-4840

Neighborhood Information Meeting

Sign in Sheet

Neighborhood Information Meeting

Sign in Sheet

Z17/3 By: Topeka Scottish Rite

Date: August 30, 2017 at 5:30 pm

Location: 2300 SW 30th Street

[illegible]



CITY OF TOPEKA
TOPEKA PLANNING COMMISSION
C A S E M I N U T E S

Monday, September 18, 2017

6:00PM – Municipal Building, 214 SE 8th Street, 2nd floor Council Chambers

Members present: Wiley Kannarr (Chair), Brian Armstrong, Ariane Messina, Dennis Haugh, Rosa Cavazos, Katrina Ringler (6)

Members Absent: Carole Jordan (1)

Staff Present: Bill Fiander, Planning Director; Mike Hall, Planner III; Annie Driver, Planner II; John Neunuebel, Planner II; Kris Wagers, Administrative Officer; Mary Feighny, Legal; Dan Warner, Planner III; Tim Esparza, Planner I

Z17/03 by: Topeka Scottish Rite, requesting to amend the District Zoning Classification of the subject property **from** "M-2" Multiple Family Dwelling District **to** "O&I-2" Office and Institutional to allow future uses consistent with O&I-2 zoning on the 3.2 acre property located at 2300 SW 30th Street. **(Driver)**

Ms. Driver presented the staff report. Dale Fritz, Executive Director of the Topeka Scottish Rite came forward and stated that since the Neighborhood Information Meeting was held, there was an offer made by Peaceful Rest Funeral Home to purchase the building.

Mr. Kannarr declared the **public hearing open** and with none coming forward to speak, declared the **public hearing closed**.

Mr. Haugh asked Ms. Driver if the information about the possible sale of the building to a known buyer with a known use would allay staff concerns about the openness of the site and if additional proposed buildings would be reviewable by City Planning Department. Ms. Driver answered that yes, additional building would likely come before the Planning Department for administrative approval in the form of site plan review.

Mr. Armstrong asked if use as a funeral home would be allowable under the proposed zoning and Ms. Driver confirmed that this would be permitted in O&I-2 zoning; however, if they wished to add a crematorium, it would require a Conditional Use Permit.

Following brief additional discussion, Mr. Armstrong made a **motion** to approve the reclassification of the subject property from "M-2" Multiple Family Dwelling District to "O&I-2" Office and Institutional District.

Second by Ms. Cavazos. **APPROVAL** (6-0-0)

DRAFT



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
December 5, 2017

DATE: December 5, 2017
CONTACT PERSON: Bill Fiander DOCUMENT #:
SECOND PARTY/SUBJECT: PROJECT #:
CATEGORY/SUBCATEGORY 014 Ordinances – Non-Codified / 007 Zoning
CIP PROJECT: No
ACTION OF COUNCIL: JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

ORDINANCE introduced by City Manager Brent Trout, amending the "District Map" referred to and made a part of the Zoning Ordinance by Section 18.50.050 of the Topeka Municipal Code, by providing for certain changes in zoning on property located at the northeast corner of SW Westport Drive and SW 22nd Terrace FROM "O&I-2" Office and Institutional District TO "PUD" Planned Unit Development for "O&I-2" Office and Institutional use group plus self-service laundry use. (PUD 17/04) (Council District No.9)

Voting Options: (1) Approve the Planning Commission's recommendations 6 votes (2) Amend or Reject the Planning Commission's recommendations 7 votes or (3) Remand back to the Planning Commission 6 votes

(Approval would allow for a 24-hour self service laundry facility.)

VOTING REQUIREMENTS:

1. Approve the Planning Commission's recommendation. A minimum of 6 votes is required.
2. Amend or reject the Planning Commission's recommendation. A minimum of 7 votes is required.
3. Remand to the Planning Commission for further consideration, with a statement specifying the basis for the governing body's failure to approve or disapprove. A minimum of 6 votes is required.

POLICY ISSUE:

The key issues regarding the proposed zoning relate to maintaining an appropriate transition between commercial land uses to the north and office and residential uses to the west and south of the site, specifically:

- compatibility of a commercial use with the residential land use adjacent and south of the property.
- compatibility of site and building design with office development to the west and residential development to

the south of the site.

The proposed PUD Master Plan allows all uses allowed in the O&I2 zoning district but restricts commercial use ("C" uses) to a self-service laundry subject to the site and landscape plan in the master plan. The proposed master plan provides for 24 hour per day operation (with an attendant present at all times), but mitigates the impact of the operation by prohibiting vehicular access from 22nd Terrace.

The self-service laundry building will have a brick exterior and a pitched roof constructed on multiple planes for compatibility with adjacent office and residential buildings.

The master plan includes a 10 foot landscape setback along Westport Drive and a 10 to 35 foot setback along 22nd Terrace, and a 30 inch high berm along 22nd Terrace, in keeping with the character of adjacent office and residential development.

Business signage is restricted to a single monument-style sign located to the northwest of the building, along with size-restricted wall signs.

Based on the future land use designation in the Land Use & Growth Management Plan 2040 (LUGMP) and the development standards in the Master Plan, the PUD Master Plan is consistent with the LUGMP.

STAFF RECOMMENDATION:

Staff recommend the Governing Body move to adopt the Ordinance.

BACKGROUND:

The request to rezone vacant property located to the northeast of the intersection of SW Westport Drive and SW 22nd Terrace (2.5 acres) FROM "O&I-2" Office and Institutional TO "PUD" Planned Unit Development with designated use group(s) of "O&I-2" Office and Institutional and "C-1" Commercial will provide for the construction of a 12,500 sq.ft. building to be used as a self-service laundry that will be open 24 hours per day with an attendant always present.

The project applicant held a Neighborhood Information Meeting that was well attended, with attendees expressing concerns regarding drainage, traffic, outdoor lighting, crime, signage, and hours of operation. As a result of concerns expressed regarding an access driveway initially proposed on SW 22nd Terrace, the applicant deleted this driveway from the Master Plan resulting in a single access onto SW Westport Drive and away from nearby residences.

On September 18, 2017 the Planning Commission recommended approval of the PUD Master Plan subject to conditions by a vote of 6-0-0. The Planning Department recommended approval per the attached staff report. The applicant has revised the PUD Master Plan satisfying the conditions as recommended by the Planning Commission.

The Planning Department received protest petitions but they were not sufficient to meet the statutory requirement to trigger a supermajority vote.

BUDGETARY IMPACT:

There would be no budget impact to the City.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

Description

Ordinance

Staff Report to Planning Commission

Aerial Map

Zoning Map
Planning Commission Meeting Minutes
Aqua Blast PUD Master Plan
Aqua Blast PUD Master Plan Bldg.Elevations
Neighborhood Information Mtg. Summary & Sign-In Sheet

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Brent Trout, amending the “District Map” referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code, by providing for certain changes in zoning on property located at the northeast corner of SW Westport Drive and SW 22nd Terrace FROM “O&I-2” Office and Institutional District TO “PUD” Planned Unit Development District (O&I-2 use group plus self-service laundry use). **(PUD 17/04) (Council District No. 9)**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That the “District Map” referred to and made a part of the Zoning Ordinances by Section 18.50.050 of the Topeka Municipal Code (TMC), be, and the same is hereby amended for the following described property, approximately 2.5 acres in size, as located at the northeast corner of SW Westport Drive and SW 22nd Terrace:

Lot 16 within Block A of John O Allen Subdivision No.2, in the City of Topeka, Shawnee County, Kansas

FROM “O&I-2” Office and Institutional District **TO** “PUD” Planned Unit Development District (O&I-2 use group plus self-service laundry use) subject to:

- 1. Use and development of the site in accordance with the Aqua Blast Self-Service Laundry Planned Unit Development Master Plan.**

Section 2. The Aqua Blast Self-Service Laundry Planned Unit Development Master Plan shall be recorded with the Shawnee County Register of Deeds in accordance with Section 18.190.060(b) of the Topeka Municipal Code (TMC). Following the recording of the PUD Master Plan and prior to building permit and/or land development on the site, site development plans shall be submitted for review and administrative approval by the Planning Director.

Section 3. This Ordinance Number shall be fixed upon the “District Map.”

Section 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 5. 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 Council of the City of Topeka, _____,

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk

To Be Codified _____
Not To Be Codified X

STAFF REPORT – PLANNED UNIT DEVELOPMENT
TOPEKA PLANNING DEPARTMENT

PLANNING COMMISSION DATE: September 18, 2017

<u>CASE NUMBER & NAME:</u>	PUD17/04 Aqua Blast Self-Service Laundry (PUD) Master Plan
REQUESTED ACTION / CURRENT ZONING:	To amend the district zoning classification of the property <i>from</i> “O&I-2” Office and Institutional District <i>to</i> “PUD” Planned Unit Development with “O&I-2” Office and Institutional use group, and “C-1” Commercial use group to provide for construction and operation of self-service laundromat.
APPLICANT / PROPERTY OWNER:	Applicant/ Property Owner: Chamberlin Properties, LLC
APPLICANT REPRESENTATIVE:	Mr. Greg Ferris; Ferris Consulting
PROPERTY ADDRESS & PARCEL ID:	Northeast corner of SW Westport Drive and SW 22 nd Terrace Parcel ID: 14209020010060
PARCEL SIZE:	Size of Project Area: Approximately 2.46 acres
CASE PLANNER:	John Neunuebel, Planner II
<u>STAFF RECOMMENDATION:</u>	APPROVAL of Aqua Blast Laundry PUD Master Plan subject to conditions included on Pages 8 and 9.
<u>RECOMMENDED MOTION:</u>	Based on the findings and analysis in the staff report, I move that the Topeka Planning Commission forward to the Governing Body a recommendation of APPROVAL of the proposed PUD Master Plan along with conditions.

PROPOSED USE / SUMMARY:

Proposed PUD Master Plan includes use group(s) of “C-1” Commercial restricted to self-service laundry and “O&I -2” Office and Institutional.

DEVELOPMENT / CASE HISTORY:

The 2.46-acre site consists of vacant land. The current zoning of “O&I-2” Office and Institutional District has been in effect on the subject site since May 2014 when it was changed from “M-3” Multiple Family Dwelling District. In 1972 the previous M-3 Multiple Family Dwelling zoning had been changed *from* “R-1” single family residential and “I-1” Light Industrial when the subject site was adjacent to the former “Allen Air Park” that included light industrial uses.

PHOTOS:



View from driveway serving multi-family residential development on south side of 22nd Terrace looking north toward subject site and office and commercial development along Westport Drive



South side of project area looking east along 22nd Terrace with multi-family residential development on south side of 22nd Terrace



View from intersection of Westport Drive and 22nd Terrace looking northwest into center portion of project area

ZONING AND CHARACTER OF SURROUNDING AREA:

The adjacent land to the north is zoned PUD/C4 use group with an office and recreational use. The adjacent lands to the west across Westport Drive are zoned I-1 with a self-storage facility, and PUD/O&I-1 use group with a professional office use. The adjacent lands to the south and southeast are zoned PUD/M3 use group and include the “Pheasant Run” and “The Woods” residential condominium development(s). Further to the

south is “Whispering Pines” residential apartments, along with single-family residential. An adjacent property located immediately east of the site and adjacent to the I-470 corridor is zoned O&I-2, as is the subject site, and is also currently vacant.

OVERVIEW OF PROPOSED PUD ELEMENTS

UTILITIES:	All utilities to be underground, with available sanitary sewer and water service to be provided by City of Topeka.
CIRCULATION, PARKING, AND TRAFFIC:	The PUD master plan provides for internal circulation for vehicles and pedestrians, including a single point of vehicular access on SW Westport Drive. (The initial iteration of the PUD Master Plan included a second access onto SW 22nd Terrace, but the applicant removed this second access in response to concerns expressed by nearby residents during the Neighborhood Information Meeting.) The City's off-street parking regulations do not include a quantity standard specifically for self-service laundries. Based on the general commercial standard of 1 space for 200 square feet of the net floor area 46 parking spaces are required (Gross floor area minus storage rooms, rest rooms, mechanical rooms, and corridors equals a net floor area of approximately 9,186 square feet.). The PUD Master Plan includes 48 parking spaces in compliance with the City's parking requirements. Due to anticipated, relatively minor traffic impacts associated with a self-service laundry, a traffic impact assessment was not required for analysis of the proposed zone change. The use itself is not a peak-hour traffic generator, with the busiest day of the week for a self-service laundry normally being on Sunday.
BUILDINGS AND HOURS OF OPERATION:	The PUD Master Plan provides for a single building of 12,500 square feet in size. The intended use as a self-service laundry will include glass-door entries on all four building facades, with a covered 'drive and drop-off entry' on the east-facing facade. External wall elevations will be brick-clad, along with a pitched roof. The owner/ applicant proposes that the laundry facility be a 24-hour operation that will also include an attendant being present at all times.
SIGNAGE:	The PUD Master Plan provides for a single monument-style sign adjacent to Westport Drive and located to the north of the building, and shall not exceed 6 feet in height and shall not exceed a total of 50 square feet per sign face. Wall signs are restricted to no more than one single wall sign on

each side of the building, with each sign being limited to a maximum area of 30 square feet, and shall be located no higher than 15 feet above grade. Electronic message center (EMC) and portable reader board signs are prohibited.

LANDSCAPING:

The PUD Master Plan provides for substantial landscaping including required landscape buffers along 22nd Terrace and a *portion* of Westport drive, as well as landscape islands located within parking area and adjacent to the northwest, southwest, and southeast corners of the building. The wooded portions of the site to the north and east will remain as undisturbed buffer including drainage channel. A portion of the Westport Drive frontage includes a landscape buffer less than the standard minimum width of 4 feet or is absent altogether. This request for reduced buffer is for an area approximately 75 linear feet south of the access driveway on Westport Drive. (Of affected street frontage, approximately 50 linear feet is without any landscape buffer.)

The applicant proposes that layout and shape of the lot makes it difficult to design the site to allow for access, parking, and parking circulation. The applicant further proposes that a 37 foot landscape buffer at the immediate corner of Westport and 22nd Terrace and a 30 foot wide landscape setback provided along most of the 22nd Terrace frontage, as a buffer to the adjacent residences south of 22nd Terrace, compensates for the substandard or lack of buffer along Westport Drive. It is the opinion of staff that providing a zero-foot landscape setback is not warranted based on the character of the area and a substantial landscape setback should be provided along Westport Drive. The self-service laundry is potentially a more intensive use than the surrounding uses, and the development immediately west of the proposed building is a professional office for which its parking and circulation is set back 16 to 22 feet the Westport Drive right-of-way.

OTHER:

A Drainage Plan has been submitted for the PUD, and is undergoing revision pursuant to comments from Department of Public Works.

COMPLIANCE WITH DEVELOPMENT STANDARDS AND GUIDELINES

(The PUD Master Plan establishes development standards and guidelines as generally described in the previous section of this report.)

OTHER FACTORS

SUBDIVISION PLAT:

The subject property has been platted as Lot 16 within Block A of John O Allen Subdivision No. 2. (plat recorded in 1978)

FLOOD HAZARDS, STREAM BUFFERS: As noted in the Drainage Plan prepared for the PUD, the site is currently graded open space with grass cover and trees along its eastern edge within an existing drainage channel. The site accepts off-site water from a storm pipe from SW Westport Drive and some limited surface runoff from the commercial development to the north. The site does not contain any FEMA floodplain. Proposed new development will utilize new storm sewers and a grassed, dry detention area in the southeast portion of the site for developed runoff that will also serve as a sedimentation basin for water quality treatment.

HISTORIC PROPERTIES: None

NEIGHBORHOOD MEETING: The project applicant held a Neighborhood Information Meeting on Tuesday, August 29, 2017. Questions and comments from approximately 30 attendees related to: drainage; traffic impacts; lighting; crime concerns; signage; building size and design; and business operations including information from owner such as general business plan and staffing, how particular location was identified, owner's similar projects in Wichita, hours of operation, etc. Particular concerns were also expressed in regard to proposed access onto SW 22nd Terrace as included in initial iteration of PUD Master Plan.

OTHER: None

REVIEW COMMENTS BY CITY DEPARTMENTS AND EXTERNAL AGENCIES

PUBLIC WORKS/ENGINEERING: City of Topeka Department of Public Works provided particular comments in regard to Stormwater Drainage Plan and revisions and clarifications required therein.

POLICE DEPARTMENT: Continuous staffing/ attendant recommended for 24-hour operation.

KEY DATES

SUBMITTAL OF PUD APPLICATION	August 3, 2017
SUBMITTAL OF REVISED PUD MASTER PLAN	August 31, 2017 (Submittal of revised PUD Master Plan in response to Staff comments dated August 25, 2017, as well as comments received during Neighborhood Information Meeting.)
NEIGHBORHOOD INFORMATION MEETING	August 29, 2017
LEGAL NOTICE PUBLICATION	August 28, 2017
PROPERTY OWNER NOTICE MAILED	August 23, 2017

ANALYSIS

Character of Neighborhood: The proposed PUD Master Plan provides for development of a vacant property with a use that, although commercial, does provide through development standards a discernible transition between the residential area to the south and the commercial uses to the north. Additionally, the architectural design of the associated building including brick-cladding and pitched roof, approximates the design of the medical/dental building on the west side of Westport Drive and the relatively large size of the building footprint (12,500 sq.ft) provides for potential re-use of the building as office use should such a change be warranted in the future. The requested variance eliminating or reducing the landscape buffer adjacent to Westport Drive is not compatible with the character of the residential neighborhood to the south or the office use to the west, nor is it consistent with providing an appropriate transition between the nearby residential neighborhood and more intense commercial and industrial areas to the north. In addition, there are architectural design elements of the proposed building that need be enhanced in further adhering to the character of the nearby residential area. Staff is also recommending the limiting of hours of operation to 16 continuous hours as an additional measure in protecting nearby residential areas from the potentially negative impacts of a round-the-clock commercial use.

Zoning and Use of Nearby Properties: The adjacent land to the north is zoned PUD/C4 use group with an office and recreational use. The adjacent lands to the west across Westport Drive are zoned I-1 with a self-storage facility, and PUD/O&I-1 use group with a professional office use. The adjacent lands to the south and southeast are zoned PUD/M3 use group and include the "Pheasant Run" and "The Wood" residential condominium development(s).

While the proposed development is for a use that C-1 zoning allows, the proposed PUD Master Plan does not allow for other "C" commercial uses and includes restrictive conditions including design and development standards that generally adhere to the intent of the subject property's current underlying zoning of O&I-2 Office and Institutional in serving as a transitional area between existing residential zoning and development to the south and commercial & industrial zoning and development to the north and west. To further ensure that commercial use is limited to the self-service laundry as proposed, staff is recommending a clarification to the PUD Master Plan in regard to allowable PUD-Use Group of O&I-2 plus self-service laundry use.

Length of time property has remained vacant as zoned or used for its current use under present classification: The property has remained vacant since it was platted in 1978 although intensive residential and commercial development has occurred in adjacent areas.

Conformance to Comprehensive Plan: The proposed PUD Master Plan site comprises an infill development consisting of a self-service laundry, and is categorized within the Future Land Use Map of the Topeka Land Use and Growth Management Plan 2040 (LUGMP) as Regional Commercial and is part of the Wanamaker Commercial Corridor. The LUGMP encourages less intense zoning districts between commercial and residential uses to provide for a stepping down in intensity of land use, and although the existing zoning for the site of "O&I-2" may more readily provide for such a lessening of intensity, the proposed PUD Master Plan through inclusion of standards related to building and site design, signage, and significant landscaped buffer area along 22nd Terrace does provide for a discernible transition between the residential area to the south and more intensive commercial area to the north. (The PUD Master Plan also includes O&I-2 as a designated use group.) Based upon the future land use designation for the subject site and proposed development standards within the Master Plan, along with recommended conditions for approval, the proposed PUD Master Plan is consistent with the Topeka Land Use and Growth Management Plan 2040.

The extent to which removal of the restrictions will detrimentally affect nearby properties: The proposed Planned Unit Development (PUD) zoning provides for development of the property for a self-service laundry and does not allow for other land uses not permitted under the current zoning designation. While there may be concern about use of the property as a self-service laundry, the conditions of approval for the PUD master plan will help ensure that there are no detrimental effects to nearby properties.

The relative gain to the public health, safety and welfare by the destruction of the value of the owner's property as compared to the hardship imposed upon the individual landowner: The property's current zoning of O&I-2 provides for a broad range of uses, including some forms of residential use, numerous types of civic, cultural and recreational uses, and limited commercial uses, including office and health services uses. A disapproval of the proposed change in zoning does not deprive the owner of the opportunity for economically viable development.

The proposed planned unit development (PUD) zoning provides for one type of commercial land use, specifically a self-service laundry, not permitted under the current zoning. The PUD master plan ties the self-service laundry use to a site plan with conditions controlling for signage, landscaping, and the size and design of the building. With the appropriate conditions imposed, the proposed self-service laundry is compatible with surrounding land uses and will not pose a hardship to the owners of surrounding property.

Availability of Public Services: All essential public services and utilities are presently available.

Compliance with zoning and subdivision regulations: The PUD Master Plan establishes development standards and guidelines as described in the previous section of this report, and these standards are more restrictive than the standards applicable to O&I zoning without a planned unit development with the exception of the requested elimination or reduction in landscape buffer adjacent to Westport Drive.

STAFF RECOMMENDATION

Based upon the above findings and analysis Planning Staff recommend APPROVAL of the Aqua Blast Self-Service Laundry PUD Master Plan subject to the following conditions:

- 1.) Re-locate, re-orient, or re-configure self-service laundry building as necessary to provide a landscape setback and buffer adjacent to Westport Drive that retains significant buffer at southwest corner of Westport Drive and 22nd Terrace while tapering down to a landscape setback and buffer that is a minimum of ten (10) feet in width.
- 2.) Revise "Current Zoning" within General Provisions to indicate: PUD-Use Group of O&I-2 PLUS SELF-SERVICE LAUNDRY USE.
- 3.) Revise architectural elevations so as to add articulation and visual interest to the 130-foot long rooftop ridgelines on the north and south elevations through the use of elements such as gable-roofed dormers, hip-roof elements, or other design measures that achieve an equivalent result.
- 4.) Revise General Provisions Note #10 to indicate: LIGHTING WITHIN THIS DEVELOPMENT SHALL BE IN ADHERANCE TO CITY OF TOPEKA ZONING CODE. LIGHTING SHALL BE FULL CUT OFF, SHIELDED & RECESSED WITH CUT-OFF ANGLES TO PREVENT THE CAST OF LIGHTING BEYOND THE PROPERTY.
- 5.) Add new Note #11 within General Provisions to indicate: HOURS OF DAILY OPERATION FOR SELF-SERVICE LAUNDRY IS LIMITED TO NO MORE THAN EIGHTEEN (18) CONTINUOUS HOURS.
- 6.) Add new note within Building and Structure Notes to indicate: ALL MECHANICAL EQUIPMENT ON THE EXTERIOR OF BUILDING VISIBLE FROM SW 22ND TERRACE SHALL BE FULLY SHIELDED FROM VIEW.
- 7.) Add new landscape Note #5 indicating: A 30" HIGH BERM IN SHIELDING PARKING AREA SHALL BE

INCLUDED IN LANDSCAPE BUFFER ADJACENT TO SW 22ND STREET.

- 8.) Add new landscape Note #6 indicating: UNDEVELOPED PORTION NORTH OF PARKING AREA TO CONSIST OF TURF AND/OR A VARIETY OF LANDSCAPE PLANTINGS.
- 9.) Inasmuch as additional uses in separate buildings as may be proposed in the future will require a major amendment of the approved PUD Master Plan including public hearing process, delete last sentence in Building and Structures Note #3 indicating that a revised site plan for additional uses to be submitted to Planning Commission for consideration.

ATTACHMENTS

Aerial Map

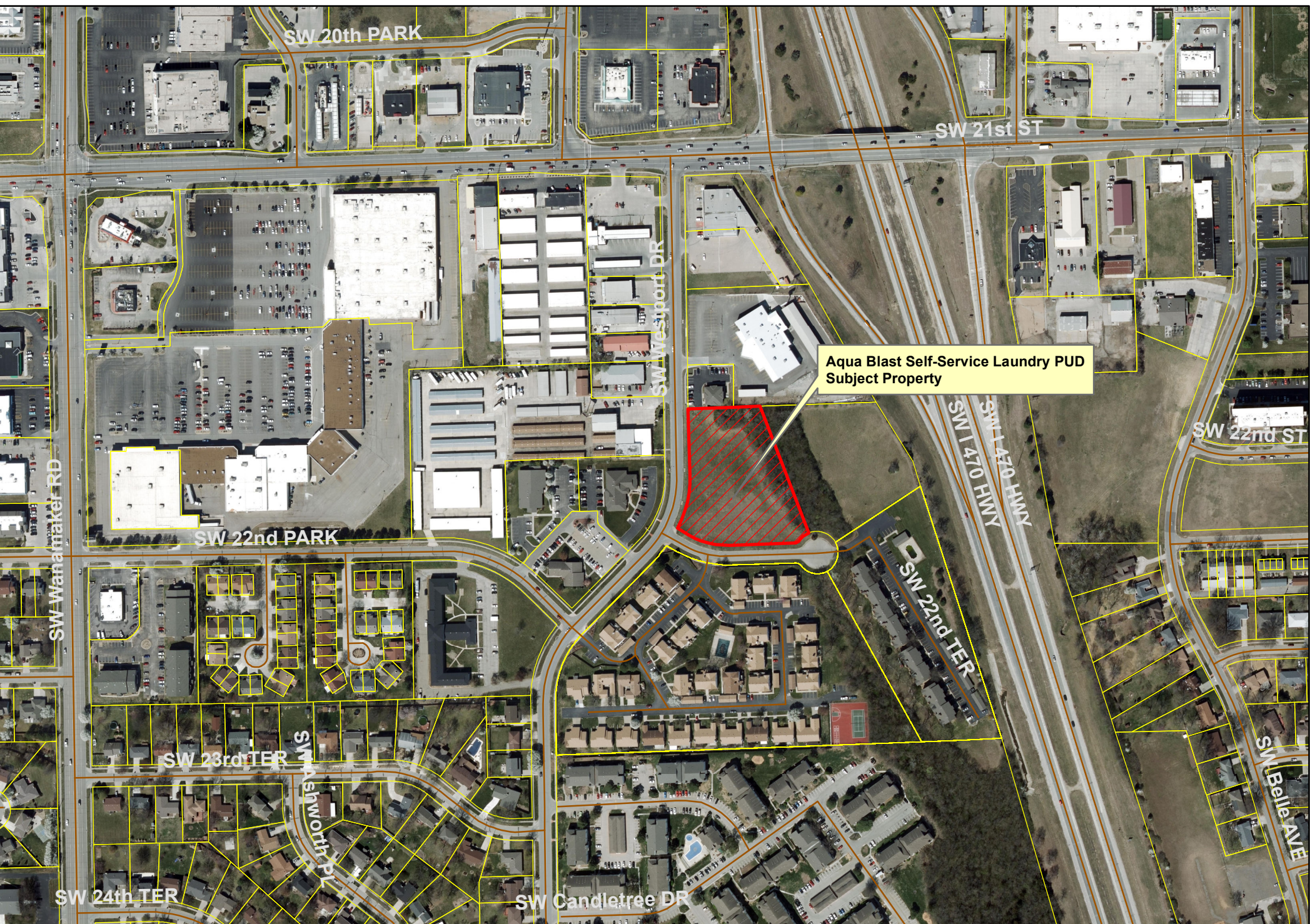
Zoning Map

Aqua Blast PUD Master Plan, along with Floor Plan and Building Elevations

Neighborhood Information Meeting report and attendance sheet

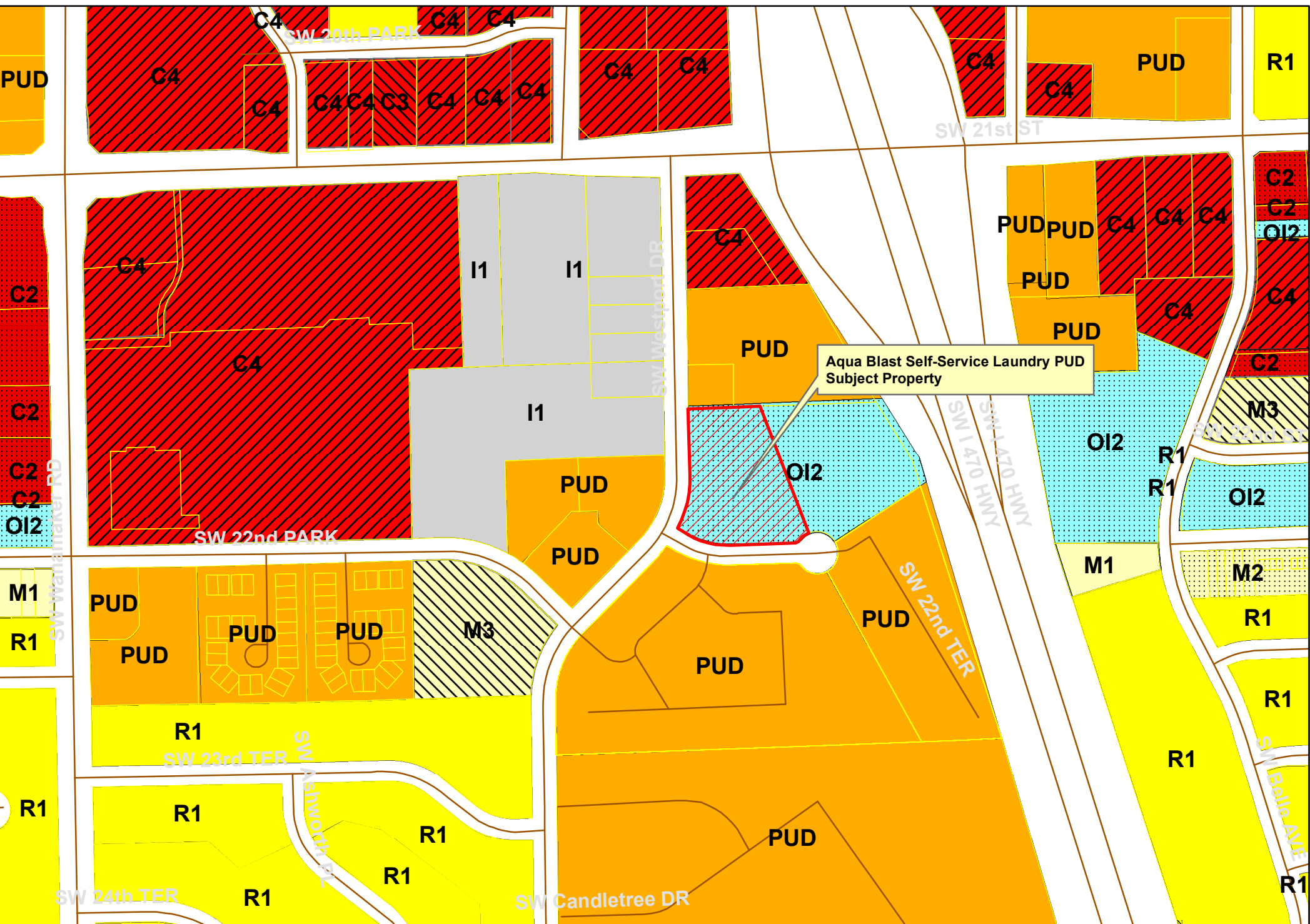
Applicant's Letter of August 1, 2017 as submitted with Application

Citizen Comments (1 letter)



Aqua Blast Self-Service Laundry PUD
Subject Property

PUD 17/04
Aqua Blast Self-Service Laundry PUD Master Plan



Aqua Blast Self-Service Laundry PUD
Subject Property

PUD 17/04
Aqua Blast Self-Service Laundry PUD Master Plan



CITY OF TOPEKA
TOPEKA PLANNING COMMISSION
C A S E M I N U T E S

Monday, September 18, 2017

6:00PM – Municipal Building, 214 SE 8th Street, 2nd floor Council Chambers

Members present: Wiley Kannarr (Chair), Brian Armstrong, Ariane Messina, Dennis Haugh, Rosa Cavazos, Katrina Ringler (6)

Members Absent: Carole Jordan (1)

Staff Present: Bill Fiander, Planning Director; Mike Hall, Planner III; Annie Driver, Planner II; John Neunuebel, Planner II; Kris Wagers, Administrative Officer; Mary Feighny, Legal; Dan Warner, Planner III; Tim Esparza, Planner I

PUD17/04 Aqua Blast Laundry by: Chamberlin Properties, LLC, requesting to amend the District Zoning Classification from “O&I-2” Office and Industrial District to “PUD” Planned Unit Development (O&I-2 Use Group and Laundry) for development of a self-service laundromat on the 2.44-acre property located at the Northeast corner of SW Westport Drive & SW 22nd Terrace (**Neunuebel**)

Mr. Neunuebel presented the staff report and staff recommendations. Commissioners asked questions about some of the recommendations, including #5 and #1. Mr. Haugh asked what the limitations are for the drainage and utility easements. Mr. Neunuebel stated that there is currently a drainage plan under review with City staff and that the drainage easement must be left undisturbed. Mr. Fiander added that the easement could potentially be altered through a platting process.

Mr. Greg Ferris came forward representing the owner/applicant. Mr. Ferris pointed out that they have removed a driveway/entrance that was originally planned on SW Terrace because neighbors had expressed concern about it. He spoke about the materials and landscaping that are planned and stated that the applicant is asking for a variance in what staff is asking them to do regarding landscaping

Mr. Ferris stated that the proposed PUD offers a transitional buffer between nearby industrial and commercial development and multi-family uses to the south. He stated that the recreation center just to the north of the PUD site has a much more intensive use than the proposed laundromat.

Regarding conditions recommended by staff, Mr. Ferris stated that the applicant agrees with numbers 2, 4, 6, 8 & 9 and have submitted changes to Mr. Neunuebel to comply with those recommendations. He briefly reviewed those recommendations and changes.

In regard to recommendations 1 and 7, Mr. Ferris stated that the drainage easement limits how the applicant can configure the site. He discussed the proposed landscaping and how it's more landscaping than is typical for the area, and he stated that the applicant sees no good reason for the requested 30" high berm (#7).

DRAFT

In regard to recommendation #[5] (stated as #3 by Mr. Ferris), Mr. Ferris stated that the applicant is considering what would be allowed in O&I2, the current zoning of the property. He stated that businesses that are allowed in O&I2 include medical offices with pharmacies, funeral homes, radio & TV broadcasting, and fitness clubs which can operate 24 hours/day and have substantial traffic. He stated that the applicant is concerned about the proposed restriction of hours. They have stated they'll have someone onsite 24 hours/day to manage the facility, their business plan includes being open 24 hours, and they feel anything short of that would be discriminatory against people who work 2nd or 3rd shift and need to do laundry at different hours.

In regard to the building itself (#3), he referenced the materials they're planning to use (brick and a gabled roof) and stated that it's not required in O&I-2. He believes that the building they plan to build complies with what O&I-2 allows and goes well beyond that.

Mr. Ferris reviewed the "Golden Rules" and how the applicant feels the project complies with those. He asked the Commission to approve the PUD application with staff recommendations, except for numbers 1, 3, 5 & 7.

Mr. Haugh asked what might be done with the remaining land to the north of the proposed building. Mr. Ferris stated that perhaps a small office building could be placed there, but any proposals would need to be approved through a PUD amendment.

Mr. Haugh inquired as to whether the building could be re-designed to allow for the minimum 10' landscape setback and buffer. Mr. Ferris stated that because of the way the applicant's buildings and layout are configured to allow for the washers and dryers, maintenance, etc., it would hinder the applicant's ability to have the number of machines needed. He stated that they don't believe the trade-off for a small amount of landscaping is warranted. Mr. Haugh asked about the possibility of rotating the building and Mr. Ferris stated that their architects say that would be very difficult. They have three other facilities and this is the same way those facilities are designed.

Ms. Messina asked Mr. Neunuebel about the reason for recommending restricting the hours of operation. Mr. Neunuebel stated that staff feels it would be more in keeping with the nearby residential area, which is just on the other side of 22nd Terrace.

Mr. Fiander asked commissioners if it would be helpful for staff to address the staff recommendations that the applicant expressed concern about and they agreed that it would be.

Regarding #5 / hours of operation - Mr. Fiander explained that staff sees this as a commercial use and since the facility is going into a transition area with homes and offices nearby, a 24 hour operation doesn't fit the character of a transitional area.

Regarding #1 / 10' landscape buffer - Mr. Fiander explained that while there is a requirement in O&I-2, what's being requested is a PUD, where there are no set requirements other than the requirement to reflect the character of what's around it. Thus there are no variances available.

Regarding #3 / architectural elevations – Mr. Hall explained that due to the size of the proposed building, it can have a longer ridgeline, looking less like a small scale office building and potentially look more like a barn. The purpose of the recommendation is to address that concern.

Regarding #7 / 30" berm along 22nd Terrace – Mr. Fiander stated that the berm was added in response to keeping with the character of the area, wanting to hide or screen the parking lot as much as possible. He

added that requesting a berm is fairly standard when there's a large parking area that is incompatible with its surroundings or on an image street.

Mr. Armstrong asked for additional information about #3 and what staff is trying to achieve. Mr. Fiander directed the commissioners to Sheet A4 of the plans included in the agenda packet, which deal with elevations. He pointed out that gabled roof is large and blank and that's what the staff recommendation is trying to address. Mr. Hall added that the length of the building / ridgeline is substantial and that affects the character of the building.

Mr. Kannarr declared the **public hearing open**.

Esther Lane, of 5839 SW 22nd Terrace #2, stated she's with the Pheasant Run HOA Board. She expressed concerns about traffic and handed around a sheet of photos. She pointed to two exits from Pheasant Run and spoke of the poor sight lines, ultimately being concerned about issues that would be caused by additional traffic from the proposed laundromat. She also pointed out where buses stop when picking up/dropping off children several times a day. Ms. Lane added that Pheasant Run is individually owned condos, owned by people who have their own laundry facilities and would not be using the proposed Aqua Blast.

Ms. Lane stated that it's difficult to turn from Westport Drive onto 21st Street, as well as from 21st Street onto Westport, due to heavy traffic on 21st Street. She stated that before anything is done, she believes traffic issues and implications should be assessed.

Ms. Lane stated that she had checked with realtors and they believe that having a laundromat in close proximity would have a negative impact on property values. They could not, however, say how much of an impact it might have. Ms. Lane concluded by stating that she'd prefer to have a doctor's office or something else built on the property.

Ms. Cavazos asked Ms. Lane to state her address, which she did, and added that she also has concerns about lights coming into bedroom windows.

Ms. Messina asked Ms. Lane if she feels the current traffic issues could be impacted by the construction on Wanamaker. Ms. Lane stated that it's a possibility.

Mr. Haugh pointed out that a doctor's office would likely have heavier traffic than a laundromat.

Mr. Fiander passed around to commissioners a letter from **Rosalee Cooper**, along with a petition that was handed to him at this evening's meeting.

Joy Barnes, of 5851 SW 22nd Terrace, #2, came forward and stated she lives in Pheasant Run. She stated that she was initially against the re-zoning but, having seen that the applicant has responded to most of the concerns put forth both neighbors, she is now for it. She is not concerned about the laundromat being open 24 hours, believing that with the promised attendant, non-customers would not be allowed to hang out. She stated that the neighborhood currently has problems with people driving through too fast and people going through the garbage; she believes it's that way in most neighborhoods and will not be made worse or better by the existence of a laundromat.

Ruth Madell, of 5719 SW 22nd Terrace, #3, came forward to speak against the proposed project. She stated she lives in The Woods and expressed concerns about the lights from the project. She said her biggest concern is the hours. Ms. Madell stated that everyone in her condos owns their own home and have their own washers; they don't need a laundromat and this will bring people from another part of town.

She said that at the Neighborhood Information Meeting residents were told that Sunday is the busiest day for laundromats and Ms. Madell stated that it's nice to have quiet on Sundays.

Ms. Madell stated that when you go to a laundromat you have 40 minutes to wait while your clothes are washing or drying and she expressed concern about where people would go during this time. She feels people will wander out and around 22nd Terrace and the condo complexes.

With nobody else coming forward to speak, Mr. Kannarr declared the **public hearing closed**.

Mr. Armstrong stated that he is involved in the 21st & Wanamaker street project and noted that there is considerable detour traffic right now that will decrease once the 21st & Wanamaker intersection is fully open. He also noted that there are issues at 21st & Westport at peak hours of the day but he doesn't think the project under consideration would adversely affect it.

Mr. Kannarr stated that he agrees with Mr. Armstrong and added that he drives down Westport on a regular basis coming home from work. He also agrees that this project will not substantially affect traffic and there would be the same issues with any project that went on the property.

Ms. Messina asked Mr. Fiander if there are any road improvements scheduled for 22nd Terrace/Westport Dr. and Mr. Fiander stated there are none scheduled or anticipated.

Ms. Messina asked if the lights on the property would remain on all night regardless of whether the laundromat operated 16 or 24 hours/day. Mr. Fiander pointed out that there is a recommendation in the staff report recommending that light not leave the property. That note does not address the length of time the parking lot / outdoor lights are on.

Mr. Kannarr pointed out that the applicant has objections to 4 of the staff recommendations and asked Commissioners to address those.

Mr. Haugh stated that in regard to number 1, he doesn't believe the applicant did enough study on the site to realize a 10' setback. He believes there's room in the plan to make adjustments to the orientation or other areas to accommodate the requirements. He added that if you correct #1, that could also take care of #3, improving architectural elevations. Mr. Haugh stated that the commission accepting staff recommendations #1 and #3 would be necessary for his approval.

Mr. Kannarr asked staff if, under current zoning, a fitness center would be allowed on this property. Mr. Fiander stated that yes it would, subject to fitting the building on the site. Mr. Kannarr pointed out that the proposed renderings look an awful lot like gymnasiums and he doesn't think it's dissimilar to what might go in there without a zoning change. He stated that due to a lack of expertise, he would defer to Mr. Haugh regarding recommendation #1.

Ms. Ringler stated that she agrees with Mr. Haugh on #1 & #3.

Mr. Armstrong referred to a new building going in not too far away that appears to be a concrete block, but he stated that this project is in a transitional area whereas that one is not.

In regard to recommendation #5 / hours of operation:

Ms. Messina stated she is not opposed to 24 hour operation. Mr. Haugh and Mr. Kannarr concurred.

In regard to recommendation #7 / 30" berm:

Mr. Haugh stated that he doesn't believe it would be hard to achieve and wouldn't cost that much to install. Mr. Kannarr concurred.

Ms. Cavazos asked staff what their thoughts were behind limiting business hours. Mr. Fiander stated that staff based their recommendation on the fact that a 24 hour facility in a transitional area/going into a neighborhood is atypical; it's more a commercial character. He also noted that most laundromats are not 24 hours.

Ms. Cavazos stated that she would have concerns about safety issues for 24 hour operation. In regard to a gym, which others had noted might also be a 24 hour business, Ms. Cavazos noted that only gym members come and go when the facility is locked and they have keycards, so there is safety built into that process.

Ms. Messina stated the fact that the laundromat will be staffed 24 hours will help keep non-customers from just hanging out and wandering around the parking lot. She noted that people who work different shifts need the flexibility.

Mr. Kannarr stated he agrees and remembers when he himself had to use laundromats at odd hours. He believes having an attendant will adequately address the vagrancy issue of non-users.

Motion by Mr. Haugh recommending forwarding to the Governing Body a recommendation for approval of the proposed PUD Master Plan, along with the following staff recommendations: 1, 2, 3, 4, 6, 7, 8, 9.

Second by Ms. Messina. Mr. Kannarr noted that he would have left out recommendation #3 but that won't change his vote on the motion. **APPROVAL (6-0-0)**

Mr. Ferris went to the podium and thanked staff and Planning Commissioners.

AQUA BLAST SELF-SERVICE LAUNDRY

PLANNED UNIT DEVELOPMENT MASTER PLAN

RECORDING NOTE:

Recorded in Book _____, Page _____, on _____ [Date] _____, and _____ [Time] _____.

Recorded with the Shawnee County Register of Deeds:

Becky Nioco - Register of Deeds

GENERAL PROVISIONS:

PROJECT PERFORMANCE OBJECTIVES:

THIS PLANNED UNIT DEVELOPMENT IS ESTABLISHED TO PROVIDE FOR A LIMITED RANGE OF NON-RESIDENTIAL USES, SPECIFICALLY A LAUNDRY SERVICE USE UNDER CONSIDERATION BY THIS APPLICATION. DEVELOPMENT RESTRICTIONS OF THIS P.U.D. IS TO PROVIDE FOR A TRANSITIONAL BUFFER BETWEEN THE COMMERCIAL USES TO THE WEST AND NORTH WITH THE MULTI-FAMILY RESIDENTIAL USES TO THE SOUTH.

PREVIOUS ZONING: O&I2
CURRENT ZONING: PUD-USE GROUP OF "O&I-2" PLUS SELF-SERVICE LAUNDRY USE

GENERAL NOTES:

1. THIS PROPERTY DOES NOT LIE WITHIN A F.E.M.A. FLOOD ZONE.
2. PURSUANT TO SECTION 48-24.05, THE APPLICANT MUST RECORD THE MASTER PUD PLAN WITH THE SHAWN E COUNTY REGISTER OF DEEDS WITHIN 60 DAYS UPON APPROVAL OF CITY COUNCIL. FAILURE BY THE APPLICANT TO RECORD THE PLAN WITHIN THE PRESCRIBED TIME PERIOD OR PROVIDE THE PLANNING DEPARTMENT FIFTEEN (15) COPIES OF THE RECORDED PLAN WITHIN NINETY (90) DAYS OF THE DATE OF ACTION BY CITY COUNCIL SHALL DEEM THE ZONING PETITION NULL AND VOID.
3. ALL PUBLIC IMPROVEMENTS SHALL BE MADE TO CITY STANDARDS.
4. NO BUILDING PERMITS SHALL BE ISSUED UNTIL SITE DEVELOPMENT PLANS HAVE BEEN REVIEWED BY CITY STAFF AND APPROVED BY THE PLANNING DIRECTOR. THE SITE PLANS SHALL ADDRESS BUILDING SITE LOCATIONS AND FOOTPRINT, LANDSCAPING, CIRCULATION, DRIVEWAYS, PULL OFF PARKING, PEDESTRIAN ACCESS, DRAINAGE, EXTERNAL LIGHTING, FENCING, SIGNAGE AND RELATIONSHIP TO ADJACENT LOTS.
5. THE BASE ZONING OF "O&I-2" SHALL APPLY UNLESS STATED OTHERWISE HEREIN.
6. NO BUILDING PERMITS SHALL BE ISSUED UNTIL INDIVIDUAL SITE DEVELOPMENT PLANS SUBJECT TO TMC 18.190.060(C) HAVE BEEN REVIEWED AND APPROVED BY THE PLANNING DIRECTOR. THESE SITE PLANS SHALL ADDRESS INDIVIDUAL BUILDING SITE LOCATIONS, OFF-STREET PARKING AND INTERNAL CIRCULATION, FIRE HYDRANTS, LANDSCAPING, PEDESTRIAN CONNECTIVITY, EXTERNAL LIGHTING, SIGNAGE, BUILDING ELEVATIONS, UTILITIES, STORM WATER, RELATIONSHIP TO ADJACENT LOTS, ETC.
7. STORM WATER REPORT OR PLAN APPROVAL NOTES, AS REQUIRED.
8. NO BUILDING PERMITS SHALL BE ISSUED UNTIL STORM WATER MANAGEMENT PLANS PURSUANT TO TMC 13.335 ARE APPROVED, INCLUDING GRANTING OF ANY NECESSARY STORM WATER MANAGEMENT EASEMENTS.
9. THE OPERATION OF THE SELF-SERVICE LAUNDRY FACILITY IS INTENDED TO BE A 24-HOUR FACILITY, AND AN ATTENDANT AND/OR ADDITIONAL SECURITY SHALL BE PROVIDED ON-SITE AT ALL TIMES.
10. LIGHTING WITHIN THIS DEVELOPMENT SHALL BE IN ADHERENCE TO CITY OF TOPEKA ZONING CODE. LIGHTING SHALL BE FULL CUT OFF, SHIELDED AND RECESSED WITH CUT-OFF ANGLES TO PREVENT THE CAST OF LIGHTING BEYOND THE PROPERTY.
11. ALL MECHANICAL EQUIPMENT ON THE EXTERIOR OF BUILDING VISIBLE FROM SW 22ND TERRACE SHALL BE FULLY SHIELDED FROM GROUND VIEW.
12. ADDITIONAL USES IN SEPARATE BUILDINGS AS MAY BE PROPOSED IN THE FUTURE WILL REQUIRE A MAJOR AMENDMENT OF THE APPROVED PUD MASTER PLAN INCLUDING PUBLIC HEARING PROCESS, UNLESS SAID BUILDINGS ARE OTHERWISE PERMITTED BY RIGHT IN THE "O&I-2" ZONING DISTRICT.

UTILITY NOTES:

1. ALL UTILITIES SHALL BE INSTALLED UNDERGROUND PURSUANT TO THE CITY'S RIGHT-OF-WAY MANAGEMENT STANDARDS.
2. SANITARY SEWER SERVICE SHALL BE BY THE CITY OF TOPEKA.
3. WATER SERVICE SHALL BE BY CITY OF TOPEKA.

CIRCULATION, PARKING AND TRAFFIC NOTES:

1. THE DRIVE AISLES WITHIN THE PARKING AREAS ARE TO BE STRIPED TO INDICATE THE INTENDED ONE WAY TRAFFIC CIRCULATION ON THE WEST, SOUTH AND EAST SIDES OF THE BUILDING.
2. ALL DRIVES, LANES, AND PRIVATELY-OWNED ACCESS WAYS PROVIDING ACCESSIBILITY TO STRUCTURES, BUILDINGS, AND USES WITHIN THE PLANNED UNIT DEVELOPMENT SHALL BE CONSIDERED AND SERVE AS MUTUAL RIGHTS OF ACCESS FOR OWNERS, TENANTS, INVITED GUESTS, CLIENTS, CUSTOMERS, SUPPORTS AND UTILITY SERVICE PERSONNEL AND EMERGENCY SERVICE PROVIDERS, INCLUDING LAW ENFORCEMENT, FIRE PROTECTION, AND AMBULANCE SERVICES. ALL ACCESS WAYS PROVIDING GENERAL ACCESSIBILITY TO, AND CIRCULATION AMONG, THE USES WITHIN THE PLANNED UNIT DEVELOPMENT SHALL BE MAINTAINED AT ALL TIMES IN GOOD SERVICEABLE CONDITION WITH THE MAINTENANCE OF SAID ACCESS WAYS BEING THE RESPONSIBILITY OF THE OWNER(S).

SIGNAGE NOTES:

THE FOLLOWING TYPES OF SIGNS AS PERMITTED IN THE O&I-2 DISTRICT, WITH THE FOLLOWING VARIANCES:

1. A SINGLE MONUMENT-STYLE SIGN ADJACENT TO WESTPORT DRIVE SHALL BE LOCATED ADJACENT TO WESTPORT DRIVE AND TO THE NORTH OF THE BUILDING, AND SHALL NOT EXCEED 100 SQUARE FEET (OR 50 SQUARE FEET PER SIGN FACE).
2. WALL SIGNS ARE RESTRICTED TO NO MORE THAN ONE SINGLE WALL SIGN ON EACH SIDE OF THE BUILDING. EACH SIGN MAY BE INTERIOR ILLUMINATED, SHALL BE LIMITED TO A MAXIMUM SIGN AREA OF 30 SQUARE FEET, SHALL BE LOCATED NO HIGHER THAN 15' ABOVE GRADE, AND SHALL BE INSTALLED FLAT TO THE EXTERIOR WALL OR CANOPY.
3. ELECTRONIC MESSAGE CENTER (EMC) SIGNS ARE PROHIBITED.
4. PORTABLE READER BOARD SIGNS, EITHER MANUAL OR ELECTRONIC, ARE PROHIBITED.

LANDSCAPING NOTES:

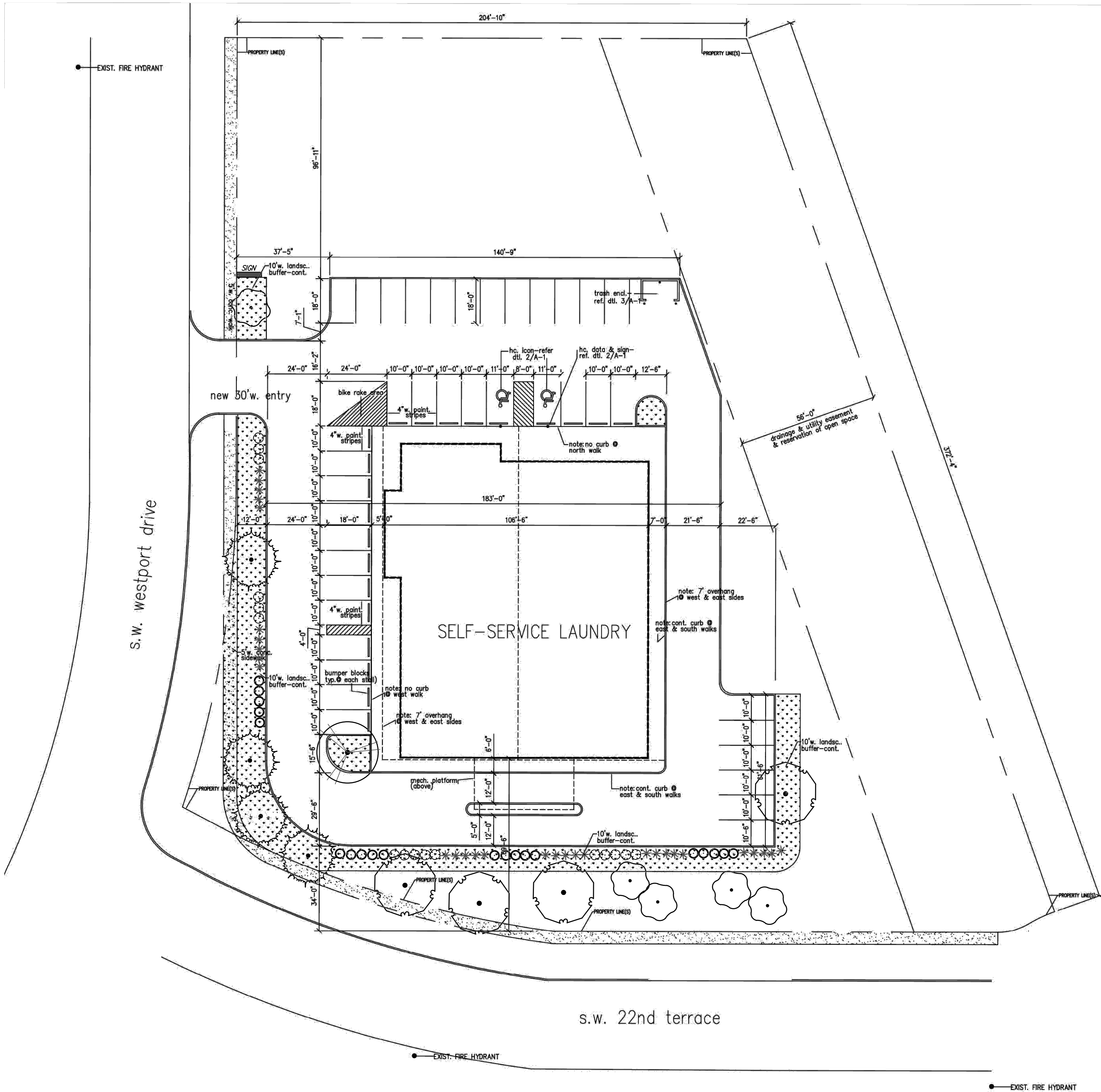
1. LANDSCAPE PLANS SHALL BE SUBMITTED FOR REVIEW WITH THE SITE DEVELOPMENT PLAN, SHALL SUBSTANTIALLY CONFORM WITH THE LANDSCAPE SHOWN ON THE PUD MASTER PLAN, AND SHALL COMPLY WITH THE CITY'S LANDSCAPE REGULATIONS IN TMC 18.235. EXISTING TREES ALONG THE EAST AND NORTH EDGES OF SITE SHALL BE RETAINED OR REPLACED SUBJECT TO CITY'S REVIEW OF A LANDSCAPE PLAN.
2. THE CARE, MAINTENANCE, AND OWNERSHIP OF COMMON OPEN SPACE, PARKING AREAS, UTILITIES, PRIVATE STREETS, ACCESS WAYS, STORM WATER MANAGEMENT EASEMENTS, FENCING, AND LANDSCAPING SHALL BE THE RESPONSIBILITY OF THE OWNERS. IF ANY PORTION OF THE LANDSCAPED MATERIAL DIES, IT SHALL BE REPLACED BY THE NEXT PLANTING SEASON.
3. THE MODIFICATION OF THE MINIMUM 4-FOOT LANDSCAPE BUFFER ALONG A SMALL PORTION OF THE WESTERN PROPERTY LINE (AS NOTED ON THE PLAN), PROVIDED THE APPLICANT DEVELOP A COLLECTIVELY GREATER BUFFER ALONG THE REMAINING FRONTAGE (AS SHOWN ON THE PLAN).
4. AT SITE DEVELOPMENT PLAN LANDSCAPING WILL BE REVIEWED FOR ITS CONFORMANCE WITH PRINCIPLES AND METHODS OF CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN.
5. A 30" HIGH BERM IN SHIELDING PARKING AREA SHALL BE INCLUDED IN LANDSCAPE BUFFER ADJACENT TO SW 22ND STREET.
6. THE UNDEVELOPED PORTION OF THE SITE LYING NORTH OF PARKING AREA SHALL CONSIST OF TURF AND/OR A VARIETY OF LANDSCAPE PLANTINGS.

BUILDING AND STRUCTURE NOTES:

1. USE GROUP DIMENSIONAL REQUIREMENTS APPLY UNLESS OTHERWISE SPECIFICALLY SET FORTH HEREIN.
2. THE LOCATION OF TRASH AND RECYCLING RECEPTACLES SHALL BE DETERMINED AT THE SITE DEVELOPMENT STAGE TO ENSURE TRASH AREAS ARE NOT OVERLY CONCENTRATED, ARE EFFECTIVELY SCREENED FROM PUBLIC AREAS, AND PROVIDE ADEQUATE CIRCULATION WITHIN THE OVERALL DEVELOPMENT. ALL SAID RECEPTACLES SHALL HAVE ENCLOSURES THAT SCREEN THE RECEPTACLES FROM VIEW AND ARE CONSTRUCTED WITH MATERIALS COMPATIBLE WITH THE ARCHITECTURAL FEATURES OF THE PRINCIPAL BUILDING.
3. THE DESIGN LAYOUT SHOWN ON THIS PLAN ILLUSTRATES ONE DEVELOPMENT CONCEPT. MODIFICATIONS TO THE SIZE AND/OR LOCATION OF IMPROVEMENTS, BUILDING LAYOUT, AND/OR ACCESS LOCATIONS MAY BE PERMITTED, PROVIDED THEY MEET ALL REQUIREMENTS OF THIS PLAN.
4. THE BUILDING WILL BE CONSTRUCTED SUBSTANTIALLY IN CONFORMANCE WITH APPROVED BUILDING ELEVATIONS ON FILE WITH THE CITY OF TOPEKA PLANNING DEPARTMENT (CASE FILE "PUD 17/04"). BUILDING ELEVATIONS WILL BE REQUIRED AND SUBJECT TO REVIEW WITH THE SITE DEVELOPMENT PLAN FOR COMPLIANCE WITH THE PUD MASTER PLAN AND ASSOCIATED ELEVATIONS.
5. ALL MECHANICAL EQUIPMENT ON THE EXTERIOR OF BUILDING VISIBLE FROM SW 22ND TERRACE SHALL BE FULLY SHIELDED FROM VIEW.

VARIANCES:

1. DUE TO THE DESIGN OF THE PARKING LOT WITH THE WEST PROPERTY LINE, THERE IS A SMALL AREA WHERE IT IS NOT POSSIBLE TO PROVIDE A 4-FOOT WIDE LANDSCAPE BUFFER. TO COMPENSATE, THE PUD PROPOSES INCREASED BUFFERS ALONG BOTH STREET FRONTAGES.
2. THIS PUD PROPOSES A REDUCTION IN THE TOTAL NUMBER OF PARKING SPACES FROM 63 TO 49 SPACES.



LOT COVERAGE DATA:

Total Area: ±107,078 sq. ft. (2.46 acres)
Disturbed Area: ±63,206.1 sq. ft. (1.45 acres)
Impervious Area, pre-const: ±0 sq. ft. (0.00 acres)
Impervious Area, post-const: ±43,000.9 sq. ft. (0.99 acres)

Maximum Building Coverage (permitted): 53,539 sq. ft. (50%)
Maximum Building Coverage (proposed): 20,000 sq. ft. (18.7%±)
Maximum Building Height (permitted): 60 feet
Maximum Building Height (proposed): 35 feet

OWNER'S CERTIFICATION:

OWNER'S CERTIFICATE: (Type Name) agrees to comply with the conditions and restrictions as set forth on the master PUD plan.

In Testimony Whereof:
The Owner(s) of the above described property, (Type Name), have signed these presents this _____ day of _____, (Year) _____.

(Type Name and Title) (Type Name and Title)

Be it remembered that on this _____ date of _____, A.D. _____ (Year) before me, a notary public in and for said County and State come _____, Owner(s) of the above described property.

I hereby set my hand and affix my notarial seal the day and year last written above.

Notary Public

My Commission Expires: _____

CERTIFICATION OF MASTER P.U.D. PLAN APPROVAL:

(Bill Fiander, AICP, Planning Director) (Date),
Secretary to Planning Commission

Be it remembered that on this _____ date of _____, A.D. _____ (Year), before me, the undersigned, a notary public in and for said County and State came (Planning Director's Name) who is personally known to me to be the same person who executed the within instrument of writing, and such person duly acknowledged the execution of the same.

In Witness Whereof, I hereby set my hand and affix my notarial seal the day and year last written above.

Notary Public

My Commission Expires: _____

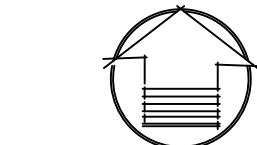
AMENDMENT NOTE:

This Planned Unit Development (PUD) Master Plan has been reviewed and approved in accordance with the provisions of Chapter 18.190 of the Comprehensive Zoning Regulations of the City of Topeka, Shawnee County, Kansas, and may be amended only as prescribed in TMC 18.190.070 and as set forth on this document or as may subsequently be approved and recorded.

PLANNED UNIT DEVELOPMENT NOTE:

Pursuant to TMC 18.190, the applicant must record the Master PUD Plan with the Shawnee County Register of Deeds within sixty (60) days upon approval of the Governing Body. Failure by the applicant to record the plan within the prescribed time period and provide the planning department with the required number of copies of the recorded plan within ninety (90) days of the date of action by the Governing Body shall render the zoning petition null and void.

VICINITY MAP



SCALE: 1" = 30'

LEGAL DESCRIPTION:

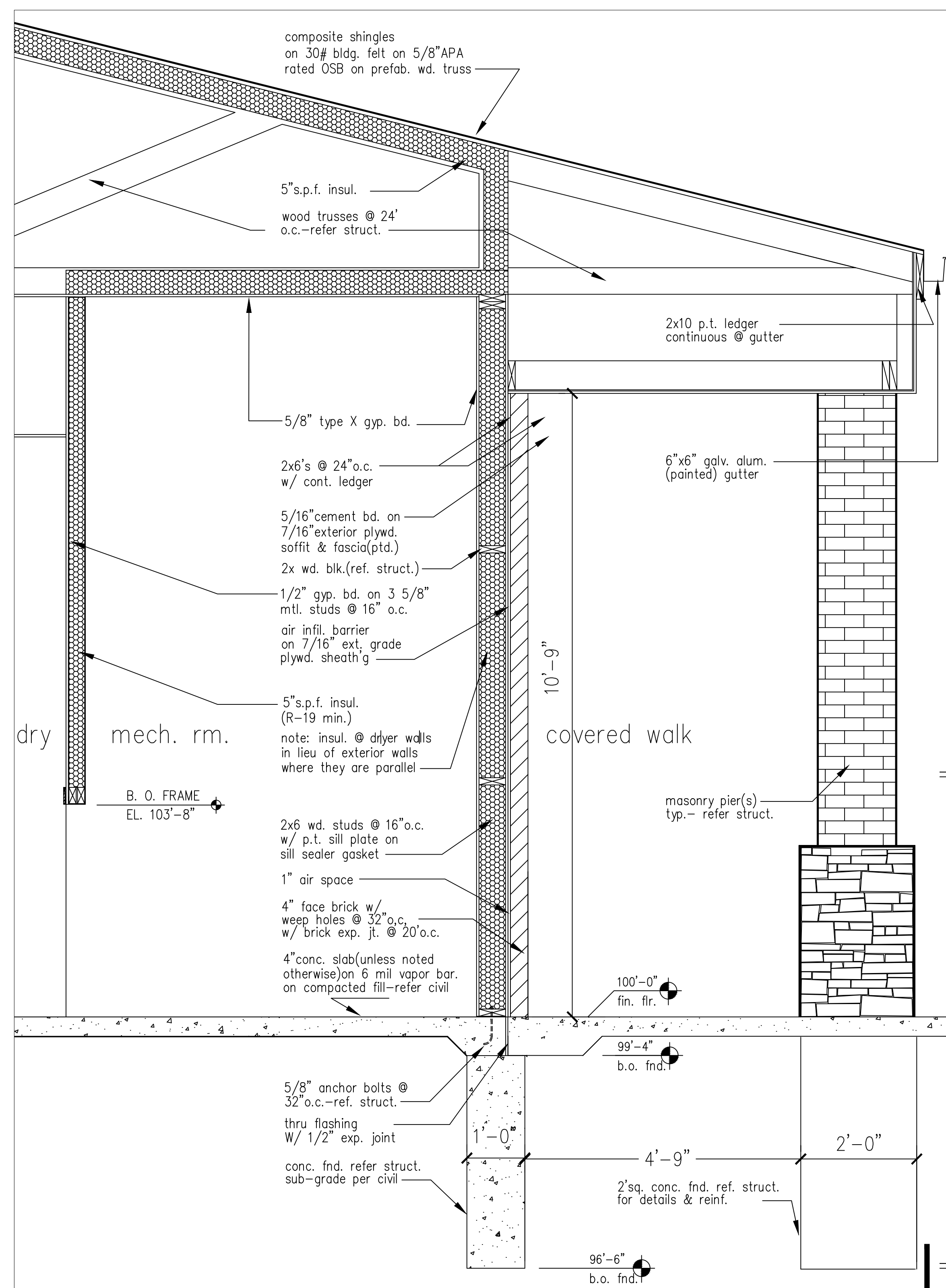
Lot 16, Block A, John O. Allen Subdivision No. 2, in the City of Topeka, Shawnee County, Kansas.

REVISIONS:

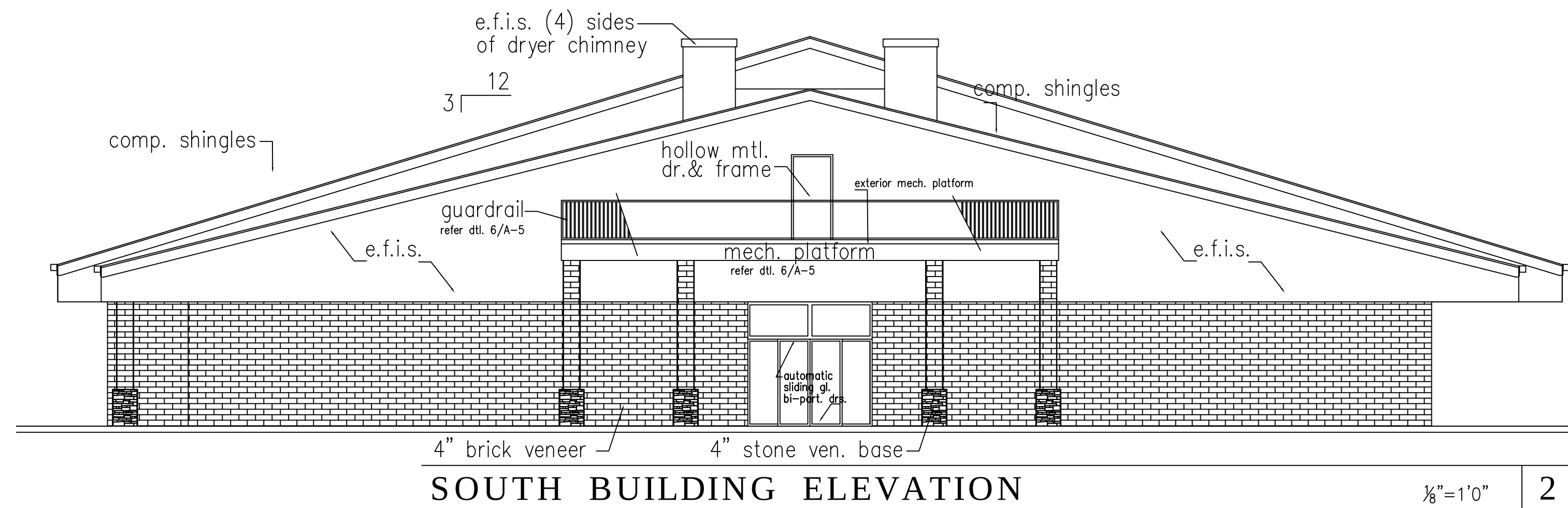
Created:	May 16, 2017
Revised:	August 2, 2017
Submitted:	August 3, 2017
Revised per staff comments:	September 15, 2017
Revised per Planning Commission:	September 29, 2017
Approved per Governing Body:	

AQUA BLAST SELF-SERVICE LAUNDRY PLANNED UNIT DEVELOPMENT MASTER PLAN

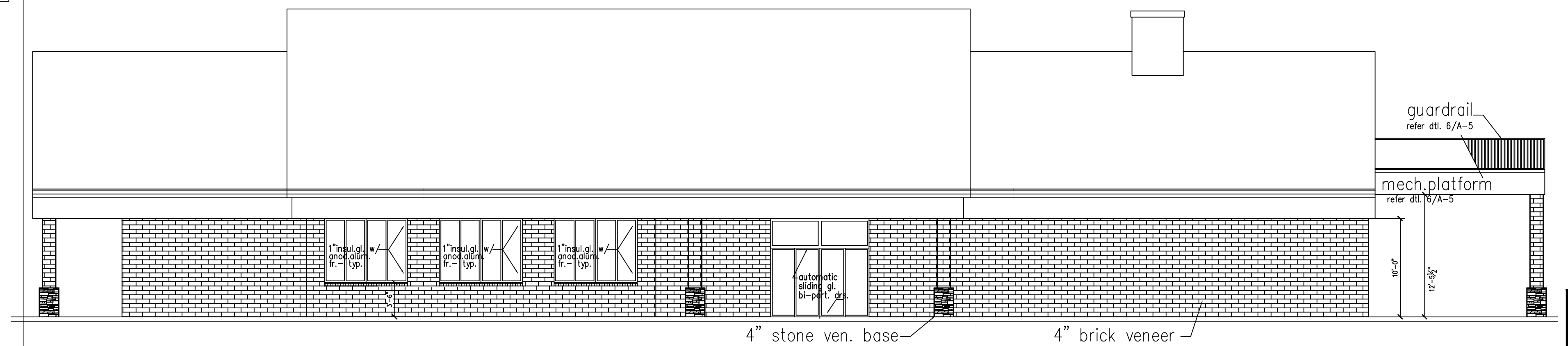
Baughman Company, P.A.
315 Ellis St. Wichita, KS 67211 P 316-262-7271 F 316-262-0149
Baughman ENGINEERING | SURVEYING | PLANNING | LANDSCAPE ARCHITECTURE



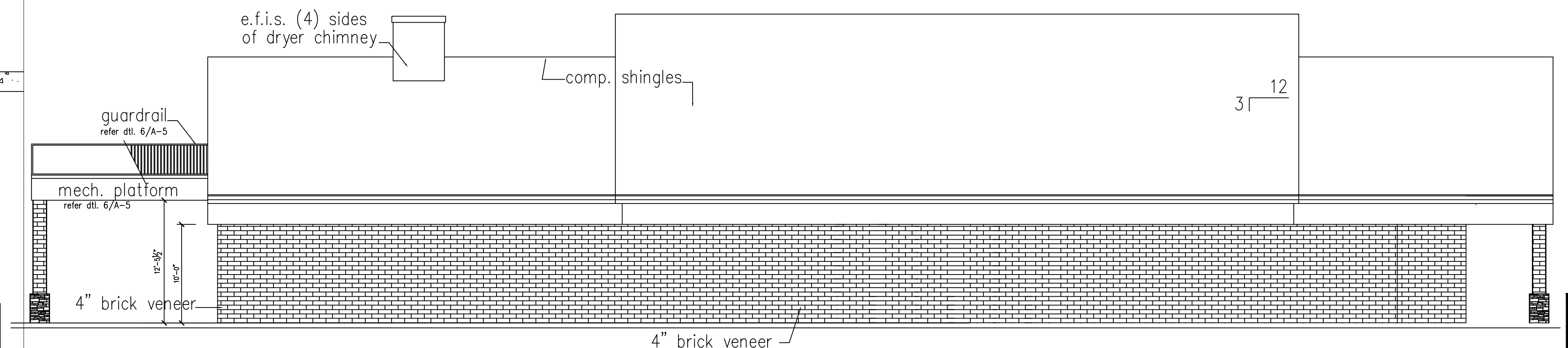
TYPICAL WALL SECTION $\frac{3}{4}" = 1'-0"$ 5



SOUTH BUILDING ELEVATION $\frac{1}{8}" = 1'-0"$ 2



WEST BUILD'G ELEVATION $\frac{1}{8}" = 1'-0"$ 4



EAST BUILD'G ELEVATION $\frac{1}{8}" = 1'-0"$ 3



NORTH BUILDING ELEVATION $\frac{1}{8}" = 1'-0"$ 1

GREENBRIAR STUDIO
ARCHITECTURE

robertreph@att.net (316) 519-5524
7127 GREENBRIAR CIR WICHITA, KANSAS 67226

CASTLE LAUNDRY
TOPEKA, KANSAS
DUSTEN BAALMANN, CONTRACTOR
(316) 651-6719

DATE	PURPOSE
6/22/17	
11/3/17	review

A - 4

FERRIS CONSULTING

PO BOX 573 WICHITA, KS 67201
PHONE 316-516-0808 EMAIL ferrisco@aol.com

August 31, 2017

Aqua Blast Laundry Neighborhood Meeting

Held at:

6:00 PM Tues. Aug 29, 2016
TrampoLazerRockball Park
2134 SW Westport Dr.

Attendance: 28 Neighbors (not all attending signed in)
2 Topeka Planning Staff
Former Property Owners, Property Developers, Owner's Agent

The meeting was open at 6:05 by John Neunuebel, from the Topeka Planning Staff, with a brief explanation of the project. Greg Ferris, agent for the owner, described the project in more detail. This explanation included that the building would be brick with a pitched roof to fit a residential character, the increased landscaping, and the exact type of operation that would be in the laundry. Drawings showing the site plan, landscaping, building elevations, and building layout were at the meeting. The floor was then opened for questions and comments. The issues and questions raised by the neighbors were:

1. Traffic on Westport would be increased causing a hazard: *Greg Ferris explained that the project had been reviewed by Topeka Traffic Engineering and they did not believe it would increase traffic significantly. This is because the property is zoned O&I1 and would allow office development. The proposed laundry peak traffic is not during any peak traffic hours. Therefore, the traffic issues would very likely be less than an office with it some traffic during peak hours.*
2. Questions were asked how long the developers had been in the laundry business: *The developers described their experience of 9 to 40 years and number of current facilities.*
3. Questions were asked of the developers, "Why this location?": *The developer stated that he had another facility in Topeka he wanted to relocate. That is due to two reasons. First, he is leasing the property and would like to own the facility. The second is that the owner of his building did not maintain it to the standards he wanted for his type of facility. He had look for several months for an appropriate location to build or purchase. This property fit the demographics he was interested in.*
4. The proposed laundry would attract people from outside the neighborhood that might not be desirable: *The developers explained that they hoped*

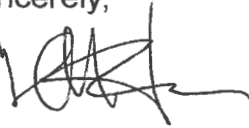
many people use the facility, but they believed that the facility would draw from a 1 to 1 ½ mile area.

5. While people were doing their laundry, they would be bored and may roam the neighborhood: *It was explained that the facility will have TVs and an inviting interior that would serve to entice people to stay on site. There may be people going outside but the owners had not seen that as a problem in their other locations.*
6. Lighting from the project would be so bright it would keep up neighbors across the street from the project: *Greg Ferris answered that the project will be designed to City Code that does not allow light to leave the property. The developers are willing to look into lowering the brightness of the lights.*
7. The change to C1 zoning would allow other commercial uses including bars, convenient stores, retail uses and possibly something like the "Suds & Buds Laundry": *Greg Ferris explained that this is not correct. The proposed PUD is to allow uses in O&I1 plus the laundry. No other commercial uses are allowed. No serving of alcohol would be allowed. If there were to be any other changes in the future they would have to amend the PUD and go through the public process again.*
8. The access to SW 22nd Terrace would create major traffic issues for the condos on the south side of SW 22nd Terrace: *While the owners & developer disagreed with this premise, they have agreed to close the entrance on SW 22nd Terrace and will submit revised PUD drawings to that effect.*
9. Most people in the area had their own washers and dryers and would not use the facility: *An audience member pointed out that she had a washer and dryer but often used a laundry facility because she could get her entire laundry done in 1 to 1 ½ hours. The developer said that 40% of all users of a laundry have their own washers and dryers but enjoy the convenience. The developer also believes there are enough apartments in the immediate area to make this the appropriate location.*
10. The current site has tall grass that needs mowing: *The developer acknowledged this and promised to have it mowed immediately.*
11. The development would cause flooding: *Greg Ferris explained that the project would be designed to standards acceptable to the City of Topeka and would not be allowed to add to any flooding issues.*
12. Question was asked how many washers and dryers would be at the facility: *The developers said they would have approximately 70 total washers and 55 total dryers*
13. Questions were asked of the developers why it needed to be open 24 hours: *While the developers believe there are a few people who will use the facility during late hours the primary reason is to allow cleaning of all the machines, lint traps, the facility, etc. The developers also believe the reason none of their facilities have had security issues is because they have someone on site 24 hours per day.*
14. Concern was raised that the business would not be successful and the developers would leave an empty building: *The developers explained that they would be spending \$1.8 million on the building, not including land. They have never closed a facility and did the due diligence to believe this*

facility would be successful or they would not make that substantial investment.

The formal meeting concluded at 7:20. The developers and Greg Ferris remained to answer any other questions and go through the drawings if needed.

Sincerely,

A handwritten signature in black ink, appearing to be 'Greg Ferris', written over the word 'Sincerely,'.

Gregory Ferris

Neighborhood Information Meeting

Sign in Sheet

Proposed Zone Change for Property Located at Northwest Corner of SW Westport Drive and SW 22nd Terrace

Date: August 29, 2017 at 6:00 PM

Meeting Location: TrampoLazerRockballPark; 2134 SW Westport Drive

Name	Address	Email (preferred)/Phone
Doreen Wells	5741 #1 22 nd Terr	wellsdoreen@aol.com
Mary Hambold	5747 #5 22 nd Terr	maryhambold@gmail.com
Ofis & Esther Lane	5839 SW 22 nd Terr #2	607721@gmail.com
Sally Calamunee	5707 SW 22 nd Terr #3	785-271-8342
Leanda Walshire	5807 SW 22 nd Terr. #2	lwashire@att.net
Nicholas A. McKinney	5862 SW 27 th St.	nckel84pro@gmail.com
Jane George	5713 SW 22 nd Terrace #3	rvesgeorge@yahoo
Ruth Madell	5719 SW 22 nd Terr #3	rmadell@cox.net
RAY RHODD	5861 SW 22 ND TERR #1 TOPEKA 66614	RHODDRL@AOL.com 785-640-8751
Pete Tarnow	5809 SW 22 nd Terr #4	willcom-tarnow-785-640-0715@yahoo.com
Wynifred Mitchell	5713 S.W. 22 nd Terr	W.Mitchell@AOL.com
Virginia Peniston	5753 SW 27 th Terr	
Elizabeth Stevens	5707 SW 22 nd Terr	castevens1954@att.net
Brian & Chris Mathers	5753 SW 22 nd Terr	
Jane Shelton	5851 SW 22 nd Terr #1	jesheltonks@att.net
Joy Barnum	5851 SW 22 nd Terr #2	ksphearnon@gmail.com
Jeff Coen	2116 SW Burnett Rd	jcoen@topeka.org
Chuck Benedict	5807 SW 22 nd Terr #4	chuckbenedict@gmail.com
Ned Nustbaum	5829 SW 22 nd Terr #2	
Amanda Hartshorn	5741 #2 SW 22 nd Terr	ahartshorncpa@gmail.com
Cherie & Kenoy Byrd	5940 S.W. 24 th Terr	jcherie@att.net



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
December 5, 2017

DATE: December 5, 2017
CONTACT PERSON: Lisa Robertson, City Attorney
DOCUMENT #:
SECOND PARTY/SUBJECT: Topeka Municipal Code Title 6, Animals
PROJECT #:
CATEGORY/SUBCATEGORY 013 Ordinances - Codified / 018 Animals
CIP PROJECT: No
ACTION OF COUNCIL: 1-3-17 Discussion. 1- JOURNAL #:
10-17 Defer until 2-7-17.
2/7/17 Refer to PHS. 5-
2-17 Refer back to
PHS.

PAGE #:

DOCUMENT DESCRIPTION:

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

Voting Requirement: Majority vote of the City Council (5). The Mayor does not vote.

(Approval would remove inconsistency and duplication within codified ordinances regarding animals within the city limits and allow miniature pot-belly pigs.)

VOTING REQUIREMENTS:

Majority vote of the City Council (5). The Mayor does not vote.

POLICY ISSUE:

Approval would amend the Code provisions regarding animals including allowing miniature pot-belly pigs.

STAFF RECOMMENDATION:

The Public Health and Safety Committee met on April 7, 2017, April 24, 2017, June 12, 2017, July 20, 2017, and September 28, 2017 to consider revisions to TMC Title 6, entitled "Animals;" a matter that the Governing Body referred to the Committee on February 2, 2017. After much consideration and discussion, the Public Health and Safety Committee is recommending approval of the proposed revisions contained in the corresponding ordinance in accordance with Council Rule 8.5 (c)(1). The Committee is requesting that a vote

be taken on this recommended course of action on December 5, 2017.

BACKGROUND:

A year or so ago, a member of the community presented the Governing Body with a petition signed by numerous individuals requesting that the Body consider revising TMC Title 6, entitled "Animals," for the purpose of allowing miniature pot-belly pigs within the city limits. Discussion on this topic ensued and on February 7, 2017, the Governing Body referred the matter to the Public Health and Safety Committee to consider not only the miniature pot-belly pig issue, but to also to conduct a comprehensive review of Title 6.

Title 6 has received little attention over the course of the past two to three decades, as evidenced by the history of revisions attachment. This has resulted in inconsistencies that front-line (Animal Control) personnel must attempt to resolve out in the field more frequently than they would like. The revisions to Title 6, as set out in this ordinance, are being proposed for purposes of eliminating these inconsistencies and unnecessary duplication, as well as developing guidelines that will apply to individuals who wish to harbor miniature pot-belly pigs within the city limits.

Over the course of the five meetings held by the Public Health and Safety Committee, Committee members received testimony from area veterinarians and considered information provided by City Staff; more specifically: Animal Control Supervisor Lisa Pinkley, City Attorney Lisa Robertson, Chief of Prosecution Karan Thadani, Police Legal Advisor Luther Ganieany, Police Accounting Manager Gretchen O'Donovan, Police Records Manager Jaime Dennis, and Animal Control Clerk, Tracy Paige.

A "Comparison Doc" is attached, which is basically a "mark-up" version of TMC Title 6 as it is currently written. The Comparison Doc shows which sections contained within Title 6: (1) have not been revised; (2) have been revised, but not in any substantive way; and (3) have been substantively changed. There is also an explanation of where cross-references to Title 6 (as it is currently written) can be located.

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not applicable

ATTACHMENTS:

Description

Ordinance

History of Revisions

Current Title 6 TMC

Miniature Pig Comparison Chart (other cities)

Comparison Document (Current vs. Proposed)

Clean Version of Recommended Revisions

PHS Committee Report

PHS Committee Draft Minutes 9-28-17

PHS Committee Minutes 7-20-17

PHS Committee Minutes 6-12-17

PHS Committee Minutes 4-24-17

PHS Committee Minutes 4-7-17

1 (Published in the Topeka Metro News _____)

2
3 ORDINANCE NO. _____

4
5 AN ORDINANCE introduced by the Public Health and Safety Committee, revising
6 Title 6, Animals, of the City of Topeka Code.

7
8 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS:

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

11 **Definitions.**

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

15 (a) "Animal" means a live, vertebrate creature, domestic or wild, other than
16 humans.

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

19 (c) "Animal shelter" means any premises designated by city administrative
20 authority for the purpose of impounding and caring for animals held under authority of
21 this title, excluding wildlife, fowl and livestock.

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

25 (e) "Attack" means any violent or aggressive physical action or contact.

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

28 to teeth. See also "Fowl."

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

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

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

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

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

45 (4) Any dog which was previously determined to be a ~~vicious~~
46 ~~animal~~ dangerous pursuant to the previous ~~Topeka City Code 18-8 or TMC~~
47 6.05.080 or the current TMC 6.15.170; or

48 (5) Any dog owned or harbored primarily for the purpose of dog fighting
49 shall only be considered dangerous if the dog is evaluated and dangerousness is
50 concluded by a licensed veterinarian or a dog trainer certified by the Certification

Council for Professional Dog Trainers with experience in evaluating dogs seized in similar cruelty cases.

(6) Notwithstanding the definition of a “dangerous dog” above, no dog may be declared dangerous if any injury was sustained by a person under any of the following conditions:

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

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

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

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

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

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

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

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

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

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

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

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

96 (ep) “Humane killing” means the painless administration of a lethal dose of an

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 2. That section 6.05.020, of the Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Violations of title, mandatory minimum punishment.

~~The judge of the municipal court of the city shall, upon a conviction of any section in this title, other than TMC 6.05.080, sentence the owner, harborer or possessor of such animal as follows:~~

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

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

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

Animal control office.

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

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

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

Transportation and handling charges imposed in certain cases.

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

193 **Authority of police officers.**

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

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

198 **Cruelty to animals.**

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

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

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

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

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

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

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

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

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

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

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

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

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

~~this section.~~

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

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

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

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

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

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

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

precipitation.

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

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

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

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

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

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

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

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

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

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

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

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

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

304 ~~person, domestic animal, or farm animal;~~

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

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

310 ~~(10) Normal or accepted practices of pest control, as defined in K.S.A. 2-~~
311 ~~2438a(x), and amendments thereto;~~

312 ~~(11) Accepted practices of animal husbandry pursuant to regulations~~
313 ~~promulgated by the United States Department of Agriculture for domestic pet animals~~
314 ~~under the Animal Welfare Act, Public Law 89-544, as amended and in effect on July 1,~~
315 ~~2006; or~~

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

319 **Complaint and notice to appear.**

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

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

Mistreatment of young fowl, rabbits and other animals.

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

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

Violations of title, mandatory minimum punishment.

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

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

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

~~Exotic or captive wild animals.~~

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

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

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

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

~~(1) Domestic dogs.~~

~~(2) Domestic cats.~~

~~(3) Domestic hoofstock.~~

~~(4) Rodents.~~

~~(5) European ferrets.~~

~~(6) Rabbits.~~

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

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

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

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

~~(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~~

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

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

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

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

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

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

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

Transportation and handling charges imposed in certain cases.

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

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

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

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

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

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.~~

Keeping or harboring animals.

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

(i) Amphibians.

(ii) Birds.

(iii) cats.

(iv) Dogs.

(v) Ferrets.

(vi) Fish.

(vii) Fowl.

(viii) Livestock.

(ix) Miniature pot-belly pigs.

(x) Rabbits.

(xi) Reptiles.

(xii) Rodents.

(xiii) Invertebrates.

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

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

(d) Prohibitions. It shall be unlawful for any person to knowingly own, keep, possess or harbor any of the following animals within the city limits:

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

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

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

499 **Dangerous dogs.**

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

and any bond may be applied to such costs.

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

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

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

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

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

~~address of the owner and the dangerous dog. The owner shall notify the police department within seven days of a change in address for the owner and dangerous dog.~~

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

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

~~(2) Upon conviction of keeping a dangerous dog, the owner shall comply with the provisions of this chapter within 15 days. The owner shall file proof of sterilization and microchipping, acceptable to the municipal court, with the clerk of the municipal court no later than 20 calendar days after conviction. Upon receipt, the clerk of the municipal court shall provide a copy of such proof to the legal department and the dog may then 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 \$1,000 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 \$250.00 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 this section, that is not confined or registered as required pursuant to this chapter shall be impounded by an animal control officer or a law enforcement officer. Upon conviction, in addition to all costs for impoundment, the owner or keeper shall pay a fine of at least \$250.00 but not more than \$499.00. For a second offense within 24 months, in which the dog is not 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. Upon conviction of this section, a dog~~

579 may be destroyed if the dog attacks a human being which results in great bodily harm or
580 death. Upon conviction of this section, the court may destroy a dog that has been
581 previously determined to be a dangerous dog as defined at TMC 6.05.010(b).

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

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

592 (i) ~~Notwithstanding any other provision of this chapter to the contrary and~~
593 ~~irrespective of whether the dog has been declared dangerous pursuant to this chapter,~~
594 ~~the municipal judge may order any dog destroyed if the municipal judge determines that~~
595 ~~the dog is an immediate threat to public health and safety and that confinement and~~
596 ~~registration of the dog by the owner or keeper of the dog as provided in this chapter will~~
597 ~~not adequately protect public health and safety. No person shall harbor, own, or~~
598 ~~possess a dog that is an immediate threat to public health and safety. In making such~~
599 ~~determination the municipal judge may consider the severity of the attack and such~~
600 ~~other relevant information. The municipal judge shall have the authority to sentence the~~
601 ~~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.

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

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

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

(b) Medical institutions.

(c) Educational institutions.

(d) Licensed veterinary clinics.

(e) The humane society.

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

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

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

~~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.~~

Running at large prohibited.

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

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

Dead animals in public places.

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

648 animal may be found.

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

651 **Cruelty to animals.**

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

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

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

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

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

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

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

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

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

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

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

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

693 (6) Cause, instigate, stage, or train any animal to fight or permit any

animal to fight any other animal or human, in violation of State statute; 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, with no requirement of a culpable mental state, to attach chains or other tethers, restraints or implements directly to a dog, cat or miniature pot-belly pig 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, cat or miniature pot-belly pig for more than 15 minutes without supervision; or

(2) Use a tether or any assembly or attachments thereto to tether a dog, cat or miniature pot-belly pig 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, cat or miniature pot-belly pig on a choke chain or near stationary objects or fences in a manner that could potentially cause injury, strangulation, or entanglement ; or

(4) Tether a dog, cat or miniature pot-belly pig 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 without securing the animal's water supply so that it cannot be tipped over by the tether; or

(5) Tether a dog, cat or miniature pot-belly pig in an open area where it

717 can be teased by persons or an open area that does not provide the dog, cat or
718 miniature pot-belly pig protection from attack by other animals; or

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

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

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

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

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

Animal fighting.

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

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

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

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

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

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

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

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

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

Injuring or killing of wild and undomesticated animals unlawful;

exceptions.

(a) It shall be unlawful for any person to knowingly 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.

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

Animal fighting.

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

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

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

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

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

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

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

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

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

Deceased animals.

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

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

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

869 ~~Authority of police officers and parks and recreation department~~
870 ~~employees.~~

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

Report of certain animals.

Every person shall promptly report to the animal control office:

(a) Any animal which bites a person;

(b) Any rabid animal; or

(c) Any animal suspected of being rabid.

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

Animal control officer.

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

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

Demand to produce animal; expense.

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

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

Killing or removing certain animals restricted.

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

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

Surrender of animal carcass on demand.

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

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

Report of certain animals.

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

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

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

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

Permit.

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

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

924 **Demand to produce animal – Expense.**

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

931 **When required.**

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

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

937 **Killing or removing certain animals restricted.**

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

942 **Exceptions.**

943 (a) The permit and vaccination requirements of this Article shall not apply to
944 any nonresident dog, cat or miniature pot-belly pig owner who keeps his or her pet(s)

945 within the city for not longer than 30 days; provided, however, that at all times such pet
946 is under restraint.

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

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

955 **Surrender of animal carcass on demand.**

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

958 **Application.**

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

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

967 **Vaccination certificate prerequisite to issuance.**

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

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

Fees.

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

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

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

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

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

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

Term.

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

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

Obtaining permits after deadline; enforcement procedure.

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

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

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

1004 (1) A title that it is a delinquency notice;

1005 (2) A statement of late payment charges the owner must pay; and

1006 (3) A warning that failure to purchase the applicable permit will result in
1007 the issuance of a complaint and notice to appear and subject the owner to
1008 potential court costs.

1009 (d) Complaint and Notice to Appear. The complaint and notice to appear as
1010 provided in this section shall charge the owner with violations of the particular applicable

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

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

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

Tag.

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

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

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

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

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

Unlawful use.

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

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

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

When without a tag.

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

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

Animals at large; interference.

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

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

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

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

Notification of owner.

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

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

Detention period.

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

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

Redemption.

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

1080 **(b) No owner shall be allowed to redeem any dog, cat or miniature pot-belly**
1081 **pig impounded for being a public nuisance, unless such redemption is authorized by**
1082 **any court having jurisdiction.**

1083 **(c) No owner shall be allowed to redeem any dog, cat or miniature pot-belly**
1084 **pig found to be rabid, or that has been bitten by a rabid animal, unless such redemption**
1085 **is authorized by any court having jurisdiction.**

1086 **(d) No owner shall be allowed to redeem any dog, cat or miniature pot-belly**
1087 **pig when, in the judgment of the animal shelter or humane society, said animal should**
1088 **be destroyed for humane reasons.**

1089 **(e) If a person is adjudicated guilty of the crime of cruelty to animals and the**
1090 **court is satisfied that an animal owned or possessed by such person would be in the**
1091 **future subjected to such crime, such animal shall not be returned to, or remain with,**
1092 **such person. Such animal may be turned over to a duly incorporated humane society or**
1093 **licensed veterinarian for sale or other disposition.**

1094 **Section 33.** That The Code of the City of Topeka, Kansas, is hereby amended
1095 by adding a section, to be numbered 6.15.160, which said section reads as follows:

1096 **Failure to redeem.**

1097 **If an impounded dog, cat or miniature pot-belly pig is not redeemed within the 72-**
1098 **hour detention period set forth in Section 6.20.140 above, then said animal shall be**
1099 **deemed abandoned and title thereto shall pass to the humane society by operation of**
1100 **law.**

1101 **Section 34.** That The Code of the City of Topeka, Kansas, is hereby amended
1102 by adding a section, to be numbered 6.15.170, which said section reads as follows:

Dangerous dogs.

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

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

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

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

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

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

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

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

1149 of the municipal court no later than 20 calendar days after conviction. Upon
1150 receipt, the clerk of the municipal court shall provide a copy of such proof to the
1151 legal department and the dog may then be released. If the owner fails to comply
1152 with the provisions of this chapter within the time provided, the dog shall be
1153 destroyed. If the owner or keeper of the dog contests the determination, he or
1154 she may appeal within 14 days of the finding to the district court pursuant to law.

1155 (3) The municipal court shall impose a fine of at least \$499.00 and not
1156 more than \$1,000.00 on a person who has been convicted of possessing a
1157 dangerous dog for an attack on a human being pursuant to TMC 6.05.010(h)(3).
1158 The municipal court shall have no authority to suspend the fine or any portion of
1159 the fine.

1160 (4) The municipal court shall impose a fine of \$250.00 on a person who
1161 has been convicted of possessing a dangerous dog for an attack on a domestic
1162 animal pursuant to TMC 6.05.010(h)(3). The municipal court shall have no
1163 authority to suspend the fine or any portion of the fine.

1164 (b) In the event that an animal control officer or law enforcement officer has
1165 probable cause to believe that a dog is dangerous, as defined by TMC 6.05.010, the
1166 animal control officer or law enforcement officer may seize and impound such animal at
1167 the animal shelter or humane society. If an animal is ordered to be impounded pursuant
1168 to this subsection, the person who owns, harbors, keeps or possesses such animal
1169 shall be entitled to a hearing in the municipal court within 14 days of such impoundment
1170 to review the propriety of such impoundment and whether a bond may be posted.
1171 Impoundment expenses shall be assessed as court costs against a convicted owner

1172 and any bond may be applied to such costs. If the owner is personally served with the
1173 citation and fails to make an appearance to answer the charges within 72-hours after
1174 the failure to appear, the court shall release the animal to the Humane Society or a
1175 proper holding facility. If the citation is mailed to a presumed owner, and the presumed
1176 owner fails to appear before the court to answer the charges, the court shall release the
1177 animal to the Humane Society or a proper holding facility twenty days after the failure to
1178 appear.

1179 (c) Dogs seized in connection with dog fighting shall be housed in a secure
1180 enclosure with proper exercise and care and held as evidence in the case until the
1181 conclusion of the case and order from the court on the disposition of the dogs.
1182 Disposition and release of dogs is determined in accordance to K.S.A. 21-6412 and 21-
1183 6414 and any amendments thereto.

1184 (d) Any police officer, reserve police officer or animal control officer of the city
1185 is authorized to issue a uniform complaint and notice to appear to any person who
1186 owns, harbors, keeps or possesses a dangerous dog when such officer has probable
1187 cause of an act or acts which are made unlawful by the provisions of this section have
1188 occurred.

1189 (e) Dangerous Dog At-Large. Any dog that has been found to be a dangerous
1190 dog, or vicious dog under the previous Topeka City Code 18-8 or this section, that is not
1191 confined or registered as required pursuant to this chapter shall be impounded by an
1192 animal control officer or a law enforcement officer. Upon conviction, in addition to all
1193 costs for impoundment, the owner or keeper shall pay a fine of at least \$250.00 but not
1194 more than \$499.00. For a second offense within 24 months, in which the dog is not

1195 confined or registered as required pursuant to this section, in addition to all costs for
1196 impoundment, the owner or keeper shall pay a \$499.00 fine and the animal control
1197 officer or law enforcement officer is empowered to impound the dog, and the dog shall
1198 be destroyed. The municipal judge shall have no authority to suspend the fine or any
1199 portion thereof.

1200 (f) Dangerous Dog – Attack on Human. Upon conviction of this section, a dog
1201 may be destroyed if the dog attacks a human being which results in great bodily harm or
1202 death. Upon conviction of this section, the court may destroy a dog that has been
1203 previously determined to be a dangerous dog as defined at TMC 6.05.010.

1204 (g) Dangerous Dog – Attack on Other Animal. Upon conviction of this section,
1205 a dog may be destroyed if the dog attacks a domestic animal which results in great
1206 bodily harm or death. Upon conviction of this section, the court may destroy a dog that
1207 has been previously determined to be a dangerous dog as defined at TMC 6.05.010.

1208 (h) The impounded dog shall not be destroyed pending appeals of convictions
1209 under this chapter. The dog shall remain impounded pending the determination of the
1210 complaint. If the court shall find that there shall not have been a violation, such dog shall
1211 be released to the custody of the owner. In addition to the fines provided in this section,
1212 the municipal judge shall have the authority to sentence the person adjudicated guilty of
1213 this chapter to serve up to a maximum of six months in jail.

1214 (i) Notwithstanding any other provision of this chapter to the contrary and
1215 irrespective of whether the dog has been declared dangerous pursuant to this chapter,
1216 the municipal judge may order any dog destroyed if the municipal judge determines that
1217 the dog is an immediate threat to public health and safety and that confinement and

1218 registration of the dog by the owner or keeper of the dog as provided in this chapter will
1219 not adequately protect public health and safety. No person shall harbor, own, or
1220 possess a dog that is an immediate threat to public health and safety. In making such
1221 determination the municipal judge may consider the severity of the attack and such
1222 other relevant information. The municipal judge shall have the authority to sentence the
1223 person adjudicated guilty of this section to serve up to a maximum of six months in jail
1224 and to pay a fine not to exceed \$1,000.00.

1225 Section 35. That The Code of the City of Topeka, Kansas, is hereby amended
1226 by adding a section, to be numbered 6.15.180, which said section reads as follows:

1227 **Confinement of certain dogs required.**

1228 (a) The owner of any dangerous dog shall confine the animal in the manner
1229 set out in 6.15.170(d)(1)(ii) above.

1230 (b) The owner of any un-spayed female dog in heat shall confine the animal
1231 within a building or dwelling/residence where the scent of the female cannot be emitted
1232 and in such a manner that the female dog cannot come into contact with another dog
1233 except for planned breeding. It shall be unlawful for the owner of any un-spayed female
1234 dog to knowingly keep such dog in a manner that might cause a nuisance by attracting
1235 male dogs to the premises of such owner.

1236 Section 36. That The Code of the City of Topeka, Kansas, is hereby amended
1237 by adding a section, to be numbered 6.15.190, which said section reads as follows:

1238 **Confinement of certain cats required.**

1239 (a) The owner of any un-spayed female cat in heat shall confine the animal
1240 within a building or dwelling/residence where the scent of the female cannot be emitted

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

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

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

Specific requirements and restrictions.

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

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

(2) The pig weighs less than 150 pounds;

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

(4) The pig has been vaccinated against rabies;

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

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

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

1264 **Shelter.**

1265 Miniature pot-belly pigs shall be confined inside the owner's dwelling/residence;
1266 or in a shelter with its sides embedded at least two feet into the ground or an
1267 underlayment that will prevent the animal from digging out of the pen and/or running-at-
1268 large. The animal shall be provided with sufficient bedding during the winter season
1269 and a water source of sufficient size and quantity that will allow them to cool themselves
1270 during the summer season. There shall be compliance with all requirements set out in
1271 TMC 6.05.100(a)(3)(iii) above.

1272 Section 39. That section 6.20.010 of the Code of the City of Topeka, Kansas, is
1273 hereby amended to read as follows:

1274 **Definitions.**

1275 ~~The following words, terms and phrases, when used in this chapter and Chapter~~
1276 ~~6.25 TMC, shall have the meanings ascribed to them in this section, except where the~~
1277 ~~context clearly indicates a different meaning:~~

1278 ~~At Large. An animal shall be deemed to be "at large" when it is not on the~~
1279 ~~property of its owner and not under the physical control of the owner by leash or other~~
1280 ~~similar device; voice control only will not be considered adequate control.~~

1281 ~~"Attack" means any violent or aggressive physical action or contact.~~

1282 ~~"Dog" means any domestic or wild dog.~~

1283 ~~"Kennel" means any person engaged in the business of breeding, buying, selling~~
1284 ~~or boarding dogs.~~

1285 ~~"Neutered male" means any male dog which by operation has been made~~
1286 ~~infertile or one that has been certified by a licensed veterinarian as being naturally~~

infertile.

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

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

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

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

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

~~Exotic or captive wild animals.~~

Exotic or captive wild animals.

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

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

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

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

(d) Exceptions.

(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.

(v) Carnivals.

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

(vii) 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.

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

1333 nuisance ordinances of the city and are maintained in a clean and sanitary condition for
1334 purposes of limiting objectionable odors.

1335 (f) Licensing. All persons and institutions listed in subsection (d) of this
1336 section must be properly licensed, if so required, by any rule or regulation promulgated
1337 under the authority of federal statute enacted by the United States, or by any statute
1338 enacted by the state, or by any rule or regulation promulgated by any agency or
1339 department as authorized by state statute.

1340 (g) Violations. A violation of any provision of this section shall constitute a
1341 new and separate offense each calendar day the violation continues to exist.

1342 (h) Destruction or Removal of Prohibited Animals. Upon conviction of a
1343 violation of this section, the judge of the municipal court of the city may order the owner,
1344 keeper, possessor or harbinger to destroy or remove from the city any animal prohibited
1345 under this section.

1346 Section 40. That section 6.20.020 of the Code of the City of Topeka, Kansas, is
1347 hereby repealed.

1348 **Complaint and notice to appear.**

1349 ~~The animal control officer shall have the power to issue a complaint and notice to~~
1350 ~~appear against the owner of a dog subject to, but not in compliance with, this chapter~~
1351 ~~and Chapter 6.25 TMC; provided, that no owner charged with violating the provisions of~~
1352 ~~TMC 6.20.060 shall be convicted of violating TMC 6.20.060 if the owner produces in~~
1353 ~~court, or at the offices of the animal control officer, a valid permit for the dog, issued~~
1354 ~~prior to the issuance of the complaint and notice to appear.~~

1355 Section 41. That section 6.20.030 of the Code of the City of Topeka, Kansas, is
1356 hereby repealed.

1357 **~~Running at large prohibited.~~**

1358 ~~It shall be unlawful for the owner, keeper or harborer of any dog to permit such~~
1359 ~~dog to run at large. The fact of a dog being found at large shall be prima facie evidence~~
1360 ~~of a violation of this section.~~

1361 Section 42. That section 6.20.040 of the Code of the City of Topeka, Kansas, is
1362 hereby repealed.

1363 **~~Confinement of certain dogs required.~~**

1364 ~~(a) The owner shall confine within a building or secure enclosure:~~

1365 ~~(1) Every fierce, dangerous or vicious dog;~~

1366 ~~(2) Every dog having a natural propensity to be fierce, dangerous or vicious; and~~

1367 ~~(3) Every unspayed female dog in heat, in such a manner that such female~~
1368 ~~cannot come into contact with another dog except for planned breeding.~~

1369 ~~(b) It shall be unlawful for the owner of any unspayed female dogs to keep such~~
1370 ~~dogs in such manner as to cause a nuisance by attracting male dogs to the premises of~~
1371 ~~such owner.~~

1372 Section 43. That section 6.20.050 of the Code of the City of Topeka, Kansas, is
1373 hereby repealed.

1374 **~~Breeding.~~**

1375 ~~Any business, individual, organization or entity engaged in the practice or~~
1376 ~~business of breeding and/or selling dogs, with or without monetary compensation, shall~~
1377 ~~provide the city treasurer the following information within 10 days after ownership of any~~

1378 ~~dog is transferred:~~

1379 ~~(a) The date of the sale or transfer of ownership.~~

1380 ~~(b) The name and address of the new owner.~~

1381 ~~(c) A description of the dog sufficient for identification by an animal control officer.~~

1382 ~~(d) Approximate age of the dog.~~

1383 Section 44. That section 6.20.060 of the Code of the City of Topeka, Kansas, is
1384 hereby repealed.

1385 **~~Required.~~**

1386 ~~No person shall own, keep or harbor within the corporate limits of this city any~~
1387 ~~dog over six months of age without first obtaining a permit therefor from the city~~
1388 ~~treasurer, or agent authorized by the city treasurer, who may issue such permit when~~
1389 ~~proper application is made in writing.~~

1390 Section 45. That section 6.20.070 of the Code of the City of Topeka, Kansas, is
1391 hereby repealed.

1392 **~~When required.~~**

1393 ~~The owner of a dog shall be required to have a permit for the dog upon the date it~~
1394 ~~is brought into the city or attains the age of six months, whichever is later.~~

1395 Section 46. That section 6.20.080 of the Code of the City of Topeka, Kansas, is
1396 hereby repealed.

1397 **~~Exception — Nonresidents.~~**

1398 ~~The permit and vaccination requirements of this article shall not apply to a~~
1399 ~~nonresident dog owner who keeps the dog within the city for not longer than 30 days;~~
1400 ~~provided, that at all times such dog is under restraint.~~

1401 Section 47. That section 6.20.090 of the Code of the City of Topeka, Kansas, is
1402 hereby repealed.

1403 ~~**Exception – Seeing-eye dogs, military and police dogs.**~~

1404 ~~A person owning, keeping or harboring a dog that has been retired from the~~
1405 ~~United States armed forces, a registered seeing-eye dog used by visually or hearing-~~
1406 ~~impaired persons, or police or sheriff's department dogs shall not be required to pay the~~
1407 ~~permit fee but shall be subject to all other regulations of this article, including but not~~
1408 ~~limited to the requirement of having the rabies vaccination.~~

1409 Section 48. That section 6.20.100 of the Code of the City of Topeka, Kansas, is
1410 hereby repealed.

1411 ~~**Application.**~~

1412 ~~Applications for dog permits shall be made with the city treasurer or authorized~~
1413 ~~agent upon forms provided by the city treasurer, setting forth such information as~~
1414 ~~necessary to properly implement the terms and provisions of this article. Such forms~~
1415 ~~shall be completed by the applicant and submitted to the city treasurer or authorized~~
1416 ~~agent for validation and, after validation and payment of the permit fee, such forms shall~~
1417 ~~serve as the dog permit.~~

1418 Section 49. That section 6.20.110 of the Code of the City of Topeka, Kansas, is
1419 hereby repealed.

1420 ~~**Vaccination certificate prerequisite to issuance.**~~

1421 ~~No permit shall be issued under this article except upon the presentation of a~~
1422 ~~valid rabies vaccination certificate plainly showing the dog's last vaccination is currently~~
1423 ~~effective and payment of the applicable fee under this article.~~

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

Fees.

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

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

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

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

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

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

Term.

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

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

Obtaining permits after deadline – Enforcement procedure.

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

1447 ~~be added to and collected with the regular permit. Any portion of a month shall be~~
1448 ~~considered as a full month for the purposes of late charge computation.~~

1449 ~~(b) Application and Renewal Forms. The city treasurer shall be authorized to mail~~
1450 ~~application forms for permits and reminder notices to any animal owner of which the~~
1451 ~~treasurer has record.~~

1452 ~~(c) Delinquency Notice. A complaint alleging violation of the renewal provisions of~~
1453 ~~a permit under this article and a notice to appear shall be issued against the owner of a~~
1454 ~~dog subject to but not in compliance with such renewal provisions; provided, that the~~
1455 ~~city treasurer has issued at least 10 days in advance thereof a delinquency notice by~~
1456 ~~United States mail, first class, postage prepaid, to the owner at the last known address~~
1457 ~~of the owner. The complaint and notice to appear will be served as provided by Charter~~
1458 ~~Ordinance No. 37, Section 2 (Appx. A, Section A10-25). A delinquency notice shall~~
1459 ~~include at least the following:~~

1460 ~~(1) A title that it is a delinquency notice;~~

1461 ~~(2) A statement of late payment charges the owner must pay; and~~

1462 ~~(3) A warning that failure to purchase the applicable permit will result in~~
1463 ~~the issuance of a complaint and notice to appear and subject the owner to~~
1464 ~~potential court costs.~~

1465 ~~(d) Complaint and Notice to Appear. The complaint and notice to appear as~~
1466 ~~provided in this section shall charge the owner with violations of the particular applicable~~
1467 ~~ordinance and order the owner to appear in municipal court at a particular date and~~
1468 ~~time.~~

1469 ~~(e) Fines. Any person charged with a violation of TMC 6.20.060 shall, upon a~~

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

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

~~Tag.~~

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

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

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

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

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

~~Unlawful use.~~

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

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

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

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

~~When at large.~~

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

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

~~When without a tag.~~

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

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

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

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

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

~~Notification of owner.~~

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

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

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

~~Detention period.~~

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

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

~~Redemption.~~

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

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

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

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

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

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

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

~~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.~~

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

~~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.~~

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

~~Definitions.~~

~~The following words, terms and phrases, when used in this chapter, 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.

Restrictions applicable to domestic fowl; poultry.

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

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

Complaint – Notice to appear.

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

Enclosure required; running at large prohibited.

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

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

Confinement of female cats in heat.

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

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

Destruction of birds and birds' nests prohibited; exceptions.

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

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

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

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

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

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

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

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

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

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

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

~~5Required.~~

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

Section 68. That section 6.30.060 of the Code of the City of Topeka, Kansas, is hereby repealed.

~~When required.~~

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

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

~~Exception for nonresidents.~~

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

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

~~Application.~~

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

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

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

~~Vaccination certificate prerequisite to issuance.~~

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

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

~~Fees.~~

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

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

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

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

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

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

~~Term.~~

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

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

~~Tags.~~

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

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

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

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

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

~~Validity – Renewal.~~

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

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

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

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

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

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

1721 ~~(1) A title that it is a delinquency notice.~~

1722 ~~(2) A statement of late payment charges the owner must pay.~~

1723 ~~(3) A warning that failure to purchase the applicable permit will result in~~
1724 ~~the issuance of a complaint and notice to appear and subject the owner to~~
1725 ~~potential court costs.~~

1726 ~~(d) Complaint and Notice to Appear. The complaint and notice to appear issued~~
1727 ~~under this section shall charge the owner with violations of the particular applicable~~
1728 ~~ordinance and order the owner to appear in municipal court at a particular date and~~
1729 ~~time.~~

1730 ~~(e) Fines. Any person charged with violation of this article shall, upon a plea or~~
1731 ~~finding of guilt, be sentenced to a fine of not less than \$50.00. The sentence shall not be~~
1732 ~~subject to a reduction or parole unless the person who is convicted or pleads guilty~~
1733 ~~provides evidence that a permit was purchased prior to the plea or finding of guilt.~~
1734 ~~However, in no event shall the sentence be reduced or paroled to a fine of less than~~
1735 ~~\$25.00.~~

1736 Section 77. That section 6.30.150 of the Code of the City of Topeka, Kansas, is
1737 hereby repealed.

1738 **~~Cats without current tag.~~**

1739 ~~The animal control officer may take into custody and impound all cats not bearing~~
1740 ~~a current registration tag.~~

1741 Section 78. That section 6.30.160 of the Code of the City of Topeka, Kansas, is
1742 hereby repealed.

1743 **~~Notification of owner.~~**

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

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

~~Detention period.~~

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

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

~~Redemption.~~

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

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

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

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

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

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

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

~~Failure to redeem.~~

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

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

~~Keeping near residences or businesses.~~

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

Keeping near residences or businesses.

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

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

~~To be kept in sanitary buildings.~~

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

Swine prohibited.

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

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

Swine prohibited.

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

Exceptions to restrictions on keeping livestock.

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

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

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

Exceptions to restrictions on keeping livestock.

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

Running at large or driving herds prohibited.

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

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

Nonconforming keeping of livestock.

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

Additional restrictions; exceptions.

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

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

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

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

Running at large or driving herds prohibited.

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

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

~~Grazing in public prohibited.~~

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

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

~~Keeping of domestic fowl regulated.~~

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

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

~~Running at large prohibited.~~

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

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

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

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

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

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

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

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

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

Section 95. Should any section, clause or phrase of this ordinance be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

PASSED AND APPROVED by the City Council on _____.

CITY OF TOPEKA, KANSAS

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk

TITLE 6 – ANIMALS

History of Revisions

The following sections were carried over from 1981 Code directly into 1995 Code with no revisions – (except where specifically noted):

Chapter 6.05 – General Provisions

Section 6.05.030 “Transportation and handling charges imposed in certain cases”
Section 6.05.050 “Mistreatment of young fowl, rabbits and other animals” (6.05.050)
Section 6.05.090 “Keeping or harboring animals on property upon which no person resides”
Section 6.05.100 “Dead animals in public places”
Section 6.05.110 “Animal fighting”

Chapter 6.10 – Administration and Enforcement

Section 6.10.010 “Authority of police officers”

Chapter 6.15 – Rabies Control

Section 6.15.010 “Report of certain animals”
Section 6.15.020 “Demand to produce animal; expense”
Section 6.15.030 “Killing or removing certain animals restricted”
Section 6.15.040 “Surrender of animal carcass on demand”

Chapter 6.20 – Dogs - Generally

Section 6.20.010 “Definitions”
Section 6.20.020 “Complaint and notice to appears”
Section 6.20.030 “Running at large prohibited”
Section 6.20.040 “Confinement of certain dogs required”
Section 6.20.050 “Breeding”
Section 6.20.060 “Required”
Section 6.20.070 “When required”
Section 6.20.080 “Exception - nonresidents”
Section 6.20.090 “Exception – seeing-eye dogs, military and police dogs”
Section 6.20.100 “Application”
Section 6.20.110 “Vaccination certificate prerequisite to issuance”
Section 6.20.130 “Term”
Section 6.20.140 “Obtaining permits after deadline – enforcement procedure”
Section 6.20.150 “Tag”
Section 6.20.160 “Unlawful use”
Section 6.20.170 “When at large”
Section 6.20.180 “When without a tag”
Section 6.20.190 “Killing of dog when unable to capture”
Section 6.20.200 “Notification of owner”
Section 6.20.210 “Detention period”
Section 6.20.240 “Interference”

Chapter 6.30 – Cats

Section 6.30.020 “Complaint – Notice to appear”

Section 6.30.030 “Confinement of female cats in heat”

******Section 6.30.040 “Sale or transfer by certain persons – Disclosures”

Section 6.30.050 “Required”

Section 6.30.060 “When required”

Section 6.30.070 “Exception for nonresidents”

Section 6.30.080 “Application”

Section 6.30.090 “Vaccination certificate prerequisite to issuance”

Section 6.30.110 “Term”

Section 6.30.120 “Tags”

Section 6.30.130 “Validity – Renewal”

Section 6.30.140 “Obtaining permit after deadline – Enforcement procedure”

Section 6.30.150 “Cats without current tag”

Section 6.30.160 “Notification of owner”

Section 6.30.170 “Detention period”

Section 6.30.190 “Failure to redeem”

Chapter 6.35 -- Livestock

Section 6.35.010 “Keeping near residences or businesses”

*****Section 6.35.020 “To be kept in sanitary buildings”

Section 6.35.030 “Swine prohibited”

Section 6.35.040 “Exceptions to restrictions on keeping livestock”

Section 6.35.050 “Nonconforming keeping of livestock”

Section 6.35.070 “Running at large or driving herds prohibited”

Section 6.35.080 “Grazing in public prohibited”

Chapter 6.40 – Fowl

Section 6.40.010 “Keeping of domestic fowl regulated”

Section 6.40.020 “Running at large prohibited”

*****Section 6.40.030 “Destruction of birds and bird’s nests prohibited – Exceptions”

NOTES --

*****Revised by Ordinance 17076 more than twenty (20) years ago -- (1-28-97) -- Fifty-four (54) of the fifty-six (56) Sections noted above (except 6.35.010 and 6.40.030) have not been updated, reorganized or repealed in over twenty (20) years

******Ordinance 16375 contained a revision, which repealed the previous requirement that vets inform the City of cats receiving (or not having current) rabies vaccinations. This ordinance was approved prior to the 1995 re-codification -- (10-1-91)

The following fourteen (14) sections have been revised within the past ten (10) years:

Ordinance 17470 (2-22-00) – 1 Section:

Section 6.20.230 “Failure to redeem”

Ordinance 18477 (7-12-05) – 1 Section:

Section 6.10.020 “Animal control officer”

Ordinance 19473 (9-28-10) – 4 Sections revised:

Section 6.05.020 “Violations of title, mandatory minimum punishment”

Section 6.05.040 “Cruelty to animals”

Section 6.30.010 “Definitions”

Section 6.30.050 “Required”

Ordinance 19611 (7-26-11) – 2 Sections:

Section 6.20.120 “Fees”

Section 6.30.100 “Fees”

Ordinance 19631 (8-23-11) – 2 Sections:

Section 6.20.220 “Redemption”

Section 6.30.180 “Redemption”

Ordinance 19703 (2-14-12) – 1 Section:

Section 6.05.070 “Injuring or killing of wild and undomesticated animals unlawful; exceptions”

Ordinance 19859 (11-12-13) – 1 Section:

Section 6.05.060 “Exotic or captive wild animals”

Ordinance 20031 -- 10-11-16 – 2 Sections:

Section 6.05.010 “Definitions”

Section 6.05.080 “Dangerous dogs”

The following Chapter (6.25) and section (6.35.060) were repealed within the past ten (10) years:

Ordinance 19473 (9-28-10) – 1 Chapter repealed:

Chapter 6.25 “Pit Bull Dogs”

Ordinance 19899 (4-15-14) – 1 Section repealed:

Section 6.35.060 “Livestock as a nuisance”

MINOR REVISIONS

Ordinance 16375 (10-1-91)

***This ordinance pre-dated the 1995 recodification

Ordinance 17076 (1-28-97)

Section 6.35.020 “To be kept in sanitary buildings” –

Replaced references to “sanitary engineer of the health department” with “director of environmental code services”

Section 6.40.030 “Destruction of birds and bird’s nests prohibited – Exceptions” –

Replaced references to “health department” with “Environmental Code Services Division”

Ordinance 17470 (2-22-00)

Section 6.20.230 “Failure to redeem” –

*Revised from “....impounded dog **shall not be** redeemed” to “....impounded dog **is not** redeemed” and replaced “18-126” with “18-125”*

Ordinance 18477 (7-12-05)

Section 6.10.020 “Animal control officer” –

Revised to replace references to “city administrator” or “mayor by and with the advice and consent of the city council” with “city manager” These revisions were necessary due to the adoption of Charter Ordinance 94 on July 20, 2004 and the election that occurred on November 2, 2004, which changed the form of government

Ordinance 19611 (7-26-11)

Section 6.20.060 “Fees” –

Increased fees listed in subsection (a) from \$8.00 to \$20.00, \$5.00 to \$8.00 and \$40.00 to \$80.00

Section 6.30.100 “Fees” –

Increased fees listed in subsection (a) from \$8.00 to \$20.00, \$5.00 to \$8.00 and \$40.00 to \$80.00 and deleted subsection (c), which contained the following language: “No fee under this article shall be required of any pet shot with a valid cat permit”

Ordinance 19631 (8-23-11)

Section 6.20.220 “Redemption” –

Replaced the word “resume” with the word “take” in subsection (a) in reference to an owner retrieving possession of an impounded dog

Section 6.30.180 “Redemption” –

Replaced the word “resume” with the word “take” in subsection (a) in reference to an owner retrieving possession of an impounded dog

Ordinance 19703 (2-14-12)

Section 6.05.070 “Injuring or killing of wild and undomesticated animals unlawful; exceptions” –

Revised subsection (b) by replacing the word “foregoing” with the words “prohibition of subsection (a)” and adding the words “and Tourism” to the reference to “Kansas Department of Wildlife and Parks” so that it reads “Kansas Department of Wildlife, Parks and Tourism (KDWPT)”

Added a new subsection (c): Notwithstanding the prohibition in subsection (a), 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.”

Ordinance 19859 (11-12-13)

Section 6.05.060 “Exotic or captive wild animals” –

Revised subsection (e)(2), which sets forth specific exemptions, to add a new subsection (vii) related to service monkeys used by disabled persons with permanent mobility impairments.

Ordinance 19899 (4-15-14) – Section 24 on page 36; lines 304-308

Section 6.35.060 “Livestock as a nuisance” –

Deleted section that referenced the keeping of livestock as being a public nuisance in violation of the property maintenance code

MAJOR REVISIONS

Ordinance 19473 (9-28-10)

Section 6.05.010 “Definitions” –

*Revised to add a definition of “dangerous dog” as new subsection (b)
Revised to add a definition of “humane killing” as new subsection (d)
Revised to expand the definition of “Humane Society” in subsection (e)
Revised to expand the definition of “owner” in subsection (f)
Revised the definition of “secure enclosure” in subsection (g)
Revised to add a definition of “supervision” as subsection (h)
Revised to add a definition of “tether” as subsection (i)*

Section 6.05.020 “Violations of title, mandatory minimum punishment” –

Revised to update the code section referenced

Section 6.05.040 “Cruelty to animals” –

Revised to revamp the parameters for what equates cruelty to animals and to outline certain circumstances to which the provisions of this particular section do not apply

Section 6.05.080 “Dangerous dogs” –

Revised to overhaul this particular section by deleting the previous language in its entirety and incorporating new language

Chapter 6.25 “Pit Bull Dogs” –

Repealed in its entirety

Section 6.30.010 “Definitions” –

Revised to add a definition for “ear-tipped feral cat”

Section 6.30.050 “Required” –

Revised to replace reference to “city treasurer” with “chief of police” and to clarify that permits for keeping cats does not apply to ear-tipped feral cats.

Ordinance 20031 (10-11-16)

Section 6.05.010 “Definitions” –

*Revised to amend definition of “dangerous dog” in subsection (b) by adding additional specifics in paragraphs (6) and (7)
Revised to add a new definition of “domestic animal”*

Section 6.05.080 “Dangerous dogs” –

Revised to clarify the circumstances under which the municipal court has the discretion to order the destruction of a dangerous dog; more specifically in subsection (f), if related to an attack on a human, and subsection (g), if related to an attack on another animal. Corresponding fines are set forth in newly added paragraphs (3) and (4) in subsection (d).

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.

17 **Chapter 6.05**

18 **GENERAL PROVISIONS**

19 Sections:

- 20 6.05.010 Definitions.
- 21 6.05.020 Violations of title, mandatory minimum punishment.
- 22 6.05.030 Transportation and handling charges imposed in certain cases.
- 23 6.05.040 Cruelty to animals.
- 24 6.05.050 Mistreatment of young fowl, rabbits and other animals.
- 25 6.05.060 Exotic or captive wild animals.
- 26 6.05.070 Injuring or killing of wild and undomesticated animals unlawful – Exceptions.
- 27 6.05.080 Dangerous dogs.
- 28 6.05.090 Keeping or harboring animals on property upon which no person resides.
- 29 6.05.100 Dead animals in public places.
- 30 6.05.110 Animal fighting.

31 **6.05.010 Definitions.**

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

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

36 (b) “Dangerous dog” shall mean any of the following:

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

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

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

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

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

50 (6) Notwithstanding the definition of a “dangerous dog” above, no dog may be declared
51 dangerous if any injury was sustained by a person under any of the following conditions:

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

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

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

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

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

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

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

(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.

(d) "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.

(e) "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.

(f) "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.

(g) "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.

(h) "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.

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

(j) 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.

(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. (Ord. 20031 § 1, 10-11-16.)

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, harborer or possessor of such animal as follows:

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

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

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

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

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

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

241 (1) Domestic dogs.

242 (2) Domestic cats.

243 (3) Domestic hoofstock.

244 (4) Rodents.

245 (5) European ferrets.

246 (6) Rabbits.

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

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

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

250 (10) Turtles, except snapping turtles.

251 (11) Amphibians.

252 (12) Fish.

253 (13) Invertebrates.

254 (e) Exemptions.

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

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

259 (i) Medical institutions.

260 (ii) Post-secondary educational institutions.

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

262 (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. 21-6412 and 21-6414 and any amendments thereto.

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

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

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

(i) Registration and Microchipping. The owner shall annually register the dangerous dog with the city, on such forms designated by the police chief, and shall have a microchip

inserted into the dog by the humane society. The microchip shall detail the dangerous dog registration and such other information as may be appropriate to determine the ownership of the dog. The owner shall pay a \$50.00 annual registration fee and shall pay all costs associated with the microchip procedure and registration of the dog. The owner shall be responsible for maintaining with the police department the address of the owner and the dangerous dog. The owner shall notify the police department within seven days of a change in address for the owner and dangerous dog.

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

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

(2) Upon conviction of keeping a dangerous dog, the owner shall comply with the provisions of this chapter within 15 days. The owner shall file proof of sterilization and microchipping, acceptable to the municipal court, with the clerk of the municipal court no later than 20 calendar days after conviction. Upon receipt, the clerk of the municipal court shall provide a copy of such proof to the legal department and the dog may then 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 \$1,000 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 \$250.00 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 this section, that is not confined or registered as required pursuant to this chapter shall be impounded by an animal control officer or a law enforcement officer. Upon conviction, in addition to all costs for impoundment, the owner or keeper shall pay a fine of at least \$250.00 but not more than \$499.00. For a second offense within

24 months, in which the dog is not 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. Upon conviction of this section, a dog may be destroyed if the dog attacks a human being which results in great bodily harm or death. Upon conviction of this section, the court may destroy a dog that has been previously determined to be a dangerous dog as defined at TMC 6.05.010(b).

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

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

(i) Notwithstanding any other provision of this chapter to the contrary and irrespective of whether the dog has been declared dangerous pursuant to this chapter, the municipal judge may order any dog destroyed if the municipal judge determines that the dog is an immediate threat to public health and safety and that confinement and registration of the dog by the owner or keeper of the dog as provided in this chapter will not adequately protect public health and safety. No person shall harbor, own, or possess a dog that is an immediate threat to public health and safety. In making such determination the municipal judge may consider the severity of the attack and such other relevant information. The municipal judge shall have the authority to sentence the 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. 20031 § 2, 10-11-16.)

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.

480 **Chapter 6.15**

481 **RABIES CONTROL**

482 Sections:

483 6.15.010 Report of certain animals.

484 6.15.020 Demand to produce animal – Expense.

485 6.15.030 Killing or removing certain animals restricted.

486 6.15.040 Surrender of animal carcass on demand.

487 **6.15.010 Report of certain animals.**

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

489 (a) Any animal which bites a person;

490 (b) Any rabid animal; or

491 (c) Any animal suspected of being rabid. (Code 1981 § 8-181. Code 1995 § 18-56.)

492 **6.15.020 Demand to produce animal – Expense.**

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

498 **6.15.030 Killing or removing certain animals restricted.**

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

503 **6.15.040 Surrender of animal carcass on demand.**

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

506 **Chapter 6.20**

507 **DOGS – GENERALLY**

508 Sections:

509 Article I. General Provisions

- 510 6.20.010 Definitions.
- 511 6.20.020 Complaint and notice to appear.
- 512 6.20.030 Running at large prohibited.
- 513 6.20.040 Confinement of certain dogs required.
- 514 6.20.050 Breeding.

515 Article II. Permit

- 516 6.20.060 Required.
- 517 6.20.070 When required.
- 518 6.20.080 Exception – Nonresidents.
- 519 6.20.090 Exception – Seeing-eye dogs, military and police dogs.
- 520 6.20.100 Application.
- 521 6.20.110 Vaccination certificate prerequisite to issuance.
- 522 6.20.120 Fees.
- 523 6.20.130 Term.
- 524 6.20.140 Obtaining permits after deadline – Enforcement procedure.
- 525 6.20.150 Tag.
- 526 6.20.160 Unlawful use.

527 Article III. Impoundment

- 528 6.20.170 When at large.
- 529 6.20.180 When without a tag.
- 530 6.20.190 Killing of dog when unable to capture.
- 531 6.20.200 Notification of owner.
- 532 6.20.210 Detention period.
- 533 6.20.220 Redemption.
- 534 6.20.230 Failure to redeem.
- 535 6.20.240 Interference.

536 **Article I. General Provisions**

537 **6.20.010 Definitions.**

538 The following words, terms and phrases, when used in this chapter and Chapter 6.25 TMC, shall
539 have the meanings ascribed to them in this section, except where the context clearly indicates a
540 different meaning:

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

544 “Attack” means any violent or aggressive physical action or contact.
545 “Dog” means any domestic or wild dog.
546 “Kennel” means any person engaged in the business of breeding, buying, selling or boarding dogs.
547 “Neutered male” means any male dog which by operation has been made infertile or one that has
548 been certified by a licensed veterinarian as being naturally infertile.
549 “Owner” means any person owning, keeping, harboring or possessing any dog or any person
550 operating a kennel.
551 “Restraint” means confined by building, fence, leash or other appropriate means, or if
552 accompanied by a competent person and under the person’s immediate control.
553 “Secure enclosure” means any structure secure on four sides, top and bottom, equipped with a gate
554 or door that has a lock that secures such gate or door from being opened by anyone other than the
555 owner, harbinger, keeper or possessor of the dog, as set forth in TMC 6.20.040(a).
556 “Spayed female” means any female dog which has been operated upon to prevent conception.
557 “Veterinary hospital” means any establishment maintained and operated by a licensed veterinarian
558 for the diagnosis and treatment of diseases and injuries of dogs. (Code 1981 § 8-41. Code 1995 §
559 18-86.)

560 **Cross References:** Definitions generally, TMC 1.10.020.

561 **6.20.020 Complaint and notice to appear.**

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

568 **Cross References:** Animal control officer, TMC 6.10.020.

569 **6.20.030 Running at large prohibited.**

570 It shall be unlawful for the owner, keeper or harbinger of any dog to permit such dog to run at large.
571 The fact of a dog being found at large shall be prima facie evidence of a violation of this section.
572 (Code 1981 § 8-42. Code 1995 § 18-88.)

573 **6.20.040 Confinement of certain dogs required.**

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

- 575 (1) Every fierce, dangerous or vicious dog;
- 576 (2) Every dog having a natural propensity to be fierce, dangerous or vicious; and
- 577 (3) Every unspayed female dog in heat, in such a manner that such female cannot come into
578 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.)

715 **6.20.230 Failure to redeem.**

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

719 **6.20.240 Interference.**

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

724

Chapter 6.25

725

PIT BULL DOGS

726

(Repealed by Ord. 19473)

727 **Chapter 6.30**

728 **CATS**

729 Sections:

730 Article I. Generally

731 6.30.010 Definitions.

732 6.30.020 Complaint – Notice to appear.

733 6.30.030 Confinement of female cats in heat.

734 6.30.040 Sale or transfer by certain persons – Disclosures.

735 Article II. Permit

736 6.30.050 Required.

737 6.30.060 When required.

738 6.30.070 Exception for nonresidents.

739 6.30.080 Application.

740 6.30.090 Vaccination certificate prerequisite to issuance.

741 6.30.100 Fees.

742 6.30.110 Term.

743 6.30.120 Tags.

744 6.30.130 Validity – Renewal.

745 6.30.140 Obtaining permit after deadline – Enforcement procedure.

746 Article III. Impoundment

747 6.30.150 Cats without current tag.

748 6.30.160 Notification of owner.

749 6.30.170 Detention period.

750 6.30.180 Redemption.

751 6.30.190 Failure to redeem.

752 **Article I. Generally**

753 **6.30.010 Definitions.**

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

756 “Cat” means any domestic or wild cat.

757 “Ear-tipped feral cat” means a cat that is unsocialized to humans and has a temperament of
758 extreme fear or resistance to contact with humans that exhibits a straight-line cutting of the tip of
759 its left ear to indicate that it has been sterilized and vaccinated against rabies.

760 “Neutered male” means any male cat which by operation has been made infertile or one that has
761 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, harboring, 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.

795 **Article II. Permit**

796 **6.30.050 Required.**

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

801 **Cross References:** Police department, TMC 2.25.230.

802 **6.30.060 When required.**

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

805 **6.30.070 Exception for nonresidents.**

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

809 **6.30.080 Application.**

810 Applications for cat permits shall be made with the city treasurer or authorized agent upon forms
811 provided by the city treasurer, setting forth such information as necessary to properly implement
812 the terms and provisions of this article. Such forms shall be completed by the applicant and
813 submitted to the city treasurer or authorized agent for validation, and after validation and payment
814 of the permit fee, such forms shall serve as the cat permit. (Code 1981 § 8-213. Code 1995 §
815 18-219.)

816 **Cross References:** City treasurer, TMC 2.25.140.

817 **6.30.090 Vaccination certificate prerequisite to issuance.**

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

821 **6.30.100 Fees.**

822 (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

823
824 (b) No fee under this article shall be required of any humane society or veterinary hospital. (Ord.
825 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

899 duly incorporated humane society or licensed veterinarian for sale or other disposition. (Ord.
900 19631 § 2, 8-23-11.)

901 **6.30.190 Failure to redeem.**

902 If an impounded cat shall not be redeemed within the detention period set forth in TMC 6.30.170,
903 then the cat shall be deemed abandoned and title thereto shall pass to the humane society by
904 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

944 livestock is discontinued for a period of one year, the use of such building or lot shall thereafter
945 conform to the provisions of this chapter. (Code 1981 § 8-104.1. Code 1995 § 18-265.)

946 **6.35.060 Livestock as a nuisance.**

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

948 **6.35.070 Running at large or driving herds prohibited.**

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

952 **6.35.080 Grazing in public prohibited.**

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

959

Chapter 6.40

960

FOWL

961 Sections:

962 6.40.010 Keeping of domestic fowl regulated.

963 6.40.020 Running at large prohibited.

964 6.40.030 Destruction of birds and bird's nests prohibited – Exceptions.

965 **6.40.010 Keeping of domestic fowl regulated.**

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

971 **6.40.020 Running at large prohibited.**

972 It shall be unlawful for any person to allow or permit domestic fowl to run or be at large at any time
973 in the city. For the purpose of this section, the term “at large” shall be defined to include those
974 times during which any domestic fowl shall not be confined or kept in pens sufficiently strong or
975 constructed to keep such fowl on the premises of their owner or keeper. (Code 1981 § 8-145. Code
976 1995 § 18-292.)

977 **6.40.030 Destruction of birds and bird's nests prohibited – Exceptions.**

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

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

983 (b) Pigeons or other birds of the air that have become public nuisances by reason of their nesting or
984 roosting on any private premises in the city may, upon complaint to the environmental code
985 services division, be destroyed by an approved pest control firm or company under the conditions
986 of the permit issued by the environmental code services division. (Ord. 17076 § 2, 1-28-97; Code
987 1981 § 8-146. Code 1995 § 18-293.)

COMPARISON CHART
SWINE, MINIATURE PIG PROVISIONS

<i>CITY</i>	<i>PURE BREED CERTIFICATION REQUIRED?</i>	<i>STERILIZATION REQUIRED?</i>	<i>VACCINATION or BLOOD TESTING REQUIRED?</i>	<i>WEIGHT or HEIGHT RESTRICTIONS?</i>	<i>RESTRICTION on NUMBER per RESIDENCE?</i>	<i>REGISTRATION or PERMIT REQUIRED?</i>	<i>PROHIBITION AGAINST RUNNING at LARGE?</i>
Kansas City, MO	Yes			No	Yes – four pets per residence; (includes pigs, dogs and cats)		Yes
Lawrence	Yes – within four weeks (1) of birth or (2) after entering city limits	Yes – males/after four weeks; females/after twelve weeks	Yes – must receive vaccination after twelve weeks in age	Yes – cannot exceed 150 pounds	No	Yes	
Olathe*	No	No	No	No	No	No	
Overland Park**	No	No	No	No	No	No	Yes
Shawnee	Yes	Yes – both males and females after four weeks	Yes – must undergo blood testing each year and receive corresponding health certificate	Yes – must be less than 100 pounds	Yes – one pig; and no more than five total pets per residence (includes pigs, dogs and cats)	Yes – prior to the age of four months	Yes
SNCO	No	No	No	No	No		Yes
<i>Topeka (proposed)</i>	No	Yes – both males and females upon age of maturity	Yes – must receive vaccination	Yes – must be less than 150 pounds and 24 inches	Yes –two pigs per any one household		Yes
UG of WyCo/ KCK	Yes	Yes – both males and females after four weeks	Yes – must undergo blood testing each year and receive corresponding health certificate	Yes – must be less than 100 pounds	Yes – one pig; and no more than five total pets per residence (includes pigs, dogs and cats)	Yes – prior to the age of four months	Yes
Wichita	Yes	Yes – both males and females upon age of maturity	Yes – must undergo blood test	Yes – must be less than 80 pounds	Yes – one pig per licensed premises	Yes – must keep a current animal maintenance permit	Yes

**Swine” is included within the definition of “domestic animal” for purposes of property care and it appears as though pigs would be allowed to be kept as a pet.

**Pigs and swine are not addressed; there is an ordinance for “domestic animals” but that term is not specifically defined (it excludes dogs and cats, but includes cows and horses although not limited thereto.)

COMPARISON DOC

(Current Title 6 versus Proposed Title 6)

Title 6

ANIMALS

Chapters:

- 6.05 General Provisions**
- 6.10 Rabies Control**
- 6.15 Dogs, Cats and Miniature Pot-Belly Pigs**
- 6.20 Exotic or Captive Wild Animals**
- 6.25 *Repealed***
- 6.30 Domestic Fowl, Poultry**
- 6.35 Livestock**

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.

CODE: *Cross references to where the language is currently located in the existing code are set out in green-colored font.*

New or proposed revisions are set out in either red or blue-colored font -- (depending upon what printer the document is printed from).

28 **Chapter 6.05**

29 **GENERAL PROVISIONS**

30 Sections:

31 **Article I. Definitions**

32
33
34 6.05.010 Definitions.

35
36 **Article II. Administration and Enforcement**

37
38 6.05.020 Animal control office.
39 6.05.030 Authority of police officers.
40 6.05.040 Complaint and notice to appear.
41 6.05.050 Violations of title, mandatory minimum punishment.
42 6.05.060 Transportation and handling charges imposed in certain cases.

43
44 **Article III. Miscellaneous**

45
46 6.05.070 Keeping or harboring animals.
47 6.05.080 Keeping or harboring animals on property upon which no person resides.
48 6.05.090 Running at large prohibited.
49 6.05.100 Cruelty to animals.
50 6.05.110 Injuring or killing of wild, undomesticated animals unlawful; exceptions.
51 6.05.120 Animal fighting.
52 6.05.130 Deceased animals.
53

54 **Article I. Definitions**

55
56 **6.05.010 Definitions.** *Combined all definitions contained throughout Title 6 into one section, for*
57 *easier reference*

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

- 60 (a) **“Animal”** means a live, vertebrate creature, domestic or wild, other than humans.
- 61 (b) **“Amphibian”** is an animal that moves in and out of water, (i.e., frogs and toads, newts and
62 salamanders);
- 63 (c) **“Animal shelter”** means any premises designated by city administrative authority for the
64 purpose of impounding and caring for animals held under authority of this title, excluding
65 wildlife, fowl and livestock. **Currently 6.05.010(a)**

(d) **“At-Large”** means when an animal is not on the property of its owner and not under the physical control of the owner by leash or other similar device; (~~voice~~ or remote control only will not be considered adequate control). **Currently 6.20.010**

(e) **“Attack”** means any violent or aggressive physical action or contact. **Currently 6.20.010**

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

(g) **“Cat”** is an animal with soft fur, a short snout and retractile claws. A *feral cat* is a domesticated cat that has returned to the wild, or the offspring of such a cat. A feral cat is un-socialized to humans and has a temperament of extreme fear or resistance to contact with humans. An *ear-tipped feral cat* is a feral cat that exhibits a straight-line cutting of the tip of its left ear to indicate that it has been sterilized and vaccinated against rabies. **Currently 6.30.010, which currently reads:** “Cat” means any domestic or wild cat; “Ear-tipped feral cat” means a cat that is un-socialized 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.

(h) **“Dangerous dog”** shall mean any of the following:

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

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

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

(4) Any dog which was previously determined to be ~~a vicious animal~~ dangerous pursuant to the previous TMC 6.05.080 or current TMC 6.15.170; or

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

(6) Notwithstanding the definition of a “dangerous dog” above, no dog may be declared dangerous if any injury was sustained by a person under any of the following conditions:

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

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

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

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

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

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

(ii) The dog was protecting itself, its owner, its offspring or another human being; or

(iii) The dog injures or kills an animal trespassing on the property of the dog's owner.

(8) Nothing in this chapter shall be deemed to regulate or prohibit the lawful maintenance and use of dogs by law enforcement agencies or include actions by a law enforcement dog while on duty or while performing duties. **Currently 6.05.010(b)**

(i) **“Dog”** is an animal with a long or short snout, an acute sense of smell and a barking, howling or whining voice. A *wild dog* is an undomesticated dog that is found in the wild, (i.e., the African wild dog, the dingo, the hyena and the wolf). **Currently 6.20.010, which currently reads: “Dog” means any domestic or wild dog.**

(j) **“Domestic animal”** means one that is sufficiently tame to live with or near an individual owner or family, including, but not limited to, pets such as dogs, cats or miniature pot-belly pigs; or one that can be used to contribute to a family's support, including, but not limited to, cattle, donkeys, goats, mules, poultry, sheep or swine. When something is domesticated, it is converted to domestic use, as in the case of a wild animal that is tamed. *See also* “Animal,” “Livestock” and “Pet.” **Currently 6.05.010(c), which currently reads: “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.**

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

(l) **“Exposed to rabies”** means an animal that has been bitten by, or subjected to danger, attack or harm by, any creature known to have been infected with rabies. **Currently 6.05.010(d)**

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

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

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

(p) **“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. **Currently 6.05.010(e)**

(q) **“Humane society”** means ~~the Helping Hands Humane Society in the city or~~ any animal shelter contracted with the city of Topeka that is licensed by the state of Kansas. See also “Animal Shelter.” **Currently 6.05.010(f)**

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

~~(s) **“Kennel”** means any person engaged in the business of breeding, buying, selling or boarding animals.~~ **Currently 6.20.010: NOTE – Deleted since covered by State Law**

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

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

(u) **“Neutered Male”** is a male animal that by operation has been made infertile to prevent conception or one that has been certified by a licensed veterinarian as being naturally infertile. **Currently 6.20.010 and 6.30.010: “Neutered Males” means any male dog (cat) which by operation has been made infertile or one that has been certified by a licensed veterinarian as being naturally infertile.**

(v) **“Owner”** means any person of legal age who keeps, possesses or harbors any animal; ~~or any person operating a kennel.~~ A parent or legal guardian shall be deemed to be an owner of animals owned or maintained by children upon their premises. **Currently 6.05.010(g); 6.20.010 and 6.30.010: NOTE – Combined these three definitions and replaced references to “dog” or “cat” with the word “animal.”**

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

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

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

(z) **“Restrained”** means confined by building, fence, leash, harness or other appropriate means, or is accompanied by a competent person and under the person’s immediate control by leash or held in arms. **Currently 6.20.010:** NOTE – Added the word “harness” to list and added “by leash or held in arms” to end of definition.

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

(bb) **“Secure enclosure”** means ~~any structure secure on four~~ a six-sided structure, counting the top and bottom, secured to the sides or embedded in the ground two feet or more for purposes of preventing a dangerous dog, as defined in subsection (h) above, from digging out. The structure must be equipped with a gate or door that ~~has~~ is secured with a padlock or combination lock for purposes of preventing escape and ensuring that such gate or door cannot be opened by anyone other than the owner, keeper, possessor or harbinger of the animal. **Currently 6.05.010(h); 6.20.010 and 6.30.010:** NOTE – Used definition contained in 6.20.010 and 6.30.010, as opposed to definition contained in 6.05.010(h)

(cc) **“Spayed Female”** is a female animal that by operation has been made infertile to prevent conception; or one that has been certified by a licensed veterinarian as being naturally infertile. **Currently 6.20.010 and 6.30.010, which currently reads:** “Spayed Female” means any female dog (cat) which has been operated on to prevent conception.

(dd) **“Supervision”** means within visual and auditory range of the owner. **Currently 6.05.010(i)**

(ee) **“Tether”** when used as a verb means fastening an animal to a stationary object, pulley run line or stake And when used as a noun means a chain, leash, rope, cable, string, leather or nylon strap, or any other material used to fasten an animal to a stationary object, pulley run line or stake. **Currently 6.05.010(j)**

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

(gg) **“Veterinary hospital”** means any establishment maintained and operated by a licensed veterinarian for the diagnosis and treatment of diseases and injuries of animals. **Currently 6.20.010 and 6.30.010:** NOTE – Replaced references to “dog” or “cat” with the word “animal”

(hh) **“Vicious”** means a cross, ferocious or dangerous disposition; or a habit, tendency or disposition to snap, attack or bite any person, domestic animal or pet. **Currently 6.05.010(k):** NOTE – Added reference to “pet”

(Ord. 20031 § 1, 10-11-16.) (Code 1981 § 8-41. Code 1995 § 18-86.)

Cross References: Definitions generally, TMC 1.10.020.

208 **Article II. Administration and Enforcement**

209
210 **6.05.020 Animal control office. Currently 6.10.020**

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

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

217 *Cross References:* Police department, TMC 2.25.230.

218 **6.05.030 Authority of police officers. Currently 6.10.010: NOTE – Deleted reference to parks**
219 **and recreation employees**

220 The police officers of the city are authorized to enforce this title and to aid and assist the animal
221 control supervisor and officers in the enforcement of this title. (Code 1981 § 8-24. Code 1995 §
222 18-31.)

223 *Cross References:* Police department, TMC 2.25.230.

224 **6.05.040 Complaint and notice to appear. Currently 6.20.020 and 6.30.020**

225 Animal control officers shall have the power to issue a complaint and notice to appear against the
226 owner of animals that are subject to, but not in compliance with, applicable provisions of this
227 Title 6; provided, that no owner charged with violating the provisions of TMC 6.15.010 shall be
228 convicted of violating TMC 6.15.010 if the owner produces in court, or at the office of animal
229 control, a valid permit for the dog, cat or miniature pot-belly pig dated prior to the issuance of
230 the complaint and notice to appear. (Code 1981 § 8-43. Code 1995 § 18-87.)

231 *Cross References:* Municipal court, TMC 2.110.160, 2.110.170, 2.110.180, 2.110.210

232 **6.05.050 Violations of title, mandatory minimum punishment. Currently 6.05.020**

233 Unless otherwise specifically provided herein, ~~T~~he judge of the municipal court of the city shall,
234 upon a conviction of any section in this Title 6, other than TMC 6.15.170, sentence the owner,
235 keeper, possessor or harbinger of such animal as follows:

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

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

238 (c) Both Fine and Imprisonment. A fine and imprisonment, both in accordance with subsections
239 (a) and (b) of this section. (Ord. 19473 § 2, 9-28-10.)

240 *Cross References:* Municipal judge, TMC 2.25.150.

6.05.060 Transportation and handling charges imposed in certain cases. Currently 6.05.030

If a person is convicted of a violation of any section in this Title 6, or of any applicable state or federal law, and the animal was transported by the police department or animal control office to an animal shelter, then the judge of the municipal court shall impose and collect \$30.00 for handling and transportation of the animal. (Code 1981 § 8-8. Code 1995 § 18-3.)

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

Article III. Miscellaneous

6.05.070 Keeping or harboring animals. Currently 6.05.060(d)(1) through (13): NOTE – Used to be titled “Exotic or captive wild animals,” which did not accurately portray all that was addressed therein. Separated portion that deals with domestic animals from portion that deals with exotic animals; created a new Chapter 6.20 dealing only with exotic or captive wild animals

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

- (i) amphibians
- (ii) birds
- (iii) cats
- (iv) dogs
- (v) ferrets
- (vi) fish
- (vii) fowl
- (viii) livestock
- (ix) miniature pot-belly pigs
- (x) rabbits
- (xi) reptiles
- (xii) rodents
- (xiii) invertebrates

(b) Sanitary Requirements. The owner of any animal(s) listed in subsection (a) of this section must ensure that all animals and animal quarters are in full conformance with the provisions of the nuisance ordinances of the city, kept in a clean and sanitary condition and maintained in a manner that limits objectionable odors; and must further ensure that all animals are maintained in quarters that are adequately constructed so as to prevent their escape. Any area(s) in which an animal(s) is allowed to roam should be cleaned of waste on a regular basis for purposes of preventing the emission of objectionable odors. If an animal control officer determines that a particular odor would be considered objectionable to a reasonable, prudent person, this determination may be considered prima facie evidence of a violation of this section. Currently 6.05.060(f): NOTE – Added that sanitary conditions must be maintained for domestic animals; as this currently required for exotic animals.

(c) Compliance. The owner of any animal(s) listed in subsection (a) of this section must ensure that said animal(s) is properly licensed if required by this Title 6 and is being kept in accordance with any applicable rule or regulation promulgated under the authority of federal statute enacted by the United States, or by any statute enacted by the state, or by any rule or regulation promulgated by any agency or department as authorized by state statute. **Currently 6.05.060(g):**
NOTE – Added that owner must comply with all laws, rules or regs that may apply to any domestic animal; as this currently required for exotic animals

(d) Prohibitions. It shall be unlawful for any person to knowingly own, keep, possess or harbor any of the following animals within the city limits: **Currently 6.05.060(d)(7)(8)(9) and (10):**
NOTE – Set forth the types of domestic animals that are prohibited in a specific, separate list contained in a specific, separate subsection that references prohibition in the title; easier to find prohibited domestic animals

- (i) venomous snakes and lizards
- (ii) nonvenomous snakes if eight feet or more in length
- (iii) all species of monitor lizards
- (iv) cassowaries, emus, ostriches and rheas
- (v) snapping turtles
- (vi) exotic or captive wild animals; except as otherwise provided in Section 6.20.010(d)

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

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

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

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

(b) Medical institutions.

(c) Educational institutions.

(d) Licensed veterinary clinics.

(e) The humane society.

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

(g) Animals maintained on nonresidential commercial properties for security purposes. (Code 1981 § 8-11. Code 1995 § 18-9.) (Ord. 19859 § 1, 11-12-13.)

~~6.05.060 — Sale or transfer by certain persons, breeders; disclosures.~~ **Currently 6.20.050 and 6.30.040**

~~Any business, individual, organization or entity engaged in the practice or business of breeding and/or selling domestic animals, with or without monetary compensation, shall provide the chief of police with the following information within 10 days after ownership of any domestic animal is transferred:~~

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

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

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

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

~~—Cross References: Animal control officer, TMC 6.10.020.~~

6.05.090 Running at large prohibited.

It shall be unlawful for any person, with no requirement of a culpable mental state, to allow or permit any dog, ~~cat~~ or miniature pot-belly pig to run or be at large, as defined in Section 6.05.010 above, at any time in the city. The fact of a dog, ~~cat~~ or miniature pot-belly pig being found at large shall be prima facie evidence of a violation of this section. (Code 1981 § 8-42. Code 1995 § 18-88.) **Currently 6.20.030:** NOTE – Deleted references to “cat” and added references to “miniature pig”

6.05.100 Cruelty to animals. Currently 6.05.040: NOTE – Added references to “miniature pig” where appropriate in subsection (b)

(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 suitable the climatic conditions for the species and/or breed concerned and existing climatic

conditions shall be provided for all animals kept outdoors to afford them protection and prevent severe discomfort of such animals.

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

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

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. Keeping an animal in a confined area, such as a garage, shed, or extension of a dwelling, without adequate heating and appropriate ventilation in winter months and adequate cooling and appropriate ventilation in summer months is prohibited. 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, with no requirement of a culpable mental state. Extreme weather conditions shall be defined as more than 80 degrees Fahrenheit or less than 340 degrees Fahrenheit as the heat or cold index taken in the vehicle and 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, in violation of State statute; 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, with no requirement of a culpable mental state, to attach chains or other tethers, restraints or implements directly to a dog, cat or miniature pot-belly pig 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, cat or miniature pot-belly pig for more than 15 minutes without supervision; or

(2) Use a tether or any assembly or attachments thereto to tether a dog, cat or miniature pot-belly pig 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, cat or miniature pot-belly pig on a choke chain or near stationary objects or fences in ~~such~~ a manner ~~as to~~ that could potentially cause injury, strangulation, or entanglement ~~of the dog on fences, trees, or other manmade or natural obstacles~~; or

(4) Tether a dog, cat or miniature pot-belly pig 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 without securing the animal's 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, cat or miniature pot-belly pig protection from attack by other animals; or

(6) Tether a dog, cat or miniature pot-belly pig 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, animal control 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.

~~6.05.080—Mistreatment of young fowl, rabbits and other animals.~~ Currently 6.05.050

~~(a) It shall be unlawful for any person to possess, display, sell or to give away any baby chicks, fowls or rabbits as pets, playthings, novelties or gifts for advertising or sales promotional purposes; or to suffer or cause such animals 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, fowls or rabbits as pets, playthings, novelties or gifts, nor shall they suffer or cause such animals to be dyed, colored or in any way artificially treated. (Code 1981 § 8-3. Code 1995 § 18-5.)~~

6.05.110 Injuring or killing of wild and undomesticated animals unlawful; exceptions. Currently 6.05.070

(a) It shall be unlawful for any person to knowingly 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.

6.05.120 Animal fighting. Currently 6.05.110

(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 knowingly 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.

6.05.130 ~~Deceased~~ animals ~~in public places~~. **Currently 6.05.100** NOTE – Replaced reference to “city clerk” with “animal control office.”

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

(b) It shall be the duty of ~~the~~ animal control officers, immediately upon the receipt of a report under this section, to remove, or provide for the removal of, ~~the dead any deceased domestic pet located on public property whose owner can be identified and to report the discovery of said animal to the Humane Society~~. If the owner of a deceased domestic pet contacts animal control for assistance, an animal control officer, or designee, will respond to the residence and take appropriate action. It shall be the responsibility of animal control, or designee, to adequately address the removal of any deceased wildlife on public streets or roadways. If deceased wildlife is located on private property, it shall be the responsibility of the property owner to provide for said removal~~immediately upon the receipt of a report~~. (Code 1981 §§ 8-163, 8-164. Code 1995 § 18-10.)

Cross References: Animal control officer, TMC 6.10.020.

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

540 **Chapter 6.10**

541 **RABIES CONTROL**

542 Sections:

- 543
544 6.10.010 Report of certain animals.
545 6.10.020 Demand to produce animal; expense.
546 6.10.030 Killing or removing certain animals restricted.
547 6.10.040 Surrender of animal carcass on demand.

548 **6.10.010 Report of certain animals. Currently 6.15.010:** NOTE – Replaced reference
549 made to “public health officer” with “animal control office.”

550 Every person shall promptly report to the animal control office:

551
552 (a) Any animal which bites a person;

553
554 (b) Any rabid animal; or

555
556 (c) Any animal suspected of being rabid. (Code 1981 § 8-181. Code 1995 § 18-56.)
557

558 **6.10.020 Demand to produce animal; expense. Currently 6.15.020:** NOTE – Replaced
559 reference made to “public health officer” with “animal control office.”

560 An owner, upon demand by the animal control office, shall surrender any rabid animal, any
561 animal which has bitten a human or any animal suspected as having been exposed to rabies, for
562 supervised quarantine or destruction, which expense shall be borne by the owner, and such
563 animal may be reclaimed by the owner if and when adjudged free of rabies and upon compliance
564 with the permit provisions set forth in this title. (Code 1981 § 8-184. Code 1995 § 18-59.)
565

566 **6.10.030 Killing or removing certain animals restricted. Currently 6.15.030:** NOTE –
567 Replaced reference made to “public health officer” with “animal control office.”

568 No person shall kill or cause to be killed any rabid animal, any animal suspected of having been
569 exposed to rabies, or any animal biting a human, except as provided in this chapter, nor remove
570 any such animal from the city limits, without first obtaining written permission from the animal
571 control office. (Code 1981 § 8-186(d). Code 1995 § 18-62.)
572

573 **6.10.040 Surrender of animal carcass on demand. Currently 6.15.040:** NOTE –
574 Replaced reference made to “public health officer” with “animal control office.”

575 The carcass of any dead animal exposed to rabies shall upon demand be surrendered to the
576 animal control office. (Code 1981 § 8-186(e). Code 1995 § 18-63.)
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Chapter 6.15

DOGS, CATS AND MINIATURE, POT-BELLY PIGS

Sections:

Article I. Permits and Tags

- 6.15.010 Permit.
- 6.15.020 When required.
- 6.15.030 Exceptions.
- 6.15.040 Application.
- 6.15.050 Vaccination certificate prerequisite to issuance.
- 6.15.060 Fees.
- 6.15.070 Term.
- 6.15.080 Obtaining Permits after deadline; enforcement procedure.
- 6.15.090 Tag.
- 6.15.100 Unlawful use.

Article II. Impoundment and Redemption

- 6.15.110 When without a tag.
- 6.15.120 Animals at large; interference.
- 6.15.130 Notification of owner.
- 6.15.140 Detention period.
- 6.15.150 Redemption.
- 6.15.160 Failure to redeem.

Article III. Dangerous Dogs

- 6.15.170 Dangerous dogs.

Article IV. Specific Confinement Requirements

- 6.15.180 Confinement of certain dogs required
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Article V. Miniature, Pot Belly Pigs New Article

- 6.15.200 Specific requirements and restrictions
- 6.15.210 Shelter

617

Article I. Permit and Tag

618 **6.15.010 Permit. Currently 6.20.060 and 6.30.050:** NOTE – Replaced reference made to “city
619 treasurer” with “chief of police” and added reference to “miniature pig.”

620 ~~No~~It shall be unlawful for any person, shall with no requirement of a culpable mental state, to
621 own, keep, possess or harbor within the corporate limits of this city any dog, cat or miniature
622 pot-belly pig over six months of age without first obtaining a permit therefor from the chief of
623 police or authorized agent, who may issue such permit when proper application is made in
624 writing. This permit requirement shall not apply to ear-tipped feral cats. (Code 1981 § 8-56.
625 Code 1995 § 18-101.)

626 **Cross References:** Police department, TMC 2.25.230.

627 **6.15.020 When required. Currently 6.20.070 and 6.30.060:** NOTE – Added reference to
628 “miniature pig.”

629 The owner of any dog, cat or miniature pot-belly pig shall be required to have a permit for his or
630 her pet(s) upon the date the pet is brought into the city or attains the age of six months,
631 whichever is later. (Code 1981 § 8-62. Code 1995 § 18-102.)

632 **6.15.030 Exceptions. Currently 6.20.080 and 6.30.070:** NOTE – Added reference to “miniature
633 pig” in subsection (a)

634 (a) The permit and vaccination requirements of this Article shall not apply to any nonresident
635 dog, cat or miniature pig owner who keeps his or her pet(s) within the city for not longer than 30
636 days; provided, however, that at all times such pet is under restraint. (Code 1981 § 8-57. Code
637 1995 § 18-103.)

638 (b) A person owning, keeping, possessing or harboring (i) a dog that has been retired from the
639 United States armed forces, (ii) a registered seeing-eye dog used by visually or hearing-impaired
640 persons or (iii) police or sheriff’s department dogs shall not be required to pay the permit fee; but
641 shall be subject to all other applicable regulations of this Title 6, including, but not limited to, the
642 requirement of having the rabies vaccination. (Code 1981 § 8-57.5. Code 1995 § 18-104.)

643 **Cross References:** Police department, TMC 2.25.230.

644 **6.15.040 Application. Currently 6.20.100 and 6.30.080:** NOTE – Replaced reference made to
645 “city treasurer” with “chief of police” and added reference to “miniature pig.”

646 Applications for dog, cat or miniature pot-belly pig permits shall be made with the chief of
647 police or authorized agent upon forms provided by the chief of police or authorized agent, setting
648 forth such information as necessary to properly implement the terms and provisions of this
649 Article. Such forms shall be completed by the applicant and submitted to the chief of police or
650 authorized agent for validation and, after validation and payment of the permit fee, such forms
651 shall serve as the permit. (Code 1981 § 8-58. Code 1995 § 18-105.)

652 **Cross References:** Police department, TMC 2.25.230.

653 **6.15.050 Vaccination certificate prerequisite to issuance. Currently 6.20.110 and**
654 **6.30.090:** NOTE – Added reference to “miniature pig” in subsection (a)

655 No permit shall be issued under this Article except upon the presentation of a valid rabies
656 vaccination certificate, which plainly shows that the last vaccination given to the dog, cat or

miniature pot-belly pig is currently effective, and payment of the applicable fee under this Article. (Code 1981 § 8-59. Code 1995 § 18-106.)

6.15.060 Fees. Currently 6.20.120 and 6.30.100

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

- | | |
|---|--------------------|
| (1) For each un-spayed female, or non-neutered male | \$20.00 |
| (2) For each spayed female, or neutered male | \$8.00 |
| (3) For any kennel or pet shop covering all animals kept during the year | \$80.00 |

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

(c) Permit fees for kennels, if any, are addressed in State statutes. (Ord. 19611 § 1, 7-26-11.)

6.15.070 Term. Currently 6.20.130 and 6.30.110

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.)

6.15.080 Obtaining permits after deadline; enforcement procedure. Currently 6.20.140 and 6.30.140: NOTE – Replaced reference made to “city treasurer” with “chief of police,” added reference to “miniature pig” and deleted next to last sentence in subsection (c) due to the fact that Charter Ordinance 37 was repealed (and the complaint and notice to appear is now handled under the municipal court code)

(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 chief of police shall be authorized to mail application forms for permits and reminder notices to any animal owner of which the chief of police has record.

(c) Delinquency Notice. A complaint alleging violation of the renewal provisions of a permit issued under this article and a notice to appear shall be issued against the owner of a dog, cat or miniature pot-belly pig subject to, but not in compliance with, such renewal provisions; ~~provided, that the chief of police has issued, at least 10 days in advance thereof, a~~ courtesy

delinquency notice will be issued to the owner by electronic mail and/or United States mail, first class, postage prepaid, ~~to the owner~~ at the last known addresses of said owner. ~~A delinquency~~This 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 this Article shall, upon a plea or finding of guilt, be sentenced to a fine of not less than \$50.00. The sentence shall not be subject to a reduction or parole unless the person who is convicted or pleads guilty provides evidence that a permit was purchased prior to plea or finding of guilt. However, in no event shall the sentence be reduced or paroled to a fine of less than \$25.00. (Code 1981 § 8-66. Code 1995 § 18-109.)

Cross References: Police department, TMC 2.25.230.

6.15.090 Tag. Currently 6.20.150 and 6.30.120: NOTE – Replaced reference made to “city treasurer” with “chief of police” and added reference to “miniature pig.”

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

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

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

(d) No person shall attach a permit tag to any dog, cat or miniature pot-belly pig other than the one for which the tag was issued. (Code 1981 § 8-63. Code 1995 § 18-110.)

Cross References: Police department, TMC 2.25.230.

6.15.100 Unlawful use. Currently 6.20.160 and 6.30.130: NOTE – Added reference to “miniature pig” and deleted reference to “kennel” because covered by State Law

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

(b) No person shall knowingly use any dog, cat or; miniature pot-belly pig ~~or kennel~~ permit issued for any other dog, cat or miniature pot-belly pig ~~or kennel~~. (Code 1981 § 8-64. Code 1995 § 18-111.)

Article II. Impoundment and Redemption

6.15.110 When without a tag. Currently 6.20.180 and 6.30.150: NOTE – Added reference to “miniature pig”

An animal control officer may take into custody and impound any dog, cat or miniature pot-belly pig not wearing a current registration tag. (Code 1981 § 8-78. Code 1995 § 18-122.)

Cross References: Animal control officer, TMC 6.10.020.

6.15.120 Animals at large; interference.

(a) Any dog or miniature pot-belly pig found to be at large within the city may be impounded at an animal shelter or humane society in a humane manner. It shall be lawful for any animal control officer, in the performance of his or her duty, to pursue and capture any at large dog or miniature pot-belly pig. (Code 1981 § 8-79. Code 1995 § 18-123.) **Currently 6.20.170 and 6.20.190:** NOTE – Added reference to “miniature pig”

(b) It shall be unlawful for any person to knowingly obstruct, hinder or prevent the impounding of any dog or miniature pot-belly pig running at large contrary to the provisions of this Chapter or to break open, destroy or injure the door, gate or enclosure of any impounding area to take or attempt to take therefrom any dog, cat or miniature pot-belly pig therein impounded. (Code 1981 §§ 8-77 and 8-84. Code 1995 §§ 18-121 and 18-128.) **Currently 6.20.240:** NOTE – Added reference to “cat” and “miniature pig”

6.15.130 Notification of owner. Currently 6.20.200 and 6.30.160: NOTE – Added reference to “miniature pig”

If the owner of a dog, cat or miniature pot-belly pig can be identified by a tag or other reasonable means, the animal shelter, humane society or designated agent shall notify said owner of the impoundment as soon as possible by telephone and/or electronic or regular mail. (Code 1981 § 8-80. Code 1995 § 18-124.)

6.15.140 Detention period. Currently 6.20.210 and 6.30.170: NOTE – Added reference to “miniature pig”

Impounded dogs, cats or miniature pot-belly pigs shall be kept for a period of not less than 72 hours in order to provide a reasonable opportunity to be claimed by their owner. (Code 1981 § 8-81. Code 1995 § 18-125.)

6.15.150 Redemption. Currently 6.20.220 and 6.30.180: NOTE – Added references to “miniature pig”

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

(b) No owner shall be allowed to redeem any dog, cat or miniature pot-belly pig 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, cat or miniature pot-belly pig found to be rabid, or that 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, cat or miniature pot-belly pig when, in the judgment of the animal shelter or humane society, said animal 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.)

6.15.160 Failure to redeem. Currently 6.20.230 and 6.30.190: NOTE – Added reference to “miniature pig”

If an impounded dog, cat or miniature pot-belly pig is not redeemed within the 72-hour detention period set forth in Section 6.20.140 above, then said animal 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.)

Article III. Dangerous Dogs

6.15.170 Dangerous dogs. Currently 6.05.080

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

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

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

(ii) Confinement; Muzzle/Restraint. All dangerous dogs shall be confined within a secured enclosure, which can be either a building (i.e., Morton building, shed or garage) or a dwelling/residence. It shall be unlawful for any owner to maintain a dangerous dog

upon any premises that does not have a secured enclosure; unless the owner keeps the dangerous dog inside his or her dwelling/residence. It shall be unlawful for any owner to allow a dangerous dog to be outside of the dwelling/residence of the owner or outside the secured enclosure unless it is necessary for the owner (1) to obtain veterinary care for the dangerous dog; or (2) for the limited purposes of allowing said dangerous dog to urinate or defecate; or (3) to sell or give away/surrender the dangerous dog to the humane society to be euthanized by a certified veterinarian; or (4) to respond to such orders of law enforcement officials as may be required. In such event, the dangerous dog shall be securely muzzled and restrained with a leash not exceeding four feet in length, and shall be under the direct control and supervision of the owner of the dangerous dog. The muzzle shall be made and used in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.

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

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

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

(3) The municipal court shall impose a fine of at least \$499.00 and not more than \$1,000.00 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(h)(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 \$250.00 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(h)(3). The municipal court shall have no authority to suspend the fine or any portion of the fine.

(b) 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 animal shelter or 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. If the owner is personally served with the citation and fails to make an appearance to answer the charges within 72-hours after the failure to appear, the court shall release the animal to the Humane Society or a proper holding facility. If the citation is mailed to a presumed owner, and the presumed owner fails to appear before the court to answer the charges, the court shall release the animal to the Humane Society or a proper holding facility twenty days after the failure to appear.

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

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

(e) Dangerous Dog At-Large. Any dog that has been found to be a dangerous dog, or vicious dog under the previous Topeka City Code 18-8 or this section, that is not confined or registered as required pursuant to this chapter shall be impounded by an animal control officer or a law enforcement officer. Upon conviction, in addition to all costs for impoundment, the owner or keeper shall pay a fine of at least \$250.00 but not more than \$499.00. For a second offense within 24 months, in which the dog is not 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. Upon conviction of this section, a dog may be destroyed if the dog attacks a human being which results in great bodily harm or death. Upon conviction of this section, the court may destroy a dog that has been previously determined to be a dangerous dog as defined at TMC 6.05.010.

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

(h) The impounded dog shall not be destroyed pending appeals of convictions under this chapter. The dog shall remain impounded pending the determination of the complaint. If the court shall find that there shall not have been a violation, such dog shall be released to the custody of the owner. In addition to the fines provided in this section, the municipal judge shall have the

authority to sentence the person adjudicated guilty of this chapter to serve up to a maximum of six months in jail.

(i) Notwithstanding any other provision of this chapter to the contrary and irrespective of whether the dog has been declared dangerous pursuant to this chapter, the municipal judge may order any dog destroyed if the municipal judge determines that the dog is an immediate threat to public health and safety and that confinement and registration of the dog by the owner or keeper of the dog as provided in this chapter will not adequately protect public health and safety. No person shall harbor, own, or possess a dog that is an immediate threat to public health and safety. In making such determination the municipal judge may consider the severity of the attack and such other relevant information. The municipal judge shall have the authority to sentence the person adjudicated guilty of this section to serve up to a maximum of six months in jail and to pay a fine not to exceed \$1,000.00. (Ord. 20031 2§ 2, 10-11-16.)

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.

Article IV. Specific Confinement Requirements

6.15.180 Confinement of certain dogs required. **Currently 6.20.040**

(a) The owner of any dangerous dog shall confine the animal in the manner set out in Section 6.15.170(d)(1)(ii) above~~within a building or secure enclosure.~~

~~(1) Every dangerous or vicious dog;~~

~~(2) Every dog having a natural propensity to be dangerous or vicious; and~~

~~(3) Every un-spayed female dog in heat, in such a manner that such female cannot come into contact with another dog except for planned breeding.~~

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

6.15.190 Confinement of certain cats required. **Currently 6.30.030**

(a) The owner of any un-spayed female cat in heat shall confine the animal within a building or ~~dwelling/residence~~secure enclosure ~~every un-spayed female cat in heat where the scent of the female cannot be emitted and~~ in such a manner that such female cat cannot come into contact with another cat except for planned breeding.

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

Article V. Miniature, Pot-Belly Pigs **Entirely New Article**

6.15.200 Specific requirements and restrictions.

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

- (1) The pig has undergone a blood test upon initial application for the permit required by Section 6.15.010 of this chapter and received a corresponding health certificate; and
- (2) The pig weighs less than 150 pounds;
- (3) The pig's height is less than 24 inches, measured at the shoulder;
- (4) The pig has been vaccinated against rabies;
- (5) The pig has been neutered or spayed upon reaching maturity (6 months).

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

6.15.210 Shelter.

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

Chapter 6.20

EXOTIC OR CAPTIVE WILD ANIMALS

Sections:

6.20.010 Exotic or captive wild animals.

6.20.010 Exotic or captive wild animals. Currently 6.05.060(a)(b)(c)(e)(f)(g)(h) and (i):

NOTE – Removed former subsection (d), (which deals with domestic animals that are allowed and those that are prohibited). This language is now found in Section 6.05.040 above. The remaining subsections – now (a) through (h) due to re-lettering – are addressed in this new Chapter 6.20; and the language contained in these eight remaining subsections is the same.

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

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

(c) Selling, Offering for Sale or Trade. Except as allowed by subsection (d) of this section, it shall be unlawful for any person to ~~willfully~~knowingly offer for sale or trade or to sell or trade any live exotic or captive wild animal within the city limits.

(d) Exceptions.

(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.

(e) Secure and Sanitary Quarters Requirements. All persons and institutions listed in subsection (d) of this section must ensure that all ~~animals and animal quarters enclosures~~ are secure, as defined in Section 6.05.010, so as to prevent their escape, conform to the provisions of the nuisance ordinances of the city and are ~~kept maintained~~ in a clean and sanitary condition and so maintained as to for purposes of limiting objectionable odors; ~~and shall ensure that all animals are maintained in quarters which are adequately constructed so as to prevent their escape.~~

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

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

(h) Destruction or Removal of Prohibited Animals. Upon conviction of a violation of this section, the judge of the municipal court of the city may order the owner, keeper, possessor or harborer 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.

1008

Chapter 6.25

1009

PIT BULL DOGS

1010

(Repealed by Ord. 19473)

1011

1012

1013

Chapter 6.30 **Currently Chapter 6.40**

DOMESTIC FOWL, POULTRY

Sections:

6.30.010 Restrictions applicable to domestic fowl; poultry.

6.30.020 Enclosure required; running at large prohibited.

6.30.030 Destruction of birds and birds' nests prohibited; exceptions.

6.30.010 Restrictions applicable to domestic fowl; poultry. **Currently 6.40.010**

It shall be unlawful for any person, with no requirement of a culpable mental state, to keep or maintain any domestic fowl or poultry upon any private premises in the city (when such keeping is lawful under other ordinances of the city) within 50 feet of any dwelling other than that of the owner or tenant of the premises on which such fowl are kept or maintained, or to keep or maintain such fowl at any time on any premises in a manner or condition constituting a public nuisance. (Code 1981 § 8-144. Code 1995 § 18-291.)

6.30.020 Enclosure required; running at large prohibited. **Currently 6.40.020**

It shall be unlawful for any person, with no requirement of a culpable mental state, to allow or permit domestic fowl or poultry to run or be at large at any time in the city. ~~For the purpose of this section, the term "at large" shall be defined to include those times during which any domestic fowl or poultry shall not be confined or kept in pens sufficiently strong or constructed to keep such fowl on the premises of their owner or keeper. Fowl must be kept on the owner's property, within a fenced area and inside a fully enclosed pen.~~ The fact of any domestic fowl being found at large shall be prima facie evidence of a violation of this section. - (Code 1981 § 8-145. Code 1995 § 18-292.)

6.30.030 Destruction of birds and birds' nests prohibited; exceptions. **Currently 6.40.030**

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

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

(b) Pigeons or other birds of the air that have become public nuisances by reason of their nesting or roosting on any private premises in the city may, upon complaint to ~~the environmental code services division~~ animal control, be destroyed by an approved pest control firm or company ~~under the conditions of the~~ in accordance with the terms of any required permit issued by the ~~environmental code services division~~ appropriate state or local agency. (Ord. 17076 § 2, 1-28-97; Code 1981 § 8-146. Code 1995 § 18-293.)

Chapter 6.35

LIVESTOCK

Sections:

6.35.010 Keeping near residences or businesses.

6.35.020 Swine prohibited.

6.35.030 Exceptions to restrictions on keeping livestock.

6.35.040 Running at large or driving herds prohibited.

6.35.050 Additional restrictions; exceptions~~Grazing in public prohibited.~~

6.35.010 Keeping near residences or businesses. **Currently 6.35.010:** NOTE – Referenced need to comply with all applicable code provisions and state/local regulations

It shall be unlawful for any person, with no requirement of a culpable mental state, to keep livestock inside the city limits if in a building or lot that is located within 200 feet of his or her property line~~any existing residence or other existing principal use structure other than that of the owner of such animals. “Principal use” as used in this section means the main use of land or structures as distinguished from a secondary or accessory use. Such building or lot shall comply with all applicable building, property maintenance, planning, zoning, and utility code provisions, in addition to any health and sanitation requirements that may be required by state or local law.~~
(Code 1981 § 8-101. Code 1995 § 18-261.)

~~**6.35.020 To be kept in sanitary buildings.** **Currently 6.35.020:** Replaced references to “environmental code services director” with “development services manager”~~

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

6.35.020 Swine prohibited. **Currently 6.35.030:** NOTE – Referenced the miniature pig definition and “specification” provision

It shall be unlawful for any person, with no requirement of a culpable mental state, to rear or keep any swine in the city. This prohibition against swine shall not apply to miniature pot-belly pigs kept as pets, which are considered domestic animals pursuant to Section 6.05.010(j); provided, however, that each pig meets the requirements set out in Section 6.15.200 of this Title 6. (Code 1981 § 8-103. Code 1995 § 18-263.)

6.35.030 Exceptions to restrictions on keeping livestock. **Currently 6.35.040**

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

each additional horse shall require an additional one and one-half acres of land to the minimum required. (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. Currently 6.35.050~~

~~The lawful use of a building or a lot for keeping livestock that was in existence at the time of the annexation of the building or lot into the city may be continued; even though 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.)~~

6.35.040 Running at large or driving herds prohibited. Currently 6.35.070

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

6.35.050 ~~Grazing in~~Additional restrictions; exceptions-public prohibited. Currently

6.35.080: NOTE – Did not change substantively; but, reworded language so that it is easier to read and follow, in addition to adding an exception for animals that may be “on-site” for a short period of time or included as part of a special event.

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

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

(b) for a period of time not to exceed two (2) hours, if no special event permit is required. (Code 1981 § 8-106. Code 1995 § 18-268.)

CLEAN

Title 6

ANIMALS

Chapters:

6.05 General Provisions

6.10 Rabies Control

6.15 Dogs, Cats and Miniature Pot-Belly Pigs

6.20 Exotic or Captive Wild Animals

6.25 *Repealed*

6.30 Domestic Fowl, Poultry

6.35 Livestock

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.

21 **Chapter 6.05**

22 **GENERAL PROVISIONS**

23 Sections:

24 **Article I. Definitions**

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27 6.05.010 Definitions.

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29 **Article II. Administration and Enforcement**

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31 6.05.020 Animal control office.
32 6.05.030 Authority of police officers.
33 6.05.040 Complaint and notice to appear.
34 6.05.050 Violations of title, mandatory minimum punishment.
35 6.05.060 Transportation and handling charges imposed in certain cases.
36

37 **Article III. Miscellaneous**

38
39 6.05.070 Keeping or harboring animals.
40 6.05.080 Keeping or harboring animals on property upon which no person resides.
41 6.05.090 Running at large prohibited.
42 6.05.100 Cruelty to animals.
43 6.05.110 Injuring or killing of wild, undomesticated animals unlawful; exceptions.
44 6.05.120 Animal fighting.
45 6.05.130 Deceased animals.
46

47 **Article I. Definitions**

48
49 **6.05.010 Definitions.**

50 The following words, terms and phrases, when used in this title, shall have the meanings ascribed
51 to them in this section, except where the context clearly indicates a different meaning:
52

53 (a) **“Animal”** means a live, vertebrate creature, domestic or wild, other than humans.
54

55 (b) **“Amphibian”** is an animal that moves in and out of water, (i.e., frogs and toads, newts and
56 salamanders);
57

58 (c) **“Animal shelter”** means any premises designated by city administrative authority for the
59 purpose of impounding and caring for animals held under authority of this title, excluding
60 wildlife, fowl and livestock.
61

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

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

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

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

(h) **“Dangerous dog”** shall mean any of the following:

(1) Any dog with a known propensity 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 dangerous pursuant to the previous TMC 6.05.080 or current TMC 6.15.170; or

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

(6) Notwithstanding the definition of a “dangerous dog” above, no dog may be declared dangerous if any injury was sustained by a person under any of the following conditions:

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

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

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

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

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

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

(ii) The dog was protecting itself, its owner, its offspring or another human being; or

(iii) The dog injures or kills an animal trespassing on the property of the dog's owner.

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

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

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

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

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

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

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

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

(p) **“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.

(q) **“Humane society”** means any animal shelter contracted with the city of Topeka that is licensed by the state of Kansas. See also “Animal Shelter.”

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

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

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

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

(v) **“Owner”** means any person of legal age who keeps, possesses or harbors any animal. A parent or legal guardian shall be deemed to be an owner of animals owned or maintained by children upon their premises.

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

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

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

(z) **“Restrained”** means confined by building, fence, leash, harness or other appropriate means, or is accompanied by a competent person and under the person’s immediate control by leash or held in arms.

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

(bb) **“Secure enclosure”** means a six-sided structure, counting the top and bottom, secured to the sides or embedded in the ground two feet or more for purposes of preventing a dangerous dog, as defined in subsection (h) above, from digging out. The structure must be equipped with a gate or door that is secured with a padlock or combination lock for purposes of preventing escape and ensuring that such gate or door cannot be opened by anyone other than the owner, keeper, possessor or harbinger of the animal.

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

(dd) **“Supervision”** means within visual and auditory range of the owner.

(ee) **“Tether”** when used as a verb means fastening an animal to a stationary object, pulley run line or stake And when used as a noun means a chain, leash, rope, cable, string, leather or nylon strap, or any other material used to fasten an animal to a stationary object, pulley run line or stake.

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

(gg) **“Veterinary hospital”** means any establishment maintained and operated by a licensed veterinarian for the diagnosis and treatment of diseases and injuries of animals.

(hh) **“Vicious”** means a cross, ferocious or dangerous disposition; or a habit, tendency or disposition to snap, attack or bite any person, domestic animal or pet.
(Ord. 20031 § 1, 10-11-16.) (Code 1981 § 8-41. Code 1995 § 18-86.)

Cross References: Definitions generally, TMC 1.10.020.

Article II. Administration and Enforcement

6.05.020 Animal control office.

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

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

Cross References: Police department, TMC 2.25.230.

6.05.030 Authority of police officers.

The police officers of the city are authorized to enforce this title and to aid and assist the animal control supervisor and officers in the enforcement of this title. (Code 1981 § 8-24. Code 1995 § 18-31.)

Cross References: Police department, TMC 2.25.230.

6.05.040 Complaint and notice to appear.

Animal control officers shall have the power to issue a complaint and notice to appear against the owner of animals that are subject to, but not in compliance with, applicable provisions of this Title 6; provided, that no owner charged with violating the provisions of TMC 6.15.010 shall be

convicted of violating TMC 6.15.010 if the owner produces in court, or at the office of animal control, a valid permit for the dog, cat or miniature pot-belly pig dated prior to the issuance of the complaint and notice to appear. (Code 1981 § 8-43. Code 1995 § 18-87.)

Cross References: Municipal court, TMC 2.110.160, 2.110.170, 2.110.180, 2.110.210

6.05.050 Violations of title, mandatory minimum punishment.

Unless otherwise specifically provided herein, the judge of the municipal court of the city shall, upon a conviction of any section in this Title 6, other than TMC 6.15.170, sentence the owner, keeper, possessor or harbinger of such animal as follows:

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

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

(c) Both Fine and Imprisonment. A fine and imprisonment, both in accordance with subsections (a) and (b) of this section. (Ord. 19473 § 2, 9-28-10.)

Cross References: Municipal judge, TMC 2.25.150.

6.05.060 Transportation and handling charges imposed in certain cases.

If a person is convicted of a violation of any section in this Title 6, or of any applicable state or federal law, and the animal was transported by the police department or animal control office to an animal shelter, then the judge of the municipal court shall impose and collect \$30.00 for handling and transportation of the animal. (Code 1981 § 8-8. Code 1995 § 18-3.)

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

Article III. Miscellaneous

6.05.070 Keeping or harboring animals.

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

- (i) amphibians
- (ii) birds
- (iii) cats
- (iv) dogs
- (v) ferrets
- (vi) fish
- (vii) fowl
- (viii) livestock
- (ix) miniature pot-belly pigs
- (x) rabbits

- (xi) reptiles
- (xii) rodents
- (xiii) invertebrates

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

(c) Compliance. The owner of any animal(s) listed in subsection (a) of this section must ensure that said animal(s) is properly licensed if required by this Title 6 and is being kept in accordance with any applicable rule or regulation promulgated under the authority of federal statute enacted by the United States, or by any statute enacted by the state, or by any rule or regulation promulgated by any agency or department as authorized by state statute. (d) Prohibitions. It shall be unlawful for any person to knowingly own, keep, possess or harbor any of the following animals within the city limits:

- (i) venomous snakes and lizards
- (ii) nonvenomous snakes if eight feet or more in length
- (iii) all species of monitor lizards
- (iv) cassowaries, emus, ostriches and rheas
- (v) snapping turtles
- (vi) exotic or captive wild animals; except as otherwise provided in Section 6.20.010(d)

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

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

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

- (a) Zoos, as defined by the American Association of Zoological Parks and Association of Zoological Parks and Aquariums.
- (b) Medical institutions.
- (c) Educational institutions.
- (d) Licensed veterinary clinics.

(e) The humane society.

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

(g) Animals maintained on nonresidential commercial properties for security purposes. (Code 1981 § 8-11. Code 1995 § 18-9.) (Ord. 19859 § 1, 11-12-13.)

6.05.090 Running at large prohibited.

It shall be unlawful for any person, with no requirement of a culpable mental state, to allow or permit any dog or miniature pot-belly pig to run or be at large, as defined in Section 6.05.010 above, at any time in the city. The fact of a dog or miniature pot-belly pig being found at large shall be prima facie evidence of a violation of this section. (Code 1981 § 8-42. Code 1995 § 18-88.)

6.05.100 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. A shelter suitable for the species and/or breed concerned and existing climatic conditions shall be provided for all animals kept outdoors to afford them protection and prevent severe discomfort of such animals.

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

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

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. Keeping an animal in a confined area, such as a garage, shed, or extension of a dwelling, without adequate heating and appropriate ventilation in winter months and adequate cooling and appropriate ventilation in summer months is prohibited.

(4) Leave any animal confined in a vehicle for more than five minutes in extreme weather conditions, with no requirement of a culpable mental state. Extreme weather conditions shall be defined as more than 80 degrees Fahrenheit or less than 40 degrees Fahrenheit as the heat or cold index taken in the vehicle and 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, in violation of State statute; 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, with no requirement of a culpable mental state, to attach chains or other tethers, restraints or implements directly to a dog, cat or miniature pot-belly pig 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, cat or miniature pot-belly pig for more than 15 minutes without supervision; or

(2) Use a tether or any assembly or attachments thereto to tether a dog, cat or miniature pot-belly pig 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, cat or miniature pot-belly pig on a choke chain or near stationary objects or fences in a manner that could potentially cause injury, strangulation, or entanglement ; or

(4) Tether a dog, cat or miniature pot-belly pig 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 without securing the animal's 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, cat or miniature pot-belly pig protection from attack by other animals; or

(6) Tether a dog, cat or miniature pot-belly pig 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, animal control 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.

6.05.110 Injuring or killing of wild and undomesticated animals unlawful; exceptions.

(a) It shall be unlawful for any person to knowingly 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.

6.05.120 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 knowingly 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. (Code 1981 § 8-10. Code 1995 § 18-11.)

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

6.05.130 Deceased animals.

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

deceased animal in the city to immediately report it to the animal control office, giving the type of animal and the place where such animal may be found.

(b) It shall be the duty of animal control officers, immediately upon the receipt of a report under this section, to remove or provide for the removal of any deceased domestic pet located on public property whose owner can be identified and to report the discovery of said animal to the Humane Society. If the owner of a deceased domestic pet contacts animal control for assistance, an animal control officer, or designee, will respond to the residence and take appropriate action. It shall be the responsibility of animal control, or designee, to adequately address the removal of any deceased wildlife on public streets or roadways. If deceased wildlife is located on private property, it shall be the responsibility of the property owner to provide for said removal. (Code 1981 §§ 8-163, 8-164. Code 1995 § 18-10.)

Cross References: Animal control officer, TMC 6.10.020.

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

582 **Chapter 6.10**

583 **RABIES CONTROL**

584 Sections:

- 585
586 6.10.010 Report of certain animals.
587 6.10.020 Demand to produce animal; expense.
588 6.10.030 Killing or removing certain animals restricted.
589 6.10.040 Surrender of animal carcass on demand.

590
591 **6.10.010 Report of certain animals.**

592 Every person shall promptly report to the animal control office:

- 593
594 (a) Any animal which bites a person;
595
596 (b) Any rabid animal; or
597
598 (c) Any animal suspected of being rabid. (Code 1981 § 8-181. Code 1995 § 18-56.)
599

600 **6.10.020 Demand to produce animal; expense.**

601 An owner, upon demand by the animal control office, shall surrender any rabid animal, any
602 animal which has bitten a human or any animal suspected as having been exposed to rabies, for
603 supervised quarantine or destruction, which expense shall be borne by the owner, and such
604 animal may be reclaimed by the owner if and when adjudged free of rabies and upon compliance
605 with the permit provisions set forth in this title. (Code 1981 § 8-184. Code 1995 § 18-59.)
606

607 **6.10.030 Killing or removing certain animals restricted.**

608 No person shall kill or cause to be killed any rabid animal, any animal suspected of having been
609 exposed to rabies, or any animal biting a human, except as provided in this chapter, nor remove
610 any such animal from the city limits, without first obtaining written permission from the animal
611 control office. (Code 1981 § 8-186(d). Code 1995 § 18-62.)
612

613 **6.10.040 Surrender of animal carcass on demand.**

614 The carcass of any dead animal exposed to rabies shall upon demand be surrendered to the
615 animal control office. (Code 1981 § 8-186(e). Code 1995 § 18-63.)
616

617 **Chapter 6.15**

618 **DOGS, CATS AND MINIATURE, POT-BELLY PIGS**

619 Sections:

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- 623 6.15.010 Permit.
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633 **Article II. Impoundment and Redemption**

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642 **Article III. Dangerous Dogs**

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Article I. Permit and Tag

6.15.010 Permit.

It shall be unlawful for any person, with no requirement of a culpable mental state, to own, keep, possess or harbor within the corporate limits of this city any dog, cat or miniature pot-belly pig over six months of age without first obtaining a permit therefor from the chief of police or authorized agent, who may issue such permit when proper application is made in writing. This permit requirement shall not apply to ear-tipped feral cats. (Code 1981 § 8-56. Code 1995 § 18-101.)

Cross References: Police department, TMC 2.25.230.

6.15.020 When required.

The owner of any dog, cat or miniature pot-belly pig shall be required to have a permit for his or her pet(s) upon the date the pet is brought into the city or attains the age of six months, whichever is later. (Code 1981 § 8-62. Code 1995 § 18-102.)

6.15.030 Exceptions.

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

(b) A person owning, keeping, possessing or harboring (i) a dog that has been retired from the United States armed forces, (ii) a registered seeing-eye dog used by visually or hearing-impaired persons or (iii) police or sheriff's department dogs shall not be required to pay the permit fee; but shall be subject to all other applicable regulations of this Title 6, 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.

6.15.040 Application.

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

Cross References: Police department, TMC 2.25.230.

6.15.050 Vaccination certificate prerequisite to issuance.

No permit shall be issued under this Article except upon the presentation of a valid rabies vaccination certificate, which plainly shows that the last vaccination given to the dog, cat or

miniature pot-belly pig is currently effective, and payment of the applicable fee under this Article. (Code 1981 § 8-59. Code 1995 § 18-106.)

6.15.060 Fees.

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

- | | |
|---|---------|
| (1) For each un-spayed female, or non-neutered male | \$20.00 |
| (2) For each spayed female, or neutered male | \$8.00 |

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

(c) Permit fees for kennels, if any, are addressed in State statutes. (Ord. 19611 § 1, 7-26-11.)

6.15.070 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.)

6.15.080 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 chief of police shall be authorized to mail application forms for permits and reminder notices to any animal owner of which the chief of police has record.

(c) Delinquency Notice. A complaint alleging violation of the renewal provisions of a permit issued under this article and a notice to appear shall be issued against the owner of a dog, cat or miniature pot-belly pig subject to, but not in compliance with, such renewal provisions. A courtesy delinquency notice will be issued to the owner by electronic mail and/or United States mail, first class, postage prepaid, at the last known addresses of said owner. This 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 this Article shall, upon a plea or finding of guilt, be sentenced to a fine of not less than \$50.00. The sentence shall not be subject to a reduction or parole unless the person who is convicted or pleads guilty provides evidence that a permit was purchased prior to plea or finding of guilt. However, in no event shall the sentence be reduced or paroled to a fine of less than \$25.00. (Code 1981 § 8-66. Code 1995 § 18-109.)

Cross References: Police department, TMC 2.25.230.

6.15.090 Tag.

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

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

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

(d) No person shall attach a permit tag to any dog, cat or miniature pot-belly pig other than the one for which the tag was issued. (Code 1981 § 8-63. Code 1995 § 18-110.)

Cross References: Police department, TMC 2.25.230.

6.15.100 Unlawful use.

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

(b) No person shall knowingly use any dog, cat or miniature pot-belly pig permit issued for any other dog, cat or miniature pot-belly pig. (Code 1981 § 8-64. Code 1995 § 18-111.)

Article II. Impoundment and Redemption

6.15.110 When without a tag.

An animal control officer may take into custody and impound any dog, cat or miniature pot-belly pig not wearing a current registration tag. (Code 1981 § 8-78. Code 1995 § 18-122.)

Cross References: Animal control officer, TMC 6.10.020.

6.15.120 Animals at large; interference.

(a) Any dog or miniature pot-belly pig found to be at large within the city may be impounded at an animal shelter or humane society in a humane manner. It shall be lawful for any animal control officer, in the performance of his or her duty, to pursue and capture any at large dog or miniature pot-belly pig. (Code 1981 § 8-79. Code 1995 § 18-123.)

(b) It shall be unlawful for any person to knowingly obstruct, hinder or prevent the impounding of any dog or miniature pot-belly pig running at large contrary to the provisions of this Chapter or to break open, destroy or injure the door, gate or enclosure of any impounding area to take or attempt to take therefrom any dog, cat or miniature pot-belly pig therein impounded. (Code 1981 §§ 8-77 and 8-84. Code 1995 §§ 18-121 and 18-128.)

6.15.130 Notification of owner.

If the owner of a dog, cat or miniature pot-belly pig can be identified by a tag or other reasonable means, the animal shelter, humane society or designated agent shall notify said owner of the impoundment as soon as possible by telephone and/or electronic or regular mail. (Code 1981 § 8-80. Code 1995 § 18-124.)

6.15.140 Detention period.

Impounded dogs, cats or miniature pot-belly pigs shall be kept for a period of not less than 72 hours in order to provide a reasonable opportunity to be claimed by their owner. (Code 1981 § 8-81. Code 1995 § 18-125.)

6.15.150 Redemption.

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

(b) No owner shall be allowed to redeem any dog, cat or miniature pot-belly pig 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, cat or miniature pot-belly pig found to be rabid, or that 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, cat or miniature pot-belly pig when, in the judgment of the animal shelter or humane society, said animal 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.)

6.15.160 Failure to redeem.

If an impounded dog, cat or miniature pot-belly pig is not redeemed within the 72-hour detention period set forth in Section 6.20.140 above, then said animal 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.)

Article III. Dangerous Dogs

6.15.170 Dangerous dogs.

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

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

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

- (ii) Confinement; Muzzle/Restraint. All dangerous dogs shall be confined within a secure enclosure, which can be either a building (i.e., Morton building, shed or garage) or a dwelling/residence. It shall be unlawful for any owner to maintain a dangerous dog upon any premises that does not have a secure enclosure; unless the owner keeps the dangerous dog inside his or her dwelling/residence. It shall be unlawful for any owner to allow a dangerous dog to be outside of the dwelling/residence of the owner or outside the secured enclosure unless it is necessary for the owner (1) to obtain veterinary care for the dangerous dog; or (2) for the limited purposes of allowing said dangerous dog to urinate or defecate; or (3) to surrender the dangerous dog to the humane society to be euthanized by a certified veterinarian; or (4) to respond to such orders of law enforcement officials as may be required. In such event, the dangerous dog shall be securely muzzled and restrained with a leash not exceeding four feet in length, and shall

be under the direct control and supervision of the owner of the dangerous dog. The muzzle shall be made and used in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.

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

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

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

(3) The municipal court shall impose a fine of at least \$499.00 and not more than \$1,000.00 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(h)(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 \$250.00 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(h)(3). The municipal court shall have no authority to suspend the fine or any portion of the fine.

(b) 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 animal shelter or humane society. 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. If the owner is personally served with the citation and fails to make an appearance to answer the charges within 72-hours after the failure to appear, the court shall release the animal to the Humane Society or a proper holding facility. If the citation is mailed to a presumed owner, and the presumed owner fails to appear before the court to answer the charges, the court shall release the animal to the Humane Society or a proper holding facility twenty days after the failure to appear.

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

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

(e) Dangerous Dog At-Large. Any dog that has been found to be a dangerous dog, or vicious dog under the previous Topeka City Code 18-8 or this section, that is not confined or registered as required pursuant to this chapter shall be impounded by an animal control officer or a law enforcement officer. Upon conviction, in addition to all costs for impoundment, the owner or keeper shall pay a fine of at least \$250.00 but not more than \$499.00. For a second offense within 24 months, in which the dog is not 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. Upon conviction of this section, a dog may be destroyed if the dog attacks a human being which results in great bodily harm or death. Upon conviction of this section, the court may destroy a dog that has been previously determined to be a dangerous dog as defined at TMC 6.05.010.

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

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

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

960 person adjudicated guilty of this section to serve up to a maximum of six months in jail and to
961 pay a fine not to exceed \$1,000.00. (Ord. 20031 2§ 2, 10-11-16.)

962
963 **Cross References:** City attorney, TMC 2.25.120; police department, TMC 2.25.230;
964 municipal judge, TMC 2.25.150; animal control officer, TMC 6.10.020.

965
966 **State Law References:** Permitting dangerous animal to be at large, K.S.A. 21-3418.

967 968 969 970 **Article IV. Specific Confinement Requirements**

971 972 **6.15.180 Confinement of certain dogs required.**

973 (a) The owner of any dangerous dog shall confine the animal in the manner set out in Section
974 6.15.170(d)(1)(ii) above.

975
976 (b) The owner of any un-spayed female dog in heat shall confine the animal within a building or
977 dwelling/residence where the scent of the female cannot be emitted and in such a manner that the
978 female dog cannot come into contact with another dog except for planned breeding. It shall be
979 unlawful for the owner of any un-spayed female dog to knowingly keep such dog in a manner
980 that might cause a nuisance by attracting male dogs to the premises of such owner. (Code 1981 §
981 8-44. Code 1995 § 18-89.)

982
983 **State Law References:** Permitting dangerous animals to be at large, K.S.A. 21-3418.

984 985 **6.15.190 Confinement of certain cats required.**

986 (a) The owner of any un-spayed female cat in heat shall confine the animal within a building or
987 dwelling/residence where the scent of the female cannot be emitted and in such a manner that
988 such female cat cannot come into contact with another cat except for planned breeding.

989
990 (b) It shall be unlawful for the owner of any unaltered male or un-spayed female cat to
991 knowingly keep such cat in a manner that might cause a nuisance by attracting other cats to the
992 premises of such owner. (Code 1981 § 8-203. Code 1995 § 18-203.)

993 **Article V. Miniature, Pot-Belly Pigs**

994
995 **6.15.200 Specific requirements and restrictions.**

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

998
999 (1) The pig has undergone a blood test upon initial application for the permit required by
1000 Section 6.15.010 of this chapter and received a corresponding health certificate; and

1001
1002 (2) The pig weighs less than 150 pounds;

1003
1004 (3) The pig's height is less than 24 inches, measured at the shoulder;

1005
1006 (4) The pig has been vaccinated against rabies;

1007
1008 (5) The pig has been neutered or spayed upon reaching maturity (6 months).

1009
1010 (b) No more than two miniature, pot-bellied pigs are kept or harbored within any one household
1011 or premises.

1012
1013 **6.15.210 Shelter.**

1014 Miniature pot-belly pigs shall be confined inside the owner's dwelling/residence; or in a shelter
1015 with its sides embedded at least two feet into the ground or an underlayment that will prevent the
1016 animal from digging out of the pen and/or running-at-large. The animal shall be provided with
1017 sufficient bedding during the winter season and a water source of sufficient size and quantity that
1018 will allow them to cool themselves during the summer season. There shall be compliance with
1019 all requirements set out in Section 6.05.100(a)(3)(iii) above.
1020

Chapter 6.20

EXOTIC OR CAPTIVE WILD ANIMALS

Sections:

6.20.010 Exotic or captive wild animals.

6.20.010 Exotic or captive wild animals.

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

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

(c) Selling, Offering for Sale or Trade. Except as allowed by subsection (d) of this section, it shall be unlawful for any person to knowingly offer for sale or trade or to sell or trade any live exotic or captive wild animal within the city limits.

(d) Exceptions.

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

(e) Secure and Sanitary Quarters. All persons and institutions listed in subsection (d) of this section must ensure that all animal enclosures are secure, as defined in Section 6.05.010, so as to prevent their escape, conform to the provisions of the nuisance ordinances of the city and are maintained in a clean and sanitary condition for purposes of limiting objectionable odors.

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

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

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

Cross References: Municipal judge, TMC 2.25.150.

1081

Chapter 6.25

1082

PIT BULL DOGS

1083

(Repealed by Ord. 19473)

1084

1085

1086

1087

Chapter 6.30

1088

DOMESTIC FOWL, POULTRY

1089 Sections:

1090 6.30.010 Restrictions applicable to domestic fowl; poultry.

1091 6.30.020 Enclosure required; running at large prohibited.

1092 6.30.030 Destruction of birds and birds' nests prohibited; exceptions.

1093

1094 **6.30.010 Restrictions applicable to domestic fowl; poultry.**

1095 It shall be unlawful for any person, with no requirement of a culpable mental state, to keep or
1096 maintain any domestic fowl or poultry upon any private premises in the city (when such keeping
1097 is lawful under other ordinances of the city) within 50 feet of any dwelling other than that of the
1098 owner or tenant of the premises on which such fowl are kept or maintained, or to keep or
1099 maintain such fowl at any time on any premises in a manner or condition constituting a public
1100 nuisance. (Code 1981 § 8-144. Code 1995 § 18-291.)

1101

1102 **6.30.020 Enclosure required; running at large prohibited.**

1103 It shall be unlawful for any person, with no requirement of a culpable mental state, to allow or
1104 permit domestic fowl or poultry to run or be at large at any time in the city. Fowl must be kept on
1105 the owner's property, within a fenced area and inside a fully enclosed pen. The fact of any
1106 domestic fowl being found at large shall be prima facie evidence of a violation of this section.
1107 (Code 1981 § 8-145. Code 1995 § 18-292.)

1108

1109 **6.30.030 Destruction of birds and birds' nests prohibited; exceptions.**

1110 It shall be unlawful for any person to knowingly shoot, kill, maim or injure in any manner any
1111 bird or fowl of the air in the city, or to destroy the nest of any such bird or fowl, except that:
1112 (a) English sparrows and starlings or the nests thereof may be destroyed at any time by any
1113 person or approved pest control firm or company when such destruction may be done without the
1114 use of firearms or other weapons or devices;
1115 (b) Pigeons or other birds of the air that have become public nuisances by reason of their nesting
1116 or roosting on any private premises in the city may, upon complaint to animal control, be
1117 destroyed by an approved pest control firm or company in accordance with the terms of any
1118 required permit issued by the appropriate state or local agency. (Ord. 17076 § 2, 1-28-97; Code
1119 1981 § 8-146. Code 1995 § 18-293.)

1120

1121 **Chapter 6.35**

1122 **LIVESTOCK**

1123 Sections:

1124 6.35.010 Keeping near residences or businesses.

1125 6.35.020 Swine prohibited.

1126 6.35.030 Exceptions to restrictions on keeping livestock.

1127 6.35.040 Running at large or driving herds prohibited.

1128 6.35.050 Additional restrictions; exceptions.

1129
1130 **6.35.010 Keeping near residences or businesses.**

1131 It shall be unlawful for any person, with no requirement of a culpable mental state, to keep
1132 livestock inside the city limits if in a building or lot that is located within 200 feet of his or her
1133 property line. Such building or lot shall comply with all applicable building, property
1134 maintenance, planning, zoning, and utility code provisions, in addition to any health and
1135 sanitation requirements that may be required by state or local law. (Code 1981 § 8-101. Code
1136 1995 § 18-261.)

1137
1138 **6.35.020 Swine prohibited.**

1139 It shall be unlawful for any person, with no requirement of a culpable mental state, to rear or
1140 keep any swine in the city. This prohibition against swine shall not apply to miniature pot-belly
1141 pigs kept as pets, which are considered domestic animals pursuant to Section 6.05.010(j);
1142 provided, however, that each pig meets the requirements set out in Section 6.15.200 of this Title
1143 6. (Code 1981 § 8-103. Code 1995 § 18-263.)

1144
1145 **6.35.030 Exceptions to restrictions on keeping livestock.**

1146 The provisions of TMC 6.35.010 through 6.35.020 shall not apply to any person engaged in the
1147 packinghouse business, or in selling or shipping cattle, sheep, goats, horses or swine insofar as it
1148 may be necessary for such parties to bring such livestock into the city and keep such livestock in
1149 the city in the legitimate transaction and carrying on of business; provided, that TMC 6.35.010
1150 shall not apply to the keeping of horses on any parcel of land within the city if there is an
1151 intensity of no more than two horses on a minimum of three acres; and, provided, further, that
1152 each additional horse shall require an additional one and one-half acres of land to the minimum
1153 required. (Code 1981 § 8-104. Code 1995 § 18-264.)

1154
1155 **Cross References:** Parking vehicle having offensive odor, TMC 10.60.030.

1156
1157 **6.35.040 Running at large or driving herds prohibited.**

1158 It shall be unlawful for any person to allow or permit any livestock owned or controlled by such
1159 person to run or be at large at any time within the city; or to drive any herd of cattle, horses,
1160 mules or swine, or any flock of sheep, upon any street within the city. (Code 1981 § 8-105.
1161 Code 1995 § 18-267.)

6.35.050 Additional restrictions; exceptions.

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

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

(b) for a period of time not to exceed two (2) hours, if no special event permit is required. (Code 1981 § 8-106. Code 1995 § 18-268.)

COMMITTEE REFERRAL SHEET

COMMITTEE REPORT

**Name of
Committee:**

Public Health and Safety

Title:

AN ORDINANCE introduced by Councilmember Brendan Jensen, concerning miniature pigs amending City of Topeka Code Section 6.35.030 and repealing original section and creating new Chapter 6.45 was presented.

**Date referred
from
Governing
Body meeting:**

February 7, 2017

**Date referred
from
Committee:**

September 28, 2017

**Committee
Action:**

Motion by Councilmember Sandra Clear, seconded by Councilmember Brendan Jensen, to recommend to the full Governing Body, approval of the proposed ordinance as amended. Motion passed with a vote of 2-1-0. Councilmember Sylvia Ortiz opposed the motion.

Comments:

N/A

Amendments:

See amended ordinance.

**Members of
Committee:**

Councilmembers Brendan Jensen (chair), Sandra Clear, Sylvia Ortiz

**Agenda Date
Requested:**

December 5, 2017 Agenda

Location: Topeka Police Department, 320 S. Kansas Ave., LEC Classroom A

Date: September 28, 2017

Time: 4:30 p.m.

Attendance

Committee members Brendan Jensen (Chair), Sandra Clear, and Sylvia Ortiz, Lisa Robertson (Legal), Karan Thadani (Prosecution), Luther Ganieany (Legal), Lisa Pinkley (Animal Control).

1) Call to Order

Meeting was called to order by Councilmember Brendan Jensen.

2) Approval of Minutes

Minutes of the July 20, 2017 meeting were approved.

3) Review and possible approval of recommended changes to TMC Title 6 “Animals”

6.05.010 (d) Definition of “At Large” – Staff is recommending deletion of a segment of this definition.

6.20.010 (h)(7)(iii) Dangerous Dog – staff is recommending deletion of a portion of this definition.

Councilmember Hiller asked staff to consider inserting language to better describe 6.05.010(bb) – Secure enclosure, to include “top and bottom”.

6.05.100(a) Cruelty to animals. Staff recommends insertion of the word “knowingly” to this definition to better assist prosecution of this statute.

At the July 20, 2017 meeting, the committee members asked staff to sub-section out numerous parts of 6.05.100. Staff brought those changes to review.

6.10.040 Surrender of animal carcass on demand. Councilmember Hiller suggested adding “or designee” to reference who is allowed to pick up deceased animals.

6.15.130 Notification of owner. Councilmember Hiller suggested the addition of electronic mail to the list of ways to notify owners of a pet’s impoundment. This suggestion was also made for other reference to 6.20.200 Notification of owner.

6.15.080 Obtaining permits after deadline. A change from 30 days to 20 days.

Councilmember Hiller had a concern regarding the reason for not having the animal spayed/neutered prior to releasing the pet to the owner. Lisa Pinkley and Lisa Robertson informed the committee that prior to adoption, the Humane Society

does require animals to be spayed/neutered. However, this is not a requirement to release an animal back to their owners.

6.15.170(a)(1)(ii)Confinement. Councilmember Hiller suggested adding “or holding facility” to sub-section 3 in regard to the location where a dangerous dog can be surrendered in order to allow for flexibility by Animal Control staff.

6.15.200 Specific requirements and restrictions. There was reference to the weight limit restrictions for mini pigs. The committee was at a standstill over what an appropriate maximum weight for a pig could be. The committee decided to leave the ordinance as written for now, with possible changes in the future.

6.05.060 (e) (vii) Service Monkeys. Staff is recommending removal of this section.

6.35.010 Restrictions applicable to domestic fowl; poultry. Staff is recommending measurement of setbacks from the property line as a tool for enforcing the 50 foot line.

6.30.030 Councilmember Hiller suggested removing current language referencing the environmental code services division, which is no longer a division. And replacing it with Animal Control.

6.35.050 Grazing in public prohibited. Councilmember Hiller recommended staff add language to the section to include “or government permission”. Legal staff will review this comment and make revisions.

Councilmember Ortiz asked staff for clarification in regard to the topic of pet owners to have the ability to produce the city tag upon request rather than requiring them to be fastened to the pet. Lisa Robertson suggested changing the language to say “shall be worn at all times, or the owner shall be able to produce upon request”.

Councilmember Ortiz inquired about the changes that were made, or if they were made to define what a suitable shelter with adequate ventilation was. Lisa Pinkley noted that some of these cases are situational and would require an animal control officer to inspect the shelter.

Discussion was had amongst committee members regarding taking miniature pigs ordinance out of the full Title 6 ordinance. Councilmember Ortiz stated she was uncomfortable with voting to approve the miniature pig ordinance, however was comfortable with the other recommendations to Title 6.

Councilmember Clear made a motion to send the updated Title 6 changes in its entirety to the Governing Body. Councilmember Jensen seconded that motion. Councilmember Ortiz voted in opposition. The motion passed 2:1 to go to the Governing Body.

**4) Discussion on any other items before the Committee
Adjournment
None**

The meeting was adjourned.

Video recording of this meeting can be found at:

<https://www.youtube.com/watch?v=WLAzHRWomY>

DRAFT



CITY OF TOPEKA

CITY COUNCIL COMMITTEE MEETING MINUTES

PUBLIC HEALTH & SAFETY COMMITTEE

CITY COUNCIL
City Hall, 215 SE 7th Street, Suite 255
Topeka, KS 66603-3914
Tel: 785-368-3710
Fax: 785-368-3958
www.topeka.org

Location: Topeka Police Department, 320 S. Kansas Ave., LEC Classroom A

Date: July 20, 2017

Time: 1:00 p.m.

Attendance

Committee members Brendan Jensen (Chair), Sandra Clear, and Sylvia Ortiz, City Attorney Lisa Robertson, Chief of Prosecution Karan Thadani, Animal Control Officer Lisa Pinkley, and Councilmember Karen Hiller.

1) Call to Order

Meeting was called to order by Councilmember Brendan Jensen.

2) Approval of Minutes

Minutes of the June 12, 2017 meeting were approved.

3) Review and possible approval of recommended changes to TMC Title 6 "Animals"

6.20.010 At Large. The current definition of an animal being considered at large was discussed with proposed changes of adding more clarifying words to assist with clarifying the municipal code. Lisa Robertson will make revisions for approval.

Dangerous Dog. Committee members agreed that a more detailed description of "properly restrained" is needed.

The Committee agreed to leave the transport fee of any animal to \$30.

6.05.040 Cruelty to Animals.

(a)(3)(iii) Protection from Elements. Councilmember Karen Hiller inquired if there might be a need for something to be written into the section regarding ventilation. Lisa Robertson made note of the concern.

6.05.130 Deceased Animals. Lisa Pinkley provided data to the Committee in regard to the daily requests to pick up roadkill, and the cost it would amount to if the City Animal Control Officers assumed this duty. There are currently 4 to 5 calls daily in regard to non-domestic roadkill. Current procedure is that public calls dispatch with report of deceased animal. If animal is domestic, Animal Control is called out. If the animal is wildlife, a designee company picks up the animal. A contracted third party company to assist with deceased wildlife removal was discussed.

Lisa Robertson provided a chart from the Topeka Police Department listing the number of city residents who are registered with pet licenses.

Lisa Robertson also supplied information to the Committee in regard to the low number of City pets who have been registered. The Committee discussed how to best define this process within TMC. Lisa Robertson suggested looking into this topic at a future meeting. The Committee agreed to add this to the project list.

The topic of redefining the length of time in which an animal would be held was discussed. Committee members asked for clarification regarding the issue of caring for an animal once a mailed citation was sent to the owners. Committee Member Sandra Clear moved to approve the length of time in which a dog would be held from 30 days to 20 days. Committee Member Brendan Jensen agreed. Legal, Prosecution, and Animal Control did not see an issue with shortening the length of time.

6.05.080 Dangerous Dogs. (d)(1)(ii) Confinement. Animal Control would like to better define the language in regard to the transfer of the ownership of a dangerous dog.

Lisa Robertson brought an update with the miniature pig. Added that blood test and health certificate would be required. Language referring to pseudo rabies was removed. A noted change for consideration regards the weight of the pigs and reducing it from 150 pounds to 80 pounds.

Language in regard to service monkeys. The Committee asked for Lisa Pinkley's opinion for keeping or removing the item. Lisa Pinkley suggested removing it. The Committee agreed.

Grazing permits for temporary events. A conference with Shawnee County's Legal Department to clarify their policy in regard to the subject will be made.

Councilmember Karen Hiller inquired about the topic of the number of animals owners would be allowed to keep. Committee Chair Brendan Jensen responded that some of the language surrounding the upkeep of maintaining animals was changed rather than putting a number on how many animals an individual could house. This topic will be reviewed again at the next Committee meeting.

4) Discussion on any other items before the Committee

Adjournment

None

The meeting was adjourned.

Video recording of this meeting can be found at:
<https://www.youtube.com/watch?v=6lkquQwf57s>



CITY OF TOPEKA

CITY COUNCIL COMMITTEE MEETING MINUTES

PUBLIC HEALTH & SAFETY COMMITTEE

CITY COUNCIL
City Hall, 215 SE 7th Street, Suite 255
Topeka, KS 66603-3914
Tel: 785-368-3710
Fax: 785-368-3958
www.topeka.org

Location: Topeka Police Department, 320 S. Kansas Ave., LEC Classroom A

Date: June 12, 2017

Time: 3:00 p.m.

Attendance

Committee members Brendan Jensen (Chair) and Sandra Clear; Sylvia Ortiz arrived at 3:05 p.m. City Attorney Lisa Robertson and Animal Control Officer Lisa Pinkley.

1) Call to Order

Meeting was called to order by Councilmember Brendan Jensen.

2) Approval of Minutes

Minutes of the April 24, 2017 meeting were approved.

3) Continued discussion on including miniature pigs as part of TMC Title 6 'Animals' and reorganization and clean-up of TMC Title 6 'Animals'.

At the February 7, 2017 City Council Meeting, Councilmember Jensen moved to refer to the Public Health & Safety Committee the discussion and review of the proposed ordinance regarding miniature pigs, as well as a comprehensive review of all animal control policies (Topeka Municipal Code (TMC) Title 6 'Animals').

Dr. Edward Kester of Kester Animal Clinic, LLC is a large animal veterinarian for Shawnee County. He spoke to the committee regarding miniature pigs. He stated that pseudo rabies is a herpes type virus that was eradicated from Kansas almost 20 years ago. He did not recommend that the City require miniature pigs be vaccinated for pseudo rabies because 1) there is a very low chance of miniature pigs getting pseudo rabies and 2) there is not a readily available vaccine for pseudo rabies. He stated that the City could require that a pig be tested for pseudo rabies as part of the initial permit process, but not require that they are vaccinated. He stated that livestock are required to be vaccinated for rabies annually. He recommends that pigs be spayed or neutered after they are 6 months old. Dr. Kester stated that if a pig is in a stress free, calm environment, you can sedate a pig; if they are running loose and stressed, sedating them could kill them. He stated that he is only aware of approximately 8 to 10 pigs

running loose in Shawnee County over the past 15 years; loose pigs are picked up by Animal Control and given to Dr. Kester to hold.

Dr. Brian Stancliffe of Animal Clinic of North Topeka, is a small animal veterinarian for the City of Topeka. He stated that although he has never had to deal with miniature pigs in the past, he doesn't see a problem doing so in the future.

Animal Control Officer (ACO) Lisa Pinkley stated that the current code does not require permits for livestock.

Councilmember Sylvia Ortiz asked Lisa Pinkley to send her a list of the problems they encounter in the field. Lisa Pinkley stated that she sent that information to the committee previously, but will resend it.

6.05.120 Animal Fighting. Lisa Pinkley stated that the State of Kansas handles animal fighting/cruelty per state law; there is no City code. City Police and Animal Control respond to animal fighting/cruelty calls, to assist State authorities, but the City does not issue citations. The City could add a notation in the code that references the state law. The committee agreed to delete:

(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.)

6.05.130 Deceased Animals. Lisa Pinkley asked if the City could contract with Shawnee County Refuse to have them pick up roadkill; not domestic animals. The Committee would like more data, such as how much time it takes daily, how many animals are picked up per day, what it would cost us, etc. The City currently has a contract with Waste Management for the disposal of dead animals that are picked up by the City Animal Control Officers.

The Committee asked that the fees to license a pig be the same as other animals, \$20 and \$8 (if sterilized). Councilmember Brendan Jensen asked Lisa Pinkley to check with Pet Data web registry to see if they can accommodate pig licensing.

Lisa Robertson will talk to Municipal Court Judge Geier about holding/releasing animals from the animal shelter, court hearings, etc.

Councilmember Sandra Clear recommended replacing 'Helping Hands Humane Society' with 'any animal shelter that is contracted with the City of Topeka and licensed by the State of Kansas'.

Councilmember Clear recommended removing the word 'kennel' from the document.

Councilmember Clear asked if the \$2 late fee and \$1 replacement tag fee is high enough; is the City losing money? Lisa Pinkley said she would get an answer to the committee.

4) Discussion on any other items before the Committee

None

Adjournment

The meeting was adjourned at 4:06 p.m.

Video recording of this meeting can be found at: <https://www.youtube.com/watch?v=qnMM-xITCIU&feature=youtu.be>



CITY OF TOPEKA

CITY COUNCIL COMMITTEE MEETING MINUTES

PUBLIC HEALTH & SAFETY COMMITTEE

CITY COUNCIL
City Hall, 215 SE 7th Street, Suite 255
Topeka, KS 66603-3914
Tel: 785-368-3710
Fax: 785-368-3958
www.topeka.org

Location: Topeka Police Department, 320 S. Kansas Ave., LEC Classroom A

Date: April 24, 2017

Time: 3:30 p.m.

Attendance

Committee members Brendan Jensen (Chair) and Sandra Clear; Sylvia Ortiz arrived at 3:45 p.m. City staff members Lisa Robertson (Legal) and Lisa Pinkley (TPD Animal Control).

1) Call to Order

Meeting was called to order by Councilmember Brendan Jensen.

2) Approval of Minutes

Minutes of the April 7, 2017 meeting were approved.

3) Continued discussion on adding miniature pigs to TMC Title 6 Animals and/or reorganization and clean-up of TMC Title 6 Animals.

At the February 7, 2017 City Council Meeting, Councilmember Jensen moved to refer to the Public Health & Safety Committee the discussion and review of the proposed ordinance regarding miniature pigs, as well as a comprehensive review of all animal control policies (Topeka Municipal Code (TMC) Title 6 Animals).

The committee agreed to set the scope of review of Topeka Municipal Code (TMC) Title 6 Animals, to (Phase 1) incorporate miniature pigs into the current animal code and (Phase 2) revise the current animal code.

Councilmember Sandra Clear moved to approve adding miniature pigs to the TMC Title 6 Animal code. No vote was taken.

The committee asked the Council Assistant to look back at the original City Council meeting minutes to know what concerns were expressed by the Council about adding miniature pigs to the code.

Pseudo rabies was discussed; do they exist; why is it listed as a requirement to own a miniature pig? Councilmember Sylvia Ortiz would like to invite a vet to the next meeting who can provide more information on pseudo rabies and vaccines. Lisa Pinkley will invite the Shawnee County vet used by the City of Topeka Animal Control Division; Councilmember Brendan Jensen will invite the Zoo vet.

Councilmember Ortiz stated that the committee needs more information from Lisa Pinkley; a list of problems Animal Control has with the current animal code. She asked the Council Assistant to make sure she gets a hard copy of this.

Councilmember Jensen recapped; the committee will 1) meet again in a couple of weeks, with a couple of vets and some others with expertise on miniature pigs; 2) make corrections to the existing code and take to council; 3) Legal and Animal Control will provide lists of deficiencies and options to address them; 4) meet again at a later date to discuss deficiencies to the entire animal code.

A citizen asked if miniature pigs are already allowed. He expressed his opposition to allowing pigs, goats, chickens, etc. in the city limits.

The committee would like another meeting scheduled within the next couple of weeks.

4) Discussion on any other items before the Committee

None

Adjournment

The meeting was adjourned at 4:17 p.m.

Video recording of this meeting can be found at:

https://www.youtube.com/watch?v=A1v7-ezg_Cc&feature=youtu.be



CITY OF TOPEKA

CITY COUNCIL COMMITTEE MEETING MINUTES

PUBLIC HEALTH & SAFETY COMMITTEE

CITY COUNCIL
City Hall, 215 SE 7th Street, Suite 255
Topeka, KS 66603-3914
Tel: 785-368-3710
Fax: 785-368-3958
www.topeka.org

Location: Topeka Police Department, 320 S. Kansas Ave., LEC Classroom A

Date: April 7, 2017

Time: 3:30 p.m.

Attendance

Committee members Brendan Jensen, Sandra Clear & Sylvia Ortiz. City staff members Lisa Robertson (Legal), Lisa Pinkley and Joe Perry (TPD Animal Control), and Brendan Wiley (Zoo).

1) Call to Order

Meeting was called to order by Councilmember Brendan Jensen.

2) Elect Chairperson

Councilmember Brendan Jensen was elected as Chairperson.

3) Approval of Minutes

Minutes of the November 4, 2016 meeting were approved.

4) Discuss and Recommend Revisions to TMC Title 6 Animals

At the February 7, 2017 City Council Meeting, Councilmember Jensen moved to refer to the Public Health & Safety Committee the discussion and review of the proposed ordinance regarding miniature pigs, as well as a comprehensive review of all animal control policies (Topeka Municipal Code (TMC) Title 6 Animals). Councilmember Jensen stated that the purpose of this meeting was to set the scope of what the committee should review.

Councilmember Clear stated that the February 7, 2017 City Council meeting minutes only indicated that the committee was tasked with reviewing the miniature pig item, not the entire animal control section of the code. Councilmember Jensen stated that his motion included the review of both, and asked that the meeting video be checked and the February 7, 2017 City Council meeting minutes be revised accordingly.

City Attorney Lisa Robertson stated that when she was working on the preliminary revisions to the code (to add miniature pigs), she noticed other sections that would need to be revised as well.

Councilmember Sylvia Ortiz stated that she would like to have a list of revisions to the animal control code that have been made in the past.

Councilmember Sandra Clear stated that she liked the revisions proposed by Legal. She pointed out one error; the number of miniature pigs per household should be 2, not 1.

Councilmember Ortiz asked the City Council Assistant to send everyone the past meeting minutes that outlined what the committee revised in the past.

Councilmember Ortiz asked ACO Lisa Pinkley to produce an example of an ordinance that had vague language.

Councilmember Ortiz asked Lisa Robertson to pull the state statute on dogs, and send it to the committee.

The committee would like another meeting scheduled during the first week of May.

Discussion on any other items before the Committee

None

Adjournment

The meeting was adjourned at 4:07 p.m.

Video recording of this meeting can be found at:

<https://www.youtube.com/watch?v=G6MiPRR5FmQ&feature=youtu.be>



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
December 5, 2017

DATE:	December 5, 2017	
CONTACT PERSON:	Jason Peek, Public Works	DOCUMENT #:
SECOND PARTY/SUBJECT:	Downtown Comprehensive Parking Plan	PROJECT #:
CATEGORY/SUBCATEGORY	019 Reports / 012 Consultant	
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

REPORT on the Downtown Comprehensive Parking Plan recommendations.

Voting Requirement: Majority vote of the Governing Body (6).

(Approval would adopt the attached Downtown Comprehensive Parking Plan and authorize staff to implement recommendations included in the plan.)

VOTING REQUIREMENTS:

Majority vote of the Governing Body (6).

POLICY ISSUE:

Staff recommends the Governing Body adopt the Comprehensive Parking Plan and authorize staff to implement recommendations.

These actions assume three primary components:

1. Continuation of free-two hour on street parking along S. Kansas Avenue and associated side streets that currently have yellow hoods on meters.
2. Implementation of demand management strategies to better utilize existing parking supply available in on-street, garages, and surface lots. These demand strategies include changes to parking rates over time combined with other actions to better utilize supply.
3. Development of additional funding strategies beyond existing fees from meters, leases permits, and enforcement, to pay for plan recommendations and capital repair needs of parking facilities.

STAFF RECOMMENDATION:

Staff recommends the Governing Body adopt the Comprehensive Parking Plan and authorize staff to implement recommendations.

BACKGROUND:

In early 2017, the City of Topeka hired DESMAN, a professional parking consulting, to assist in the development of a long-term downtown parking master plan. The study scope includes a review of existing parking facility utilization and occupancy, projecting future demand, determining the capacity of the current parking system to absorb additional demand, and evaluating financial health of the parking system. The final Parking Plan includes recommendations designed to help the City's Parking Division operate, maintain and manage Topeka's public parking assets for the next decade.

Study Area and Parking Inventory

The boundaries of the study area for the Downtown Parking Plan were developed by the City and intended to encompass all of the public parking in Downtown Topeka. In general, the study area for this project is SW 2nd Street as the northern boundary, Tyler Street as the western boundary, SW 12th Street as the southern boundary, and Adams Street as the eastern boundary.

Within the Downtown study area there are 9 public parking garages, 5 private parking garages, 6 public surface parking lots, 15 large, private surface parking lots, and several thousand on-street spaces. All told, within the Downtown study area, the following parking assets were identified:

- 2,057 On-Street Spaces
- 3,708 Spaces in the Nine Public Garages (7 City-owned, 1 State-owned, 1 privately-operated)
- 560 Spaces in the six Public Surface Lots
- 5,500 Private Spaces in five Garages and 15 Large Surface Lots

An initial report was presented on September 12, 2017 to the downtown parking stakeholder group and the Governing Body. This report summarized the existing conditions surrounding public parking in downtown Topeka, the public input process that contributed to this study, and projected future parking needs in the downtown study area.

Based on these findings and discussion from September 12, 2017, a report on recommendations was presented on November 14, 2017 to the downtown parking stakeholder group and the Governing Body. The recommendations presented were to address the current needs of downtown parking as well as anticipated future needs for downtown parking over the next 10 years. A list of twenty-two (22) recommendations was provided.

Key to these recommendations are the following policy assumptions:

1. Continuation of free-two hour on street parking along S. Kansas Avenue and associated side streets that currently have yellow hoods on meters.
2. Implementation of demand management strategies to better utilize existing parking supply available in on-street, garages, and surface lots. These demand strategies include changes to parking rates over time combined with other actions to better utilize supply.
3. Development of additional funding strategies beyond existing fees from meters, leases permits, and enforcement, to pay for plan recommendations and capital repair needs of parking facilities.

Attached with this agenda item is the final report for the Comprehensive Parking Plan, which includes the plan recommendations.

BUDGETARY IMPACT:

The proposed recommendations will address current issues and future needs of downtown parking. The cost of the proposed recommendation exceeds anticipated revenues by approximately \$409,000/year. A core part of this shortage is the recommendations to set aside \$383,000 annually to establish a capital reserve fund for parking facilities.

The current parking fund balance of \$759,652 will allow for implementation of all short term recommendations,

except the capital reserve fund, and maintain required fund reserve balance of \$330,000.

The capital reserve fund, medium term recommendations, and long-term recommendations will require additional funding to implement proposed recommendations.

SOURCE OF FUNDING:

Currently, the maintenance and operations of the City of Topeka's parking facilities is funded through the Parking enterprise fund. The parking enterprise fund is supported through user fees from city owned garages, city owned surface lots, and on-street parking meters.

ATTACHMENTS:

Description

Memo - Financial Sustainability for the Parking Division
Downtown Comprehensive Parking Plan

MEMORANDUM

DATE: November 29, 2017

TO: Jason Peek, Ph.D., P.E.
Brenda Hayes
City of Topeka

FROM: Gerald Salzman

RE: Financial Sustainability for the Parking Division

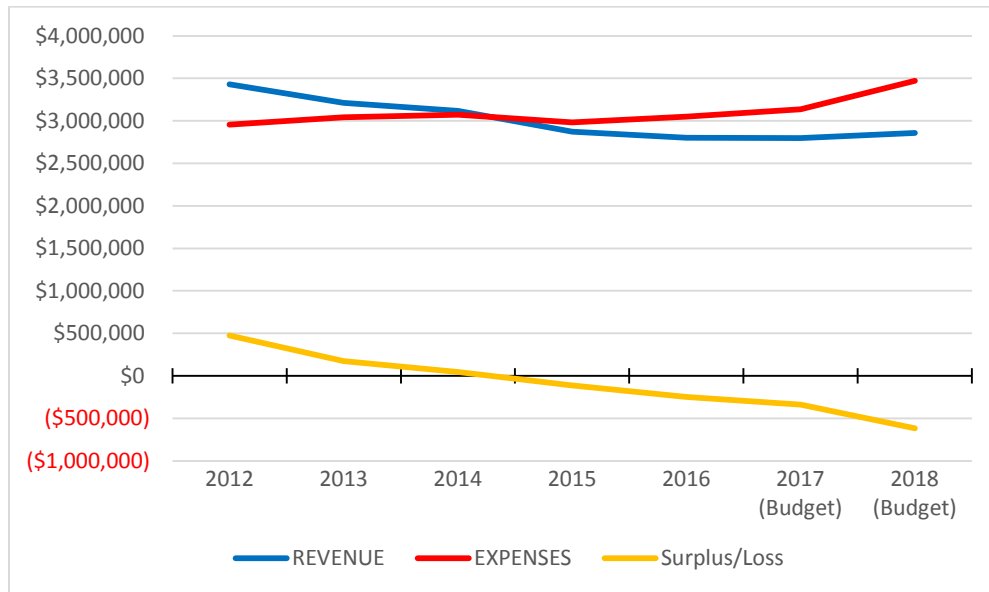
The purpose of this memorandum is to identify and explore the issues related to maintaining the long-term financial health of the Topeka Parking Division. Over the course of the last seven months, DESMAN has been engaged with the City to develop a long-term downtown parking master plan. The initial work paper which covered data collection, summary of the stakeholder process, historical performance of the parking system and identification of key issues was issued in August, 2017. Among the key findings are the need to update technology, and that the parking system does not generate sufficient revenue to fully fund the operations and maintenance of the parking system. The full list of key issues is attached.

A series of recommendations was developed in November, 2017 based on the 21 issues identified. A recommendation matrix relating the issues to the proposed recommendations are included in the Comprehensive Parking Plan. The recommendations were designed to modernize operations, improve customer service and most importantly to provide for the financial sustainability of the Parking Division.

Financial Performance of the Parking System

Since 2012, the financial performance of the Parking Division has declined from a net profit of over \$400,000 to a projected deficit of over \$300,000 in 2018. These deficits have been accommodated by the parking fund which has been significantly depleted. The historical performance of the parking system is shown below.

	2012	2013	2014	2015	2016	2017	2018
	Actuals	Actuals	Actuals	Actuals	Actuals	Adopted Budget	Preliminary Budget
Profit/Loss	\$ 475,656	\$ 172,331	\$ 45,375	\$ (110,729)	\$ (249,310)	\$ (338,244)	\$ (616,469)
REVENUE	\$3,430,399	\$3,213,205	\$3,117,814	\$2,872,521	\$2,802,130	\$2,798,394	\$2,856,370
Fees for Service:	\$ 2,969,420	\$ 2,909,291	\$ 2,819,455	\$ 2,625,855	\$ 2,599,564	\$ 2,596,107	\$ 2,654,083
Municipal Court	\$ 250,023	\$ 197,478	\$ 199,852	\$ 183,287	\$ 168,016	\$ 183,287	\$ 183,287
Miscellaneous	\$ 210,956	\$ 106,436	\$ 98,506	\$ 63,379	\$ 34,550	\$ 19,000	\$ 19,000
EXPENSES	\$2,954,744	\$3,040,874	\$3,072,439	\$2,983,250	\$3,051,440	\$3,136,638	\$3,472,840
Employee Compensation	\$ 549,908	\$ 693,573	\$ 599,006	\$ 516,032	\$ 500,477	\$ 587,411	\$ 652,426
Benefits	\$ 201,106	\$ 235,179	\$ 181,050	\$ 191,074	\$ 202,597	\$ 237,601	\$ 225,639
Utilities	\$ 213,784	\$ 252,587	\$ 274,186	\$ 260,333	\$ 257,563	\$ 290,446	\$ 284,777
Professional Services and Contractors	\$ 244,245	\$ 244,878	\$ 250,267	\$ 378,008	\$ 288,724	\$ 315,777	\$ 308,751
Miscellaneous	\$ 11,900	\$ 2,945	\$ 6,338	\$ 2,332	\$ 3,317	\$ 3,500	\$ 3,500
Insurance	\$ 33,898	\$ 31,365	\$ 57,535	\$ 88,155	\$ 65,717	\$ 66,243	\$ 64,103
Maintenance	\$ 107,133	\$ 110,933	\$ 228,031	\$ 68,239	\$ 118,142	\$ 296,986	\$ 83,655
Rent	\$ 32,370	\$ 2,058	\$ 1,849	\$ 1,797	\$ 1,596	\$ 1,800	\$ 1,800
Purchased Services	\$ 302,333	\$ 260,526	\$ 247,690	\$ 296,286	\$ 313,578	\$ 244,478	\$ 634,971
Supplies	\$ 49,271	\$ 101,110	\$ 138,455	\$ 188,830	\$ 427,358	\$ 143,600	\$ 129,100
Capital Outlay	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 108,000	\$ 261,528
Debt Service	\$ 424,403	\$ 311,058	\$ 287,015	\$ 228,915	\$ 872,373	\$ 840,796	\$ 822,588
Other Costs	\$ 784,391	\$ 794,662	\$ 801,015	\$ 763,249	\$ -	\$ -	\$ -



Financial Impact of the Proposed Recommendations

The proposed recommendations included in the Parking Plan have a positive impact on revenue by increasing rates in high demand areas and lowering costs. Much of this increased revenue in the short term is offset by capital costs to improve technology and efficiency. The two primary drivers of long term deficits is the need to support a capital reserve fund for garage repair (\$383,000 annually) and the loss of revenue from the free 2 hour parking on Kansas Avenue and adjacent side streets. (\$280,000). The key to the long term financial health of the parking enterprise fund is to provide funding to address an average annual gap of approximately \$409,000.

Alternatives

Based on extensive stakeholder discussions across the community, we have identified four long-term financing alternatives in addition to the increase in user fees previously discussed. More than one alternative may need to be implemented to equitably spread the burden.

1. Increase User Based Revenue - we believe that the first step is to begin taking the steps to increase revenue. The easiest of these steps would include:
 - Increase monthly permit fees 20% over two years (10% each year)
 - Increase meter rates in high occupancy areas to \$1.25/hr. and equivalent rate changes to hooding fees
 - Adjust garage rates in high occupancy garages to balance demand for permits
 - Replace underutilized meters with 2 hour parking limits

These measures will begin the flow of additional revenue to the Parking Division which will be able to support acquisition of new technology and other improvements. An additional \$500,000 could be generated annually.

2. 2 Hour Free Meters – Although there is a wide consensus that 550 2 hour free meters are valuable to the development of downtown Topeka, the free parking in these spaces represents lost revenue of more than \$280,000 annually. Maintaining this benefit will require an alternative source of funding.
3. Real Estate Value Based Special Service District – A Real Estate based special service district has the ability to spread the financial burden of supporting downtown parking among all of the property owners. The theory being that the benefits of maintaining free meters and maintaining the parking system benefits all downtown businesses and residents while not directly assessing a fee to customers and visitors.
4. Sales Tax Based Special Service District - A Sales Tax based special service district provides support for the parking system by assessing a fee on purchases made at businesses serving the area that benefits from the parking system.

Conclusion

These four alternatives can be used separately or in combination to fund the parking system. Over the longer term as parking demand increases, increase revenue from parking fees can support a greater share of the financial load. Regardless of the alternative selected, we believe that the first step is to begin taking the steps to increase revenue. The easiest of these steps would include:

- Increase meter rates in high occupancy areas
- Adjust garage rates to balance demand for permits
- Replace underutilized meters with 2 hour parking limits

These measures will begin the flow of additional revenue to the Parking Division which will be able to support acquisition of new technology and other improvements.

COMPREHENSIVE PARKING PLAN

TOPEKA, KANSAS

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1.0 Executive Summary

The City of Topeka hired DESMAN, a professional parking consulting firm with 40+ years of experience, to assist in the development of a long-term downtown parking master plan. The study scope includes a review of existing parking facility utilization and occupancy, projecting future demand, determining the capacity of the current parking system to absorb additional demand, and determining a current and future rate structure able to support the long-term financial health of the parking system. The final Comprehensive Parking Plan will include recommendations designed to help the City's Parking Division operate, maintain and manage Topeka's public parking assets for the next decade.

This first report summarizes the existing conditions surrounding public parking in Topeka, the public input process that has contributed to this study, and projected future parking needs in the Downtown study area. Additional deliverables will address the remainder of the scope of services.

Public Input Process

In order to ensure that the Comprehensive Parking Plan would take into account not only the physical supply of and demand for public parking in Downtown, but also the needs and opinions of parking users and Downtown stakeholders, it was the City's desire that the study process involve a significant public input process. To that end, sit down discussions were held with key Downtown stakeholders and an online survey was made available to all Downtown employees, visitors and citizens of Topeka, in order to gather input on perceptions of public parking in the Downtown study area. Dozens of stakeholders provided input and nearly 500 responses to the online survey were received.

The key discussion topics and areas of concern voiced by these groups will be crucial in the later phases of this project, as recommendations for improving public parking are developed and evaluated.

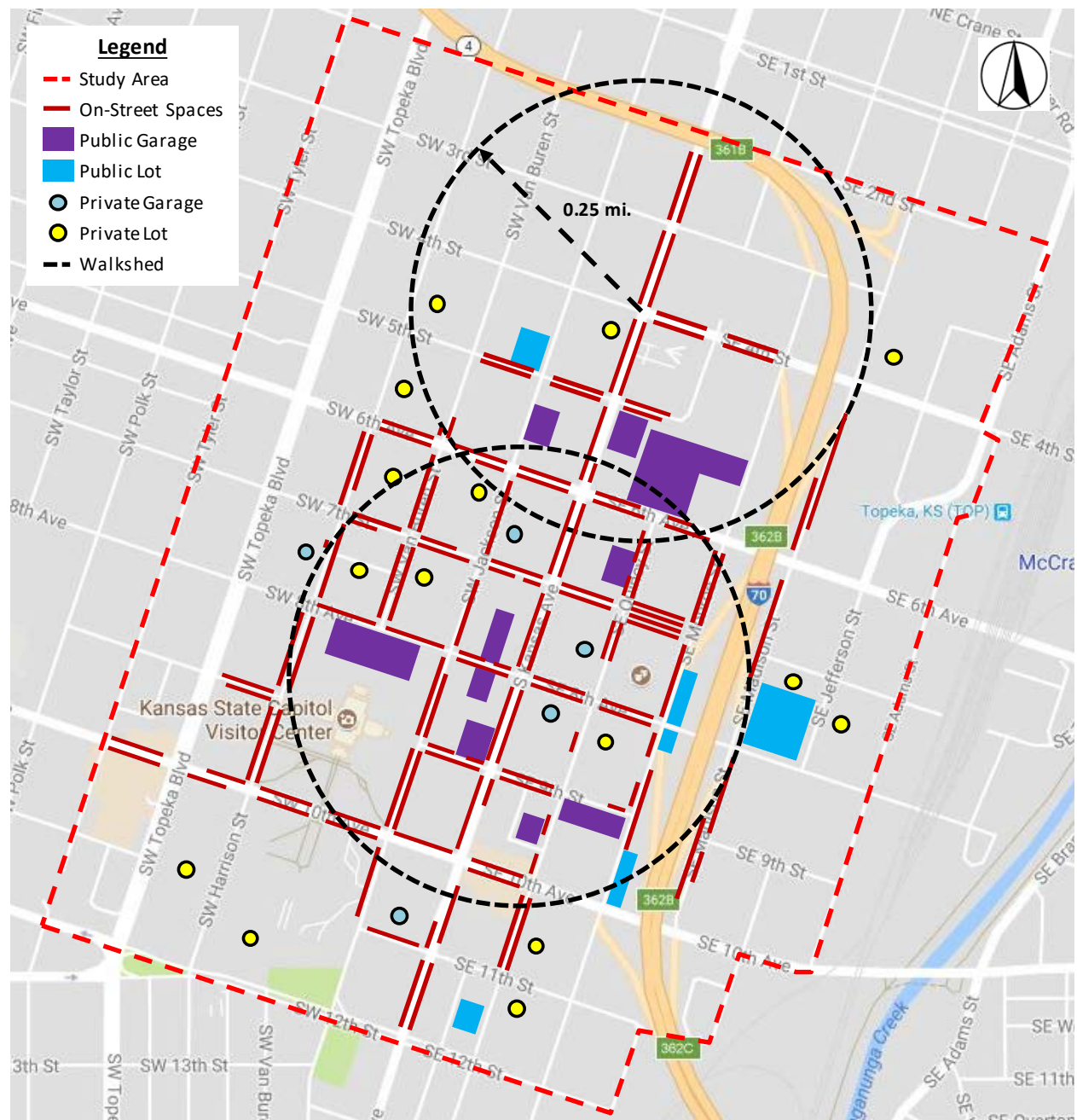
Study Area and Parking Inventory

The boundaries of the study area for the Comprehensive Parking Plan were developed by the City and intended to encompass all of the public parking in Downtown Topeka. In general, the study area for this project is SW 2nd Street as the northern boundary, Tyler Street as the western boundary, SW 12th Street as the southern boundary, and Adams Street as the eastern boundary.

As shown in the figure below, within the Downtown study area there are 10 public parking garages, 5 private parking garages, 6 public surface parking lots, 15 large, private surface parking lots, and several thousand on-street spaces. All told, within the Downtown study area, the following parking assets were identified:

- o 2,057 On-Street Spaces
- o 3,933 Spaces in the 10 Public Garages (7 City-owned, 1 State-owned, 2 privately-owned)
- o 560 Spaces in the 6 Public Surface Lots
- o 5,500 Private Spaces in 5 Garages and 15 Large Surface Lots

Comprehensive Parking Plan Study Area and Parking Facility/On-Street Space Locations



Source: DESMAN

Existing Public Parking Supply/Demand Conditions

Based on occupancy counts of the public parking facilities and on-street spaces in the Downtown study area, during the typical weekday peak demand period, there is currently not a shortage of parking when looking at the Downtown as a whole. However, localized shortages of on-street parking do occur, particularly on S. Kansas Avenue and several street segments around the State Capitol. In total, slightly more than 50% of the public parking spaces in the Downtown study area were occupied during the weekday peak demand period.

City Parking Operations

Many of the City's procedures for enforcing on-street parking and tracking permit sales and revenue are conducted manually. Parking regulations are enforced by Parking Control Officers visually verifying parking meters have not been paid or manually documenting vehicles that remain parked beyond posted time limits. Additionally, the City's parking garages operate on three different operating systems, which requires staff to manually integrate utilization and revenue data with the City's finance system.

The parking meters installed throughout the study area are single-space, mechanical meters that accept only coins for the payment of parking time – no alternative forms of payment are accepted. In addition, much of the existing parking garage access and revenue control equipment is at least eight years old and is reaching the end of its useful life.

As a self-supporting unit of the larger City government, the Parking Division must fully support its operations, maintenance and capital expenditures from revenues generated by the City's public parking assets. Over the past several years, however, profits from the City's parking operations have been steadily declining, resulting in an inability for the Division to replace equipment or perform facility maintenance as often as is necessary. Based on the preliminary 2018 Budget, a shortfall of more than \$320,000 is projected for the City's parking operation.

Future Public Parking Supply/Demand Conditions

A large number of development and redevelopment projects are set to occur within the Downtown study area both in the near-term (within two years) and longer-term (2020-2025). These new developments are anticipated to create localized shortfalls in the public parking supply, resulting in potential parkers experiencing increased difficulty finding an available space. In some instances, the existing public parking facilities will be inadequate to satisfy the projected peak parking demand.

Over the long-term, if the City continues its policy of providing most of the public parking in Downtown, there will be a need for additional facilities and/or agreements with owners of private parking facilities to use their spaces during off-peak hours.

Operations, Management, Policy, and Physical Improvement Recommendations

Based on the issues identified by DESMAN and the City during the course of the project, a series of recommendations were developed to address the operations, management, policy, and technology associated with the City of Topeka's parking system. These recommendations were guided by three overarching assumptions, developed by DESMAN in consultation with the City:

1. Free, two-hour on-street parking along S. Kansas Avenue and associated side streets that currently have yellow hoods on meters will continue for the foreseeable future. However, future downtown development and growth could result in this policy being reevaluated in the future. By continuing this policy, the City understands that it will be foregoing more than \$280,000 in potential parking meter revenue annually.
2. Demand management strategies will be implemented to better utilize existing parking supply available on-street, as well as in garages and surface lots.

3. The City will need to develop/adopt additional funding strategies beyond existing fees from meters, leases and enforcement, to pay for plan recommendations and the future capital repair needs of the parking facilities.

Along with the current operations of the parking system, the proposed recommendations are anticipated to result in expenses exceeding revenues by more than \$300,000-\$600,000 annually in the short-, medium- and long-term. If the parking system is going to continue to sustain itself as an enterprise fund, additional net revenue will be needed to fund capital and operating expenses.

2.0 Introduction

At the request of the City of Topeka (“City”), DESMAN Inc. (“DESMAN”) was selected to assist the City with the development of a long-term downtown parking master plan. The plan includes reviews of existing parking facility utilization and efficiency, determining capacity of current parking supply to absorb additional daily demand for both on- and off-street facilities and determining a current and future rate structure to finance the long-term parking demands and goals of Downtown Topeka.

The City, and especially the Downtown District (“Downtown”), is one with great history, and as such, was developed prior to the modern requirements of parking. DESMAN began to work with the City in order to develop a plan order to help move Topeka along the path to better fulfill those requirements without losing the historic charm of Downtown.

To those ends, DESMAN worked in coordination with the City to understand the current parking system and operations, define the challenges facing the City, identify opportunities for improving the operations, and formulate implementable recommendations. In addition to reviewing historical performance data for the parking system and conducting observations of current parking activity, DESMAN held extensive discussions with City personnel affiliated with parking operations as well as the Project Steering Committee and stakeholders from across the City. Stakeholder discussions were conducted over multiple days and included participants from the following groups:

- Downtown business owners and operators;
- Downtown residents;
- Property developers.

The following report presents the results of this work effort, which draws on existing data and City and community input, as well as best practices from the parking industry.

3.0 Public Input Process

As is typical of our approach to this type of project, the first step toward developing a long-term plan for parking in Topeka was to become intimately acquainted with the project’s study area through firsthand exploration of the area, review of prior and associated efforts, and in-depth discussions with City personnel and constituents. Once a basic understanding of market conditions was established, a series of discussions were had with concerned constituents and stakeholders, following a “listen-confirm-respond” format.

Throughout the public process, DESMAN engaged in a program of constant analysis and assessment, identifying issues to be addressed later in the study.

During the process of formulating the Parking Operations and Development Plan for the City of Topeka, public input on parking in the city was gathered by a variety of means, including: sit-down discussions with various stakeholder groups, telephone calls with institutional stakeholders, and an online survey accessible by residents of and visitors to Topeka. Based on the input received, the following issues were identified for further study/consideration:

- Visitors to Downtown Topeka are not accustomed to paying for parking

- Customers and visitors typically prefer to park in front of the store/destination they are travelling to
- Wayfinding is difficult for first time visitors
- There is a need for space counting/availability counting in the garages
- Employee parkers frequently overstay the 2-hour parking time limit at the hooded parking meters
- There have been instances of ADA permits being used improperly
- Business owners and managers see 2-hour free parking as key to the success of their businesses
- There is a need for loading zones for small businesses
- There is significant development in the pipeline which will impact parking demand in Downtown
- Potential exists to increase the use of remote parking by providing shuttle service
- The cost of parking is a concern for some employers considering moving downtown, since most businesses pay for their employee's parking
- There are opportunities for shared parking between major employers and entertainment uses on nights and weekends (TPAC already uses Capitol Federal parking)
- It is difficult to justify paid parking until Downtown Topeka is more of a destination

A complete summary of the online survey results is included in **Appendix A** of this document.

4.0 Existing Conditions

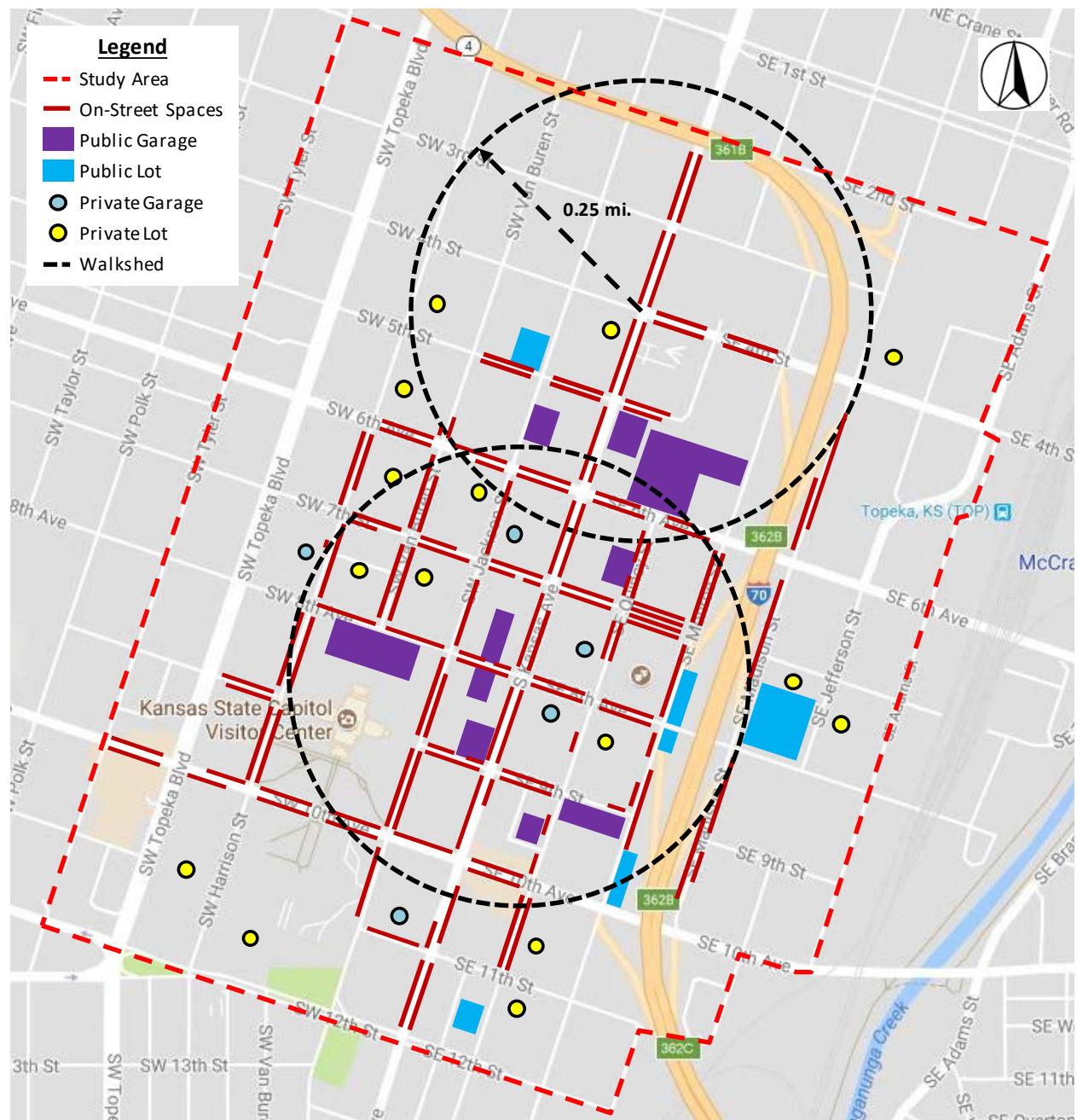
4.1 Study Area

Downtown Topeka has begun to experience some of the parking-related issues of a modern urban center, due to increasing density and development. As such, the boundaries of the study area were intended to encompass all of the public parking in Downtown Topeka. In general, the study area for this project is SW 2nd Street as the northern boundary, Tyler Street as the western boundary, SW 12th Street as the southern boundary, and Adams Street as the eastern boundary.

Figure 1 shows the study area boundary, along with the locations of existing public parking structures, surface parking lots and on-street spaces, as well as the general locations of private parking garages and large surface parking lots, in Downtown Topeka.

Also shown in the figure, as points of reference, are one-quarter of a mile walksheds from both the 4th Street and Kansas Avenue and 8th Avenue and Kansas Avenue intersections. One-quarter of a mile is the distance that an average person can walk at a normal pace in four to six minutes.

Figure 1 – Comprehensive Parking Plan Study Area



Source: DESMAN

One item of note related to Figure 1 and the analysis which follows in this report: the on-street spaces shown include all of the metered spaces in Downtown Topeka, as well as the on-street spaces along Kansas Avenue that were metered prior to the street improvement project; not included in the figure or the supply/demand analysis are just over 100 unmetered on-street spaces located in the northwest corner of the study area which, according to the City, are historically underutilized and outside of the primary activity and development areas in Downtown.

4.2 Downtown Public Parking Supply

The supply of parking in Downtown Topeka that is the focus of this study consists of on-street (curbside) spaces, public surface lots, City-owned parking garages, the State-owned, public parking garage under the Capitol, and the privately-owned Topeka Tower Garage, at the corner of S. Kansas Avenue and SW 5th Street, that offers public parking. There are also a number of surface lots and garages in Downtown that are privately owned/managed, but are not available for use by the general public and, as such, were not included in the inventory of public parking or the following analyses. However, for reference, the locations of these facilities and their approximate total inventory are briefly discussed, below.

In total, the existing supply of public parking within the Downtown study area is 6,550 spaces. The breakdown of the inventory of public parking in Downtown Topeka is as follows:

- 2,057 On-Street Spaces
- 3,933 Spaces in 10 Garages (7 City-owned, 1 State-owned, 2 privately-owned)
- 560 Spaces in 6 Surface Lots

In addition to the public parking spaces within the study area, there are also 5 private garages and 15 private surface parking lots of over 50 spaces. In total, these facilities contain approximately 5,550 spaces – 1,850 in garages and 3,700 in surface lots.

4.2.1 On-Street Parking

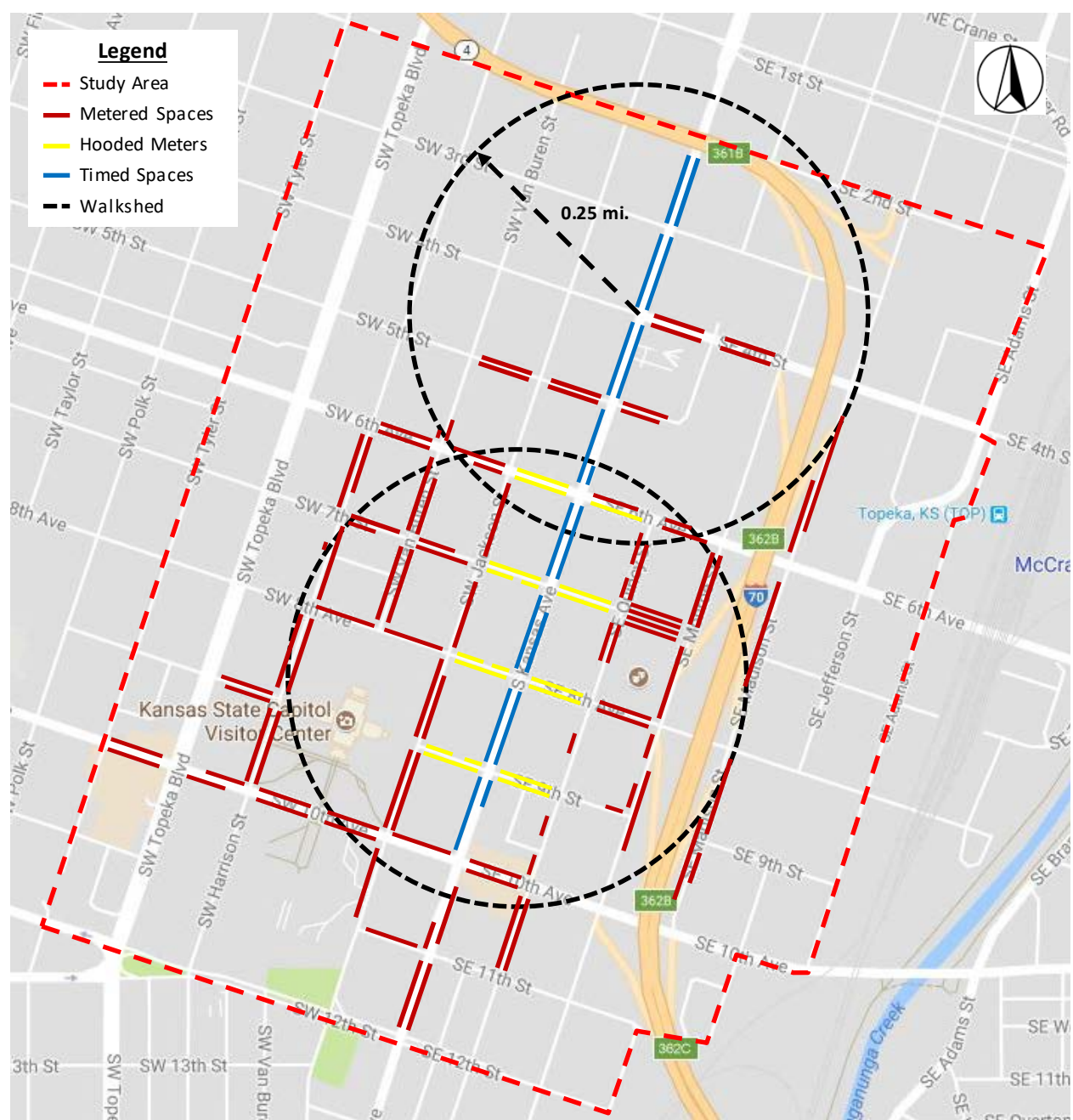
On-street public parking in Downtown Topeka is a combination of metered spaces, time-restricted spaces, spaces signed for handicapped parking only, and reserved spaces. **Table 1** provides a breakdown of the number of on-street parking spaces located on each street within the study area, while **Figure 2** shows, generally, the locations of the on-street parking spaces in Downtown.

Table 1: On-Street Parking Spaces by Street

Street	Number of Spaces
4th Street	48
5th Street	56
6th Avenue	126
7th Street	219
8th Avenue	136
9th Street	79
10th Avenue	137
11th Street	17
SE Madison Street	199
SE Monroe Street	145
SE Quincy Street	80
S. Kansas Avenue	352
SW Jackson Street	187
SW Van Buren Street	90
SW Harrison Street	186
Total	2,057

Source: DESMAN

Figure 2: On-Street Public Parking Supply



Source: DESMAN

As shown, the figure distinguishes between metered spaces, metered spaces that are hooded and time-restricted spaces. Both handicapped and reserved parking spaces are also found on-street in limited quantities. However, these spaces were not called out specifically in the figure, as they would be indistinguishable given the scale of the map.

The City produces a more detailed map which shows the locations of every City-controlled parking space in Downtown Topeka, including the associated parking restriction, which can be found in **Appendix B** of this report.

Parking Meters

There are currently three different parking meter time limits in Downtown Topeka: 1-hour, 2-hours, or 10-hours. In general, the 1- and 2-hour meters are located on the east-west streets within the study area (5th Street – 10th Avenue), as well as around the State Capitol Building on Harrison Street and Jackson Street. The 10-hour meters are primarily located on the periphery of the study area, although there are pockets of 10-hour meters near the State Capitol and along Van Buren Street.

Each parking meter controls one space and parking time can only be paid for with coins.

Hooded Parking Meters

In a number of locations throughout Downtown, the City has chosen to “hood” some of the meters. This means that the City has covered some meters with a hood, so that users are not required to pay for parking and may remain parked for free for up to two hours. The policy of hooding meters was put into place when the Kansas Avenue street improvement project began, in order to encourage people to continue coming Downtown to dine and shop.

Parking meters are hooded on 6th Avenue, 7th Street, 8th Avenue, and 9th Street, all within one block of Kansas Avenue. By DESMAN’s count, there were 253 meters hooded on May 4th, 2017.

Kansas Avenue Timed-Restricted Spaces

Based on conversations with the City, prior to the street improvement project, the on-street spaces on Kansas Avenue between 6th Avenue and 10th Avenue were metered. Since the completion of the project, the parking meters have not been reinstalled in these spaces. Instead, users are permitted to park for free in these spaces for a maximum of two hours per block, per day total. This means that, if a vehicle parks in a space on Kansas Avenue near 7th Street for two hours, that vehicle may not be legally parked on that same block for the rest of the day.

4.2.2 Off-Street Parking

A total of 4,493 public off-street parking spaces are located in a combination of 10 garages and 6 surface parking lots. The City’s 7 parking garages contain a total of 3,183 spaces, the State-owned garage under the Capitol Building contains 263 spaces, the privately-owned garage at 800 S.W. Jackson St. contains 225 public parking spaces, and the Topeka Tower Garage contains 262 spaces – a total of 3,993 public garage parking spaces. The City’s 6 surface parking lots contain a total of 560 spaces.

Table 2 shows the breakdown of off-street parking spaces by facility. The table also includes labels for each of the facilities that correspond to the map in **Figure 3**.

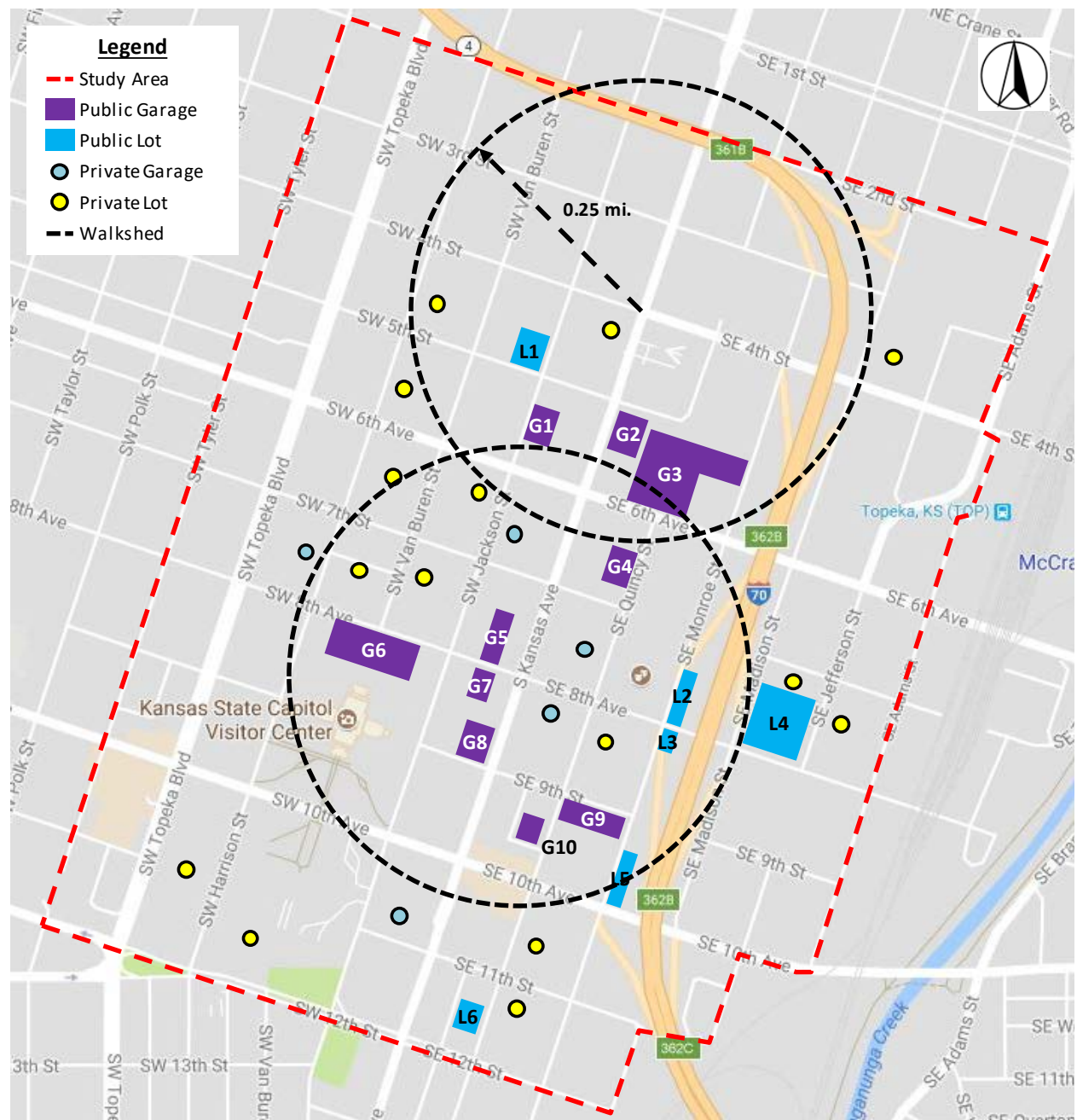
It should be noted that the City also owns the Uptowner Garage, located on the northwest corner of 7th Street and SW Jackson Street. This garage’s operations have been leased to Parish Management and Jayhawk Towers and, as such, these spaces were not considered public for the purposes of this study.

Table 2: Off-Street Parking Spaces by Facility

Parking Garages		
Facility ID	Facility Name	Space Capacity
G1	512 Jackson	443
G2	Topeka Tower Garage	262
G3	Townsite Plaza	817
G4	Park-N-Shop	390
G5	Crosby Place	259
G6	Capitol Garage	263
G7	800 S.W. Jackson Garage	225
G8	Centre City	261
G9	Ninth Street	760
G10	Coronado	253
Garage Total		3,933
Surface Lots		
L1	5th & Jackson	89
L2	700 Monroe	78
L3	800 Monroe	24
L4	8th & Madison	255
L5	900 Monroe	42
L6	Water Tower Lot	72
Surface Lot Total		560
Total Off-Street		4,493

Source: DESMAN

Figure 3: Off-Street Public Parking Supply



Source: DESMAN

4.2.3 Private Parking

As noted previously, in addition to the public parking facilities, there are also a number of privately-owned parking facilities in Downtown Topeka that are not accessible by the general public. These private facilities include 5 parking garages and 15 surface parking lots of over 50 spaces, as well as many smaller, private surface parking lots. At present, these facilities are restricted for use by only employees or customers of certain businesses or by State employees. Because these facilities are not available for public parking and are not controlled by the City, they were excluded from this analysis. However, if, in the future, additional

capacity is needed to satisfy public parking demand in Downtown Topeka, these facilities have the potential to help satisfy that demand.

4.3 Current Utilization of Parking

Parking utilization or occupancy is a common measure for determining the adequacy of a city's parking supply. By documenting the utilization of spaces during various periods of time, it is possible to determine the peak demand period and the extent to which different types of parking spaces are used. Ultimately, the analysis of existing parking demand can be used as the basis for evaluating the current adequacy of the parking supply, as well as the anticipated adequacy of the parking supply in the future, based on projected growth and development in Downtown Topeka.

In order to develop an understanding of the parking demand conditions in Downtown Topeka, occupancy surveys of public parking spaces, both on- and off-street, were conducted in May 2017, when the State Legislature was in session, and again in June 2017. The June surveys of the off-street parking facilities were conducted after it was determined that the activity levels documented during the May surveys were below typical levels of utilization observed by the City historically. It is unknown what caused the low levels of utilization during the May surveys.

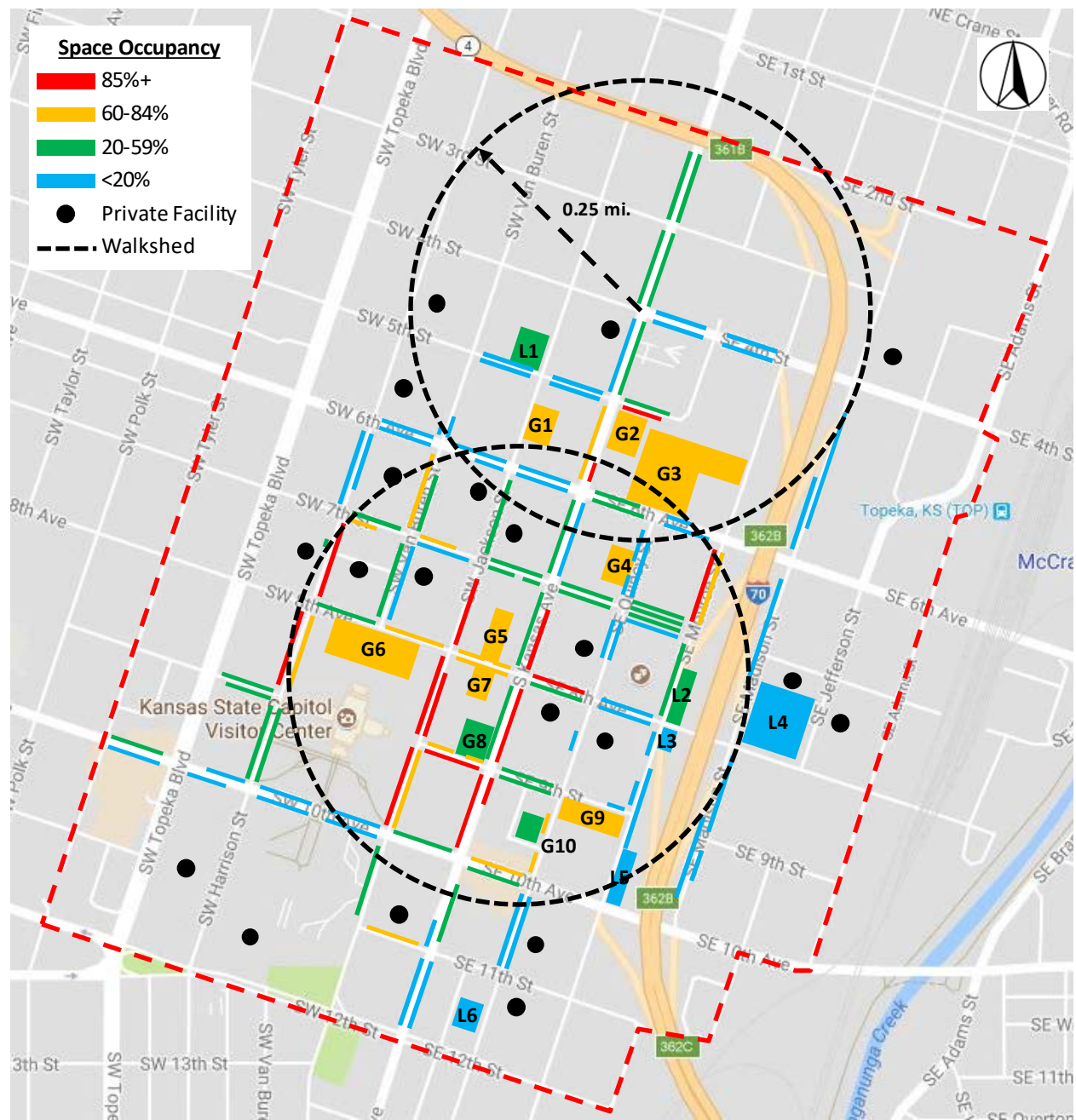
On Thursday, May 4th, Thursday, May 11th, Saturday, May 13th, and Monday, June 12th, 2017, occupancy surveys of the public parking spaces within the Downtown study area were conducted. The weekday surveys were conducted from 8AM to 12PM and 12PM to 5PM, in order to capture the peak demand period associated with Downtown office activity; the Saturday survey was conducted from 8AM to 12PM to capture the anticipated weekend peak demand associated with retail and restaurant activity in Downtown. These survey periods were chosen in consultation with the City, based on the typical patterns of utilization which occur on weekdays and weekends, in order to capture the peak demand periods. The pattern of parking utilization on a weekday in most downtowns consists of increasing utilization in the morning toward a peak, typically between 10AM and 2PM, with a steady decline in utilization as the daytime moves to evening.

On-street occupancy was measured on May 4th and May 13th, while off-street occupancy was measured on May 11th, May 13th and June 12th. The June count was strictly conducted at the parking garages.

The survey data of utilization by parking facility and on-street block face for both the morning and afternoon peak periods is presented in **Figures 4 and 5**, respectively. These figures represent the on-street occupancy data gathered on Thursday, May 4th, the surface lot occupancy data gathered Thursday, May 11th, and the garage occupancy data gathered Monday, June 12th, for the reason noted above.

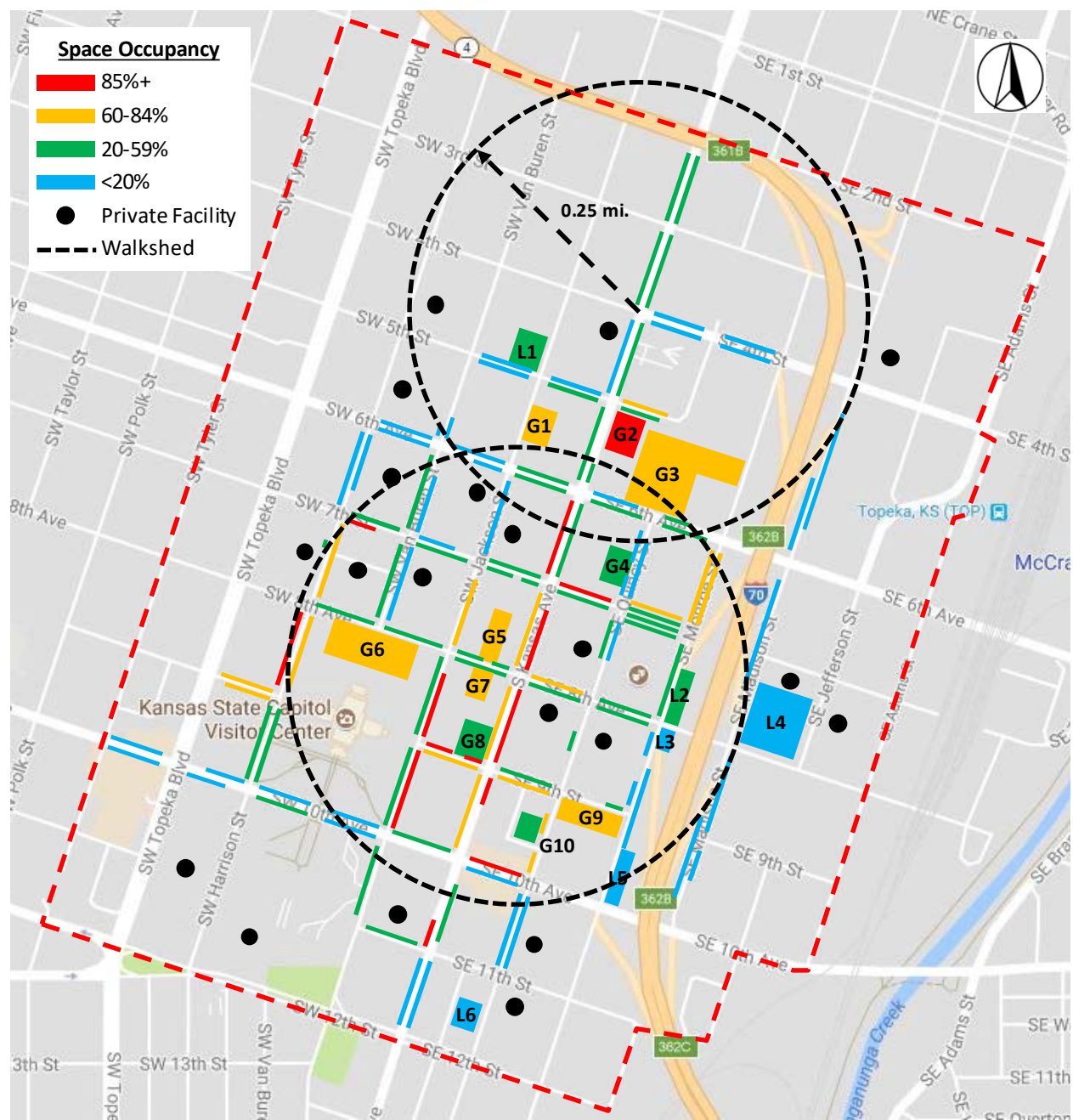
Tables 3 and 4 present the utilization data for the on-street spaces and off-street facilities, respectively, that was used to create the figures.

Figure 4: Weekday AM Peak Occupancy



Source: DESMAN

Figure 5: Weekday PM Peak Occupancy



Source: DESMAN

Table 3: On-Street Peak Parking Utilization, AM vs PM, Thursday, May 4th, 2017

Street	Number of Spaces	AM Occupancy	% Occupied	PM Occupancy	% Occupied
4th Street	48	0	0%	4	8%
5th Street	56	12	21%	14	25%
6th Avenue	126	10	8%	26	21%
7th Street	219	80	37%	100	46%
8th Avenue	136	73	54%	59	43%
9th Street	79	47	59%	52	66%
10th Avenue	137	31	23%	30	22%
11th Street	17	13	76%	9	53%
SE Madison Street	199	7	4%	8	4%
SE Monroe Street	145	58	40%	54	37%
SE Quincy Street	80	14	18%	13	16%
S. Kansas Avenue	352	156	44%	192	55%
SW Jackson Street	187	144	77%	100	53%
SW Van Buren Street	90	31	34%	26	29%
SW Harrison Street	186	103	55%	89	48%
Total	2,057	779	38%	776	38%

Source: DESMAN

Table 4: Off-Street Peak Parking Utilization, AM vs. PM, Monday, June 12th, 2017

Parking Garages						
Facility ID	Facility Name	Space Capacity	AM Occupancy	% Occupied	PM Occupancy	% Occupied
G1	512 Jackson	443	332	75%	327	74%
G2	Topeka Tower Garage	262	180	69%	262	100%
G3	Townsite Plaza	817	590	72%	536	66%
G4	Park-N-Shop	390	238	61%	219	56%
G5	Crosby Place	259	177	68%	174	67%
G6	Capitol Garage	263	188	71%	184	70%
G7	800 S.W. Jackson Garage	225	179	80%	163	72%
G8	Centre City	261	131	50%	124	48%
G9	Ninth Street	760	472	62%	462	61%
G10	Coronado	253	91	36%	88	35%
Garage Total		3,933	2,578	66%	2,539	65%
Surface Lots						
L1	5th & Jackson	89	23	26%	39	44%
L2	700 Monroe	78	37	47%	33	42%
L3	800 Monroe	24	0	0%	0	0%
L4	8th & Madison	255	39	15%	34	13%
L5	900 Monroe	42	5	12%	4	10%
L6	Water Tower Lot	72	10	14%	13	18%
Surface Lot Total		560	114	20%	123	22%
Total Off-Street		4,493	2,692	60%	2,662	59%

*As noted above, the garage data was gathered 6/12 and the surface lot data was gathered 5/11. The Capitol Garage data was gathered Wednesday, May 17, due to issues accessing the garage on 5/11 and 6/12.

Source: DESMAN

4.3.1 Weekday Utilization

The off-street parking facilities and on-street parking spaces were highlighted in the figures to indicate the percentage of spaces in each that were occupied at the time of the surveys: **RED** for 85% or more, **ORANGE** for 60-84%, **GREEN** for 20-59%, and **BLUE** for less than 20%. In the parking industry, parking facilities and systems are typically designed so that, even during peak demand periods, some percentage of the parking spaces remain empty. Ideally, during a typical peak demand period, 15% of the spaces in a facility or on-street remain available to accommodate new parkers. Maintaining an inventory of available spaces, even during the peak demand period, makes it easier for parkers to find a space, reduces the amount of time drivers spend searching for empty spaces and generally results in a more positive parking experience. This concept, referred to as “practical capacity”, refers to that point at which a parking facility or system has reached its functional limit and is unable to efficiently or safely accommodate additional parking demand.

As seen in Figure 4, several streets near the Kansas State Capitol Building, such as Jackson Street, 8th Avenue, and 9th Street, were more than 85% occupied during the morning survey period. Additionally, several blocks of Kansas Avenue were more than 85% occupied. These same patterns generally held during the afternoon survey period, as well. However, overall, the on-street spaces within the Downtown Topeka study area were 38% occupied during the morning and afternoon survey periods.

In terms of off-street parking, the parking garages were more highly utilized than the surface lots, as shown in Figures 4 and 5 and Table 4. Based on our observations, the parking garages were 66% occupied during the morning survey period and 65% occupied during the afternoon survey period, while the surface parking lots were 20% and 22% occupied in the morning and afternoon, respectively. In total, the off-street public parking facilities within the study area were 60% occupied during the morning peak period and 59% occupied during the afternoon peak period.

The combined inventory of on- and off-street public parking in the study area was 53% occupied during the morning peak period and 52% occupied during the afternoon peak period.

In order to have more data points for comparison, DESMAN was provided with historical on-street occupancy survey data compiled by the City in November 2016. Comparing this historical data with the most recent survey data allows us to confirm or refute the results of the utilization surveys conducted as part of this project. **Table 5** presents the comparison of on-street occupancy in the study area on Tuesday, November 8th and Thursday, November 10th, 2016 with the occupancy data gathered on Thursday, May 4th, 2017.

Table 5: On-Street Peak Parking Utilization, November 2016 vs. May 2017

Street	Number of Spaces	Thursday, May 4th, 2017				Tuesday, November 8th, 2016				Thursday, November 10th, 2016			
		AM Occupancy	% Occupied	PM Occupancy	% Occupied	AM Occupancy	% Occupied	PM Occupancy	% Occupied	AM Occupancy	% Occupied	PM Occupancy	% Occupied
4th Street	48	0	0%	4	8%	6	13%	6	13%	5	10%	5	10%
5th Street	56	12	21%	14	25%	9	16%	4	7%	13	23%	7	13%
6th Avenue	126	10	8%	26	21%	32	25%	34	27%	42	33%	35	28%
7th Street	219	80	37%	100	46%	128	58%	129	59%	119	54%	108	49%
8th Avenue	136	73	54%	59	43%	73	54%	78	57%	55	40%	58	43%
9th Street	79	47	59%	52	66%	50	63%	49	62%	53	67%	53	67%
10th Avenue	137	31	23%	30	22%	29	21%	29	21%	26	19%	28	20%
11th Street	17	13	76%	9	53%	14	82%	15	88%	13	76%	13	76%
SE Madison Street	199	7	4%	8	4%	9	5%	9	5%	9	5%	8	4%
SE Monroe Street	145	58	40%	54	37%	36	25%	40	28%	32	22%	26	18%
SE Quincy Street	80	14	18%	13	16%	20	25%	12	15%	10	13%	15	19%
S. Kansas Avenue	352	156	44%	192	55%	171	49%	171	49%	168	48%	182	52%
SW Jackson Street	187	144	77%	100	53%	138	74%	148	79%	139	74%	134	72%
SW Van Buren Street	90	31	34%	26	29%	40	44%	40	44%	46	51%	38	42%
SW Harrison Street	186	103	55%	89	48%	55	30%	50	27%	56	30%	51	27%
Total	2,057	779	38%	776	38%	810	39%	814	40%	786	38%	761	37%

Source: DESMAN; City of Topeka

As shown in the table, for the study area as a whole, the peak occupancy of the on-street parking spaces in November 2016 was similar to the occupancy levels recorded in May 2017. While there were differences in the occupancy levels recorded on particular streets, this additional data indicates that there are typically a significant number of on-street parking spaces available in the Downtown study area during the weekday peak demand periods.

4.3.2 Weekday Utilization vs. Current Parking Leases

While the actual utilization of parking spaces at any given time is of critical importance when determining the ability of a parking facility or system to accommodate additional parkers, it is also important to understand the relationship between actual utilization and the number of monthly parking leases and reserved spaces in each parking facility. **Table 6** compares the number of leases outstanding (along with Reserved Spaces) in each off-street parking facility with the observed peak utilization of each facility and the total number of spaces. The Topeka Tower Garage has been excluded from this table, as the number of leased spaces in this facility is unknown.

Table 6: Weekday Utilization vs. Current Parking Leases

Parking Garages								
Facility ID	Facility Name	Space Capacity	AM Occupancy	% Occupied	PM Occupancy	% Occupied	Current Leases	% Spaces Leased
G1	512 Jackson	443	332	75%	327	74%	485	109%
G2	Townsite Plaza	817	590	72%	536	66%	786	96%
G3	Park-N-Shop	390	238	61%	219	56%	192	49%
G4	Crosby Place	259	177	68%	174	67%	242	93%
G5	Capitol Garage	263	188	71%	184	70%	145	55%
G6	Centre City	261	131	50%	124	48%	206	79%
G7	Ninth Street	760	472	62%	462	61%	846	111%
G8	Coronado	253	91	36%	88	35%	151	60%
Garage Total		3,446	2,219	64%	2,114	61%	3,053	89%
Surface Lots								
L1	5th & Jackson	89	23	26%	39	44%	60	67%
L2	700 Monroe	78	37	47%	33	42%	0	0%
L3	800 Monroe	24	0	0%	0	0%	0	0%
L4	8th & Madison	255	39	15%	34	13%	50	20%
L5	900 Monroe	42	5	12%	4	10%	22	52%
L6	Water Tower Lot	72	10	14%	13	18%	24	33%
Surface Lot Total		560	114	20%	123	22%	156	28%
Total Off-Street		4,006	2,333	58%	2,237	56%	3,209	80%

*Current leases also includes Reserved Spaces which are not available for use by the general public

Source: DESMAN; City of Topeka

Based on information provided by the City, there are currently enough parking garage leases outstanding to account for 89% of the total inventory of garage spaces. This figure compares to the actual peak observed utilization of 66%. In the surface lots, 156 monthly parking leases are outstanding, accounting for 28% of the total surface parking inventory; this compares to morning peak period utilization of 20%.

Despite the relatively low observed utilization of the parking garages, the high proportion of spaces that are meant to serve monthly leaseholders means that the City must constantly monitor usage of those facilities, in order to ensure that spaces are available when leaseholders arrive to park. This limits the ability of the City to sell additional monthly leases in these garages.

4.3.3 Weekend Utilization

In order to adequately understand the parking demand in the study area, it was important to gather weekend utilization data along with the weekday data. Occupancy surveys of the on-street spaces and off-street facilities were conducted on Saturday, May 13th, 2017 between 8AM and 12PM.

The results of the weekend utilization surveys indicate that parking demand drops significantly on weekends when compared to the weekdays. As shown in **Table 7**, utilization of the on-street parking spaces dropped from a morning peak of 38% recorded on Thursday, May 4th to 12% on Saturday, May 13th.

Similarly, demand for and utilization of the off-street public parking facilities declined on the weekend when compared to the weekdays. While the off-street parking facilities were 51% occupied during the weekday morning peak demand period, utilization fell to 6% during the weekend survey period.

The significant decline in the utilization of public parking in Downtown Topeka on weekends versus weekdays is common in downtowns throughout the country.

Table 7: On-Street Peak Parking Utilization (AM), Saturday, May 13th, 2017

Street	Number of Spaces	AM Occupancy	% Occupied
4th Street	48	1	2%
5th Street	56	7	13%
6th Avenue	126	12	10%
7th Street	219	46	21%
8th Avenue	136	31	23%
9th Street	79	26	33%
10th Avenue	137	6	4%
11th Street	17	1	6%
SE Madison Street	199	9	5%
SE Monroe Street	145	16	11%
SE Quincy Street	80	10	13%
S. Kansas Avenue	352	51	14%
SW Jackson Street	187	14	7%
SW Van Buren Street	90	3	3%
SW Harrison Street	186	15	8%
Total	2,057	248	12%

Source: DESMAN

5.0 Existing Parking Operation

5.1 Oversight

The City of Topeka operates under a “council-manager” form of government, where the “council” is the elected governing body responsible for the legislative functions of the municipality, such as establishing policy, passing ordinances, voting appropriations, and developing an overall vision, while the “manager” is appointed by and provides advice to the “council”, oversees the administrative operations of the City and implements City ordinances.

In terms of public parking in Topeka, the City Council adopts parking-related ordinances and changes to existing ordinances, while the City Manager ensures that any new ordinances or changes to existing ordinances are implemented. Policy decisions including rates, fines, hours, and areas, are considered by the City Council, based on input from the City Manager’s Office, assigned City staff and outside experts. While the decisions made by the Council have a direct effect on how public parking is operated, there is typically no involvement by the Council in the day-to-day operation or management of parking.

5.2 Management

Day-to-day parking operations are managed by the Parking Division of the Public Works Department, including enforcing parking regulations at meters and other on-street spaces. The Facilities Division of Public Works assists with maintenance and upkeep of the City’s surface lots, garages and meters. Despite the Facilities Division performing facility and equipment maintenance, every decision related to public parking in Topeka runs through the Parking Division and the Director of Parking.

The organizational structure in Topeka creates a single point of contact inside City government for any parking-related questions or concerns. As Topeka's Downtown area continues to develop, having the authority for the parking system rest with one department should allow changes to be made more easily than if parking-related responsibilities were spread among several departments. This structure removes the need for large scale coordination among multiple City departments with different budgets, agendas, and stakeholders and allows for quick and effective responses to any parking issue that may arise.

5.3 Operations

Enforcement of metered and timed public parking spaces, both on- and off-street, is performed by four full-time Parking Control Officers ("PCOs" or "Officers"). These four Officers cover five different enforcement areas, rotating assignments on a daily basis. The Officers also rotate between walking and driving, depending on which route they are enforcing. In addition to enforcing parking regulations, PCOs are also responsible for collecting coins from the meters.

The enforcement staff visually verifies that parking meters have been paid. In addition, the PCOs manually document vehicles that stay beyond the posted time limits by recording on their handheld units the license plate and block where a vehicle is parked – vehicles parking in time-restricted spaces are not recorded as being parked in a specific space. This method of tracking vehicle parking activity provides a loophole for long-term parkers to exploit, allowing them to move their cars from block-to-block to avoid receiving a ticket at time-restricted spaces.

The Autocite 3 handheld units used by the PCOs to enforce parking regulations are over 10 years old. Modern parking enforcement technology provides additional functionality that the current technology does not, such as the ability to take photographs of vehicles in violation for use when violators protest a ticket.

5.4 Back Office

The heart of any parking system is the back-office support. It houses the database of permits, violations and other information. More importantly, it provides customer service for people needing information, issuing complaints or paying tickets in person. A good system requires up-to-date accounting and parking software.

The current system consists of several different accounting and revenue control systems which do not communicate well. This requires City staff to manually integrate data between the systems. Collection letters are printed using the JSI system after staff has manually checked the license plates and only in-state plates can be checked. The JSI system is heavily reliant on manual input from staff.

The City's finance system "Lawson" handles the billing of monthly parkers. This system is not tied directly to the garage access control systems, which adds additional manual steps for the parking staff. Parking Division staff review delinquent accounts on a monthly basis and send notices to those delinquent accounts. After 60 days, cards are discontinued.

Like the back-office software systems, the garages operate using several different systems for access and revenue control – four different systems among the seven City-owned parking garages. As shown in **Table 8**, the three of the four operating systems date from before 2012. Multiple operating systems make it more difficult for staff to manage the garage system, identify problems and handle billing of permits.

Table 8: Parking Access and Revenue Control System Inventory

Garage	System	Year Installed	Age (years)
512 Jackson	Scan Net	2012	5
Townsite Plaza	Element	2009	8
Park-N-Shop	Element	2009	8
Crosby Place	Element	2007	10
Centre City	TIBA	2016	1
Ninth Street	Element	2006	11
Coronado	no system	pre-2000	17+

Source: DESMAN

5.5 On-Street/Metered Parking Fees

Fees are collected for parking in certain on-street spaces and in the 800 Monroe surface lot using single-space parking meters; handicapped spaces do not require payment. The meters in Downtown allow parking for different time limits, which is indicated by the color of the post supporting the meter or the color of the very top of the meter – green poles are one-hour meters, grey poles are two-hour meters, and yellow poles are ten-hour meters. Permits may also be purchased which allow parking at 10-hour metered spaces.

In addition to paying hourly or purchasing a permit for parking at a meter, certain users, such as utility companies performing maintenance, individuals moving equipment, and workers on Downtown construction projects, among others, can pay for a hood to be placed over a parking meter. Meter hoods are available on either a monthly or daily basis.

Table 9 shows a breakdown of the various fees associated with parking at certain on-street spaces in Downtown Topeka.

Table 9: Current On-Street Parking Rates

Space Type	Fee
1- or 2-Hour Meter	\$1.00/hour
10-Hour Meter	\$0.50/hour
10-Hour Meter Permit	\$44.00/month
Hood (daily)	\$6.00/day
Hood (monthly)	\$67.75/month

Source: City of Topeka

The hourly parking meter rates shown in the above table have been in effect since 2010. The daily rate for a parking meter hood was established in 2005, while the monthly rate for a hood was set in 2010.

Historically, parking meters in the Downtown area were \$0.75 cents per hour and meters outside of Downtown were priced at \$0.50 cents per hour. In 2008, the City increased rates to \$0.80 per hour for 1- and 2-hour meters, while leaving the 10-hour meter rates unchanged at \$0.50/hour. Again in 2009 and 2010, the hourly rate for parking at a 1- or 2-hour meter increased by \$0.10/hour, bringing the hourly rate to \$0.90 in 2009 and \$1.00 in 2010. Since 2010, the hourly rates charged at the City's parking meters have not increased.

Section 5.9, below, will discuss how the City of Topeka's on-street and other parking rates compare to other, similar municipalities.

5.6 Off-Street Parking Rates

The City-owned parking garages offer a mix of monthly lease parking and hourly parking, while a number of the surface lots also offer monthly lease parking. **Table 10** presents the current monthly and hourly parking rates charged at each of the City's parking facilities, along with each facility's hours of operation.

Table 10: Current Off-Street Parking Rates

Facility Name	Hours of Operation	Monthly Lease Rate (covered)	Monthly Lease Rate (roof)	Hourly Parking Rate
512 Jackson Garage	6AM-6PM, M-F	\$67.75	N/A	\$1.00
Townsite Plaza Garage	6AM-8PM, M-F	\$67.75	N/A	\$1.00
Park-N-Shop Garage	6AM-6PM, M-F	\$67.75	N/A	\$1.00
Crosby Place Garage	6AM-8PM, M-Tu; 6AM-2AM, W-Sat.	\$67.75	N/A	\$1.00
Centre City Garage	6AM-8PM, M-F	\$67.75	N/A	\$1.00
Ninth Street Garage	6AM-6PM, M-F	\$47.43	N/A	\$1.00
Coronado Garage	6AM-6PM, M-F	\$67.75	\$35.00	N/A
5th & Jackson Lot	-	\$45.00	N/A	N/A
8th & Madison Lot	-	\$18.00	N/A	N/A
900 Monroe Lot	-	\$30.00	N/A	N/A
Water Tower Lot	-	\$18.00	N/A	N/A

Source: City of Topeka

As shown in the table, nearly all of the City's garages offer monthly lease parking for \$67.75/month and hourly parking for \$1.00/hour. The Ninth Street Garage offers all parkers a lower monthly lease rate, while at the Coronado Garage, parkers who are willing to park on the roof can pay a lower rate of \$35.00/month.

Much like metered parking rates in the city, the rates charged at the parking garages increased incrementally from 2008 to 2010. Aside from the rate at the Ninth Street Garage, monthly lease rates at the City's garages increased from \$64.50 in 2008, to \$66.00 in 2009, to the current \$67.75 in 2010. Similarly, hourly parking rates increased from \$0.80/hour in 2008, to \$0.90/hour in 2009, to the current \$1.00/hour in 2010.

On Saturdays, free parking is available to customers in the Centre City, Crosby Place, Park-N-Shop, and Townsite garages. Customers take a ticket to enter and use the ticket when leaving to raise gate, but are not charged for the time they remain parked.

When there are large community events that have been approved in advance, the gates at some or all of the hourly garages will be raised to allow customers to park for free. This also allows for improved traffic flow in and out of the garages.

As mentioned previously, Section 5.9 will discuss how the City of Topeka's parking rates compare to other, similar municipalities.

5.7 Parking Citations

If a vehicle is found to be parked in violation of the City's overtime or expired meter parking ordinance, PCOs use their handheld computers to create and issue a citation in the amount of \$8.00 that is placed under the front windshield wiper of the vehicle. If the same vehicle continues to remain parked without payment, additional citations can be issued on the same vehicle, each of which are a \$15.00 fine. Vehicles that have 3 or more unpaid citations will be immobilized in a boot, which costs an additional \$35 on top of the already unpaid citations. The current software in the handheld units is not able to be easily updated, so PCOs need to check manually to see if tickets are paid before booting.

Parking Citations can be paid in person by personal check, cashier check, money order, cash, or credit or debit cards. Citations can also be paid online through the City's website.

Table 11 provides a breakdown of the current fines for violating parking ordinances in the City of Topeka.

Table 11: Parking Violation Fines

Violation	Fine	Late Fee (After 14 Days)	Late Fee (After 30 Days)	Late Fee (After 60 Days)
Warning	\$0.00	N/A	N/A	N/A
Overtime	\$8.00	\$15.00	\$30.00	\$60.00
2nd Overtime	\$15.00	\$20.00	\$30.00	\$60.00
Expired Meter	\$8.00	\$15.00	\$30.00	\$60.00
2nd Expired Meter	\$15.00	\$20.00	\$30.00	\$60.00

Source: City of Topeka

Several types of violations were omitted from the table, due to the fact that overtime and expired meters are the most cited violations.

For clarity, an "Expired Meter" violation results when a parker stays in a metered space longer than he or she has paid for. An "Overtime" violation results when a vehicle remains parked in a space longer than the legal limit (parking for longer than one hour at a green meter or for longer than two hours on most of Kansas Avenue, for example). It is also possible for a parker to be fined for both violations at the same time.

The number of parking citations issued monthly from January 2013 to June 2017 are shown below in **Table 12**.

Table 12: Parking Citations Issued by Month, January 2013 – June 2017

Year	January	February	March	April	May	June	July	August	September	October	November	December	Total
2013	1,360	887	1,610	1,738	1,975	1,566	1,583	1,782	1,362	2,005	1,564	1,549	18,981
2014	1,687	1,543	1,788	1,929	1,878	1,691	1,201	1,124	1,294	1,105	771	863	16,874
2015	1,172	1,158	1,349	1,045	1,045	1,014	1,130	885	962	1,279	801	962	12,802
2016	924	1,360	1,381	1,029	1,005	1,286	1,215	1,131	702	654	675	938	12,300
2017	1,035	1,082	1,225	829	939	876	-	-	-	-	-	-	5,986

Source: City of Topeka

As shown in the table, Topeka's PCOs issued 12,300 parking citations in 2016. Based on an average of 252 enforcement days per year (no weekends and no City holidays), in 2016, an average of 49 citations per

day were issued in the City of Topeka. This daily total equates to each PCO issuing an average of 12-13 citations each work day.

This number of citations issued per day, along with reports of diligent enforcing of parking ordinances by the PCOs, suggest that the fines issued are punitive enough to ward off parkers who may otherwise attempt to get away with a parking violation. If the fines were too low, many more people would likely violate the ordinances and choose to pay the fine.

It is important to note that, as shown in Table 12, the number of citations issued per year declined by about 35% between 2013 and 2016. This significant decline in the number of citations issued likely reflects the large number of free two-hour spaces that have replaced on-street metered spaces and a reduction in the number of PCOs patrolling the street over that time.

5.8 Collections Process

When a citation is issued and not paid within 75 days, the citation is sent out for collection by either the Collection Bureau of Kansas (CBK) or the law firm of Zimmerman and Valentine. The City of Topeka has contracted with Collection Bureau of Kansas to collect unpaid debts owed to the City. There are still some debts being collected by Zimmerman and Valentine, but no current accounts are being referred to them.

CBK charges a fee of 17% of the outstanding debt for the initial collection effort involving administrative efforts such as sending letters and making phone calls. However, if the initial collection effort fails and further legal action is needed, the fee charged by CBK rises to 30% of the outstanding debt.

Table 13 presents the dollar value of parking citations that have gone to collection and been recovered, with the funds returned to the City.

Table 13: Annual Citation Debt Collections, 2013 – YTD 2017

Year	Citation Debt Collected
2013	\$51,996.42
2014	\$52,330.25
2015	\$67,296.92
2016	\$51,330.22
YTD 2017*	\$28,380.34

*Through June

Source: City of Topeka

Debt collections, on average, have remained largely constant from 2013 to 2016 at around \$52,000 per year. The exception was in 2015, when more than \$67,000 was collected. For 2017, based on the six months of data available, parking citation debt collections are on pace to grow to \$57,000.

5.9 Benchmarking

In order to understand how the City of Topeka's parking system compares with other, similar municipalities, DESMAN undertook a task called benchmarking. Benchmarking, in terms of a parking system, means to compare the aspects of the system that is currently being studied to other parking

systems that are deemed similar in terms of size, population, and composition. For the purposes of this project, several cities were identified by the City that were suitable for comparison. These cities are listed in **Table 14**, along with their population, on- and off-street rates, and several citation related figures.

Table 14: Benchmarking

City	State	Population	Off-Street (Hourly)	Off-Street (Monthly)	On-Street (Hourly)	Overtime Meter Fee	Late Payment Fee	Duration Before Late Fee
Topeka	Kansas	126,808	\$1.00	\$18.00-\$67.75	\$0.50-\$1.00	\$8.00	\$20.00-\$30.00	14 Days
Lawrence	Kansas	95,358	\$0.10-\$1.00	None	\$0.10-\$1.00	\$5.00	\$20.00	10 Days
Manhattan	Kansas	56,143	Time Limits Only	N/A	Time Limits Only	\$15.00	\$10.00-\$25.00	3 Days
Wichita	Kansas	389,902	\$1.50-\$2.00	\$40.00-\$51.00	\$0.10-\$0.25	\$15.00	\$10.00	10 Days
Kansas City	Missouri	481,402	\$3.00-\$4.00	\$55.00-\$120.00	\$1.00	Varies	Varies	15 Days
Lincoln	Nebraska	280,364	\$1.25	\$30.00-\$100.00	\$1.25	\$10.00	\$5.00	7 Days
Des Moines	Iowa	215,472	\$0.50-\$2.00	\$63.00-\$115.00	\$0.45-\$1.25	\$15.00	\$5.00	30 Days

Source: DESMAN

As Table 14 shows, Topeka is generally in the middle of these cities in terms of rates, with the exception of the Overtime Meter Fee, which is lower than every city but Lawrence, and the fee for monthly parking. Topeka's hourly parking rates are in line with these other municipalities. It is important to note, however, that only one of these municipalities does not charge for on-street parking and only uses time limits, that city being Manhattan, Kansas.

5.10 Historical Financial Performance of the Parking System

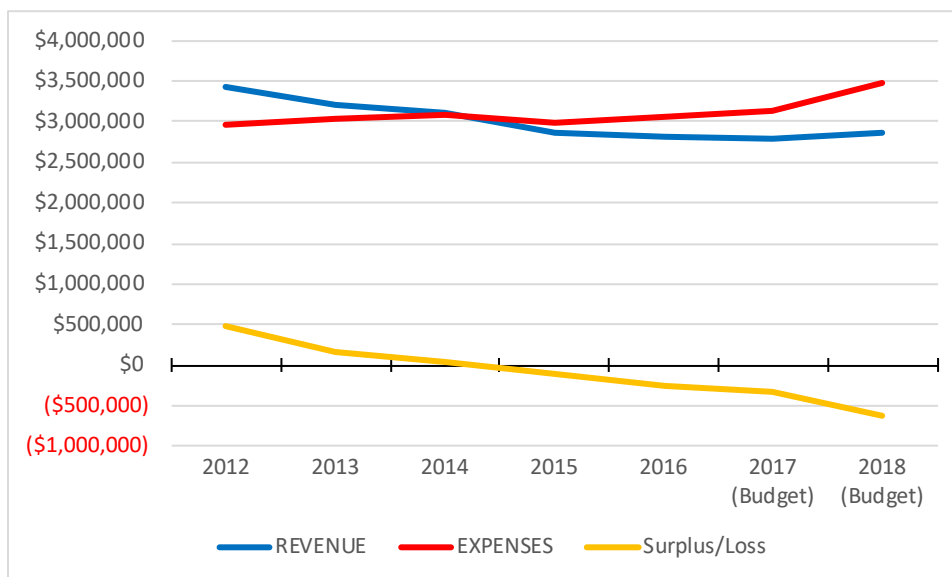
The financial performance of the parking system from 2012 to 2016 and budget figures for 2017 and 2018 are provided in **Table 15**, as well as in **Figure 6**.

Table 15: Historical and Projected Financial Performance of the City's Parking System

	2012	2013	2014	2015	2016	2017	2018
	Actuals	Actuals	Actuals	Actuals	Actuals	Adopted Budget	Preliminary Budget
Profit/Loss	\$ 475,656	\$ 172,331	\$ 45,375	\$ (110,729)	\$ (249,310)	\$ (338,244)	\$ (616,469)
REVENUE	\$ 3,430,399	\$ 3,213,205	\$ 3,117,814	\$ 2,872,521	\$ 2,802,130	\$ 2,798,394	\$ 2,856,370
Fees for Service:	\$ 2,969,420	\$ 2,909,291	\$ 2,819,455	\$ 2,625,855	\$ 2,599,564	\$ 2,596,107	\$ 2,654,083
Municipal Court	\$ 250,023	\$ 197,478	\$ 199,852	\$ 183,287	\$ 168,016	\$ 183,287	\$ 183,287
Miscellaneous	\$ 210,956	\$ 106,436	\$ 98,506	\$ 63,379	\$ 34,550	\$ 19,000	\$ 19,000
EXPENSES	\$ 2,954,744	\$ 3,040,874	\$ 3,072,439	\$ 2,983,250	\$ 3,051,440	\$ 3,136,638	\$ 3,472,840
Employee Compensation	\$ 549,908	\$ 693,573	\$ 599,006	\$ 516,032	\$ 500,477	\$ 587,411	\$ 652,426
Benefits	\$ 201,106	\$ 235,179	\$ 181,050	\$ 191,074	\$ 202,597	\$ 237,601	\$ 225,639
Utilities	\$ 213,784	\$ 252,587	\$ 274,186	\$ 260,333	\$ 257,563	\$ 290,446	\$ 284,777
Professional Services and Contractors	\$ 244,245	\$ 244,878	\$ 250,267	\$ 378,008	\$ 288,724	\$ 315,777	\$ 308,751
Miscellaneous	\$ 11,900	\$ 2,945	\$ 6,338	\$ 2,332	\$ 3,317	\$ 3,500	\$ 3,500
Insurance	\$ 33,898	\$ 31,365	\$ 57,535	\$ 88,155	\$ 65,717	\$ 66,243	\$ 64,103
Maintenance	\$ 107,133	\$ 110,933	\$ 228,031	\$ 68,239	\$ 118,142	\$ 296,986	\$ 83,655
Rent	\$ 32,370	\$ 2,058	\$ 1,849	\$ 1,797	\$ 1,596	\$ 1,800	\$ 1,800
Purchased Services	\$ 302,333	\$ 260,526	\$ 247,690	\$ 296,286	\$ 313,578	\$ 244,478	\$ 634,971
Supplies	\$ 49,271	\$ 101,110	\$ 138,455	\$ 188,830	\$ 427,358	\$ 143,600	\$ 129,100
Capital Outlay	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 108,000	\$ 261,528
Debt Service	\$ 424,403	\$ 311,058	\$ 287,015	\$ 228,915	\$ 872,373	\$ 840,796	\$ 822,588
Other Costs	\$ 784,391	\$ 794,662	\$ 801,015	\$ 763,249	\$ -	\$ -	\$ -

Source: City of Topeka

Figure 6: Historical and Projected Financial Performance of the Parking System, 2012-2018



Source: City of Topeka

Overall, revenue has declined steadily from a peak of \$3.4 million in 2012 to \$2.8 million in 2017. This revenue decline is likely the result of several factors, one of which is most certainly the removal of parking meters from Kansas Avenue and the hooding of other meters, allowing free on-street parking for the last several years. Expenses have remained relatively constant around \$3 million from 2012 to 2017. Net revenue has declined significantly from a surplus of \$475,000 in 2012 to a deficit of \$249,310 in 2016 and a projected deficit of \$338,244 in 2017.

As the Parking Division is intended to be entirely self-sufficient from a finance perspective from the rest of City government, the recent and projected future losses of the Division are cause for concern. Without adequate revenues to cover operating expenses and debt payments, that also means that resources are not available to maintain the facilities and equipment in good working order or to upgrade systems that are falling or have failed, such as the access and revenue control systems in the City's garages.

6.0 Future Downtown Parking Demand

6.1 Anticipated Future Development

Discussions with stakeholders and City staff revealed a number of potential developments which will likely influence parking demand in Downtown Topeka. The projects that could be identified vary dramatically in size and type, with plans ranging from a large conference center and hotel to single units of residential development. The developments are divided into two phases: Phase I projects are considered short-term, with anticipated completion dates prior to 2019, while the Phase II projects are expected to be completed by 2023.

Table 16 provides a full list of these developments including their location, size, the number of current parkers to be displaced, the number of parking spaces to be added as part of the project, and the anticipated peak parking demand generated by each project.

Table 16: Anticipated Future Development in Downtown Topeka

Anticipated Year of Completion	Type of Development	Address	Size	Units	Existing Parkers Displaced	Parking Added	Net Parking	Anticipated Demand ¹	Net Demand
2017-2019	Residential ³	101 N Kansas Ave.	33	1-bed units	0	33	33	32	1
2017-2019	Restaurant	918 S Kansas Ave.	5,291	sq. ft.	0	0	0	61	(61)
2017-2019	Hotel	920 S Kansas Ave.	62,107	sq. ft.	0	0	0	99	(99)
2017-2019	Convention Center for Hotel	912 S Kansas Ave.	15,045	sq. ft.	0	0	0	90	(90)
2017-2019	Restaurant	915 S Kansas Ave.	15,000	sq. ft.	0	0	0	173	(173)
2017-2019	Retail	921 S Kansas Ave.	4,600	sq. ft.	0	0	0	18	(18)
2017-2019	Restaurant	112 SW 6th Ave.	1,500	sq. ft.	0	0	0	17	(17)
2017-2019	Office	107 SW 6th Ave.	6,800	sq. ft.	0	0	0	20	(20)
2017-2019	Restaurant	705 S Kansas Ave.	17,000	sq. ft.	0	0	0	196	(196)
2017-2019	Restaurant/Bar	735 S Kansas Ave.	3,200	sq. ft.	0	0	0	37	(37)
2017-2019	Residential	913 S Kansas Ave.	1	2-bed unit	0	0	0	1	(1)
2017-2019	Office/Retail ²	913 S Kansas Ave.	3,500	sq. ft.	0	0	0	12	(12)
2017-2019	Residential	718 S Kansas Ave.	3	2-bed units	0	0	0	3	(3)
2017-2019	Office/Retail ²	720 S Kansas Ave.	9,366	sq. ft.	0	0	0	33	(33)
2017-2019	Residential	726 S Kansas Ave.	1	2-bed unit	0	0	0	1	(1)
2017-2019	Residential	600 SE Madison St.	28	units	0	28	28	27	1
2017-2019	Residential ³	109-115 N Kansas Ave.	3	units	0	0	0	3	(3)
2017-2019	Residential	826 S Kansas Ave.	1	1-bed unit	0	0	0	1	(1)
2017-2019	Office	423 S Kansas Ave.	5,100	sq. ft.	0	0	0	15	(15)
2017-2019	Institutional	335 SW Jackson St.	4,800	sq. ft.	0	0	0	14	(14)
2017-2019	Office	728 S Kansas Ave.	1,650	sq. ft.	0	0	0	5	(5)
	Phase I Total				0	61	61	859	(798)
2020-2025	Residential	823 Quincy St.	100	units	0	0	0	98	(98)
2020-2023	Public Plaza/Open Event Space	618-634 S Kansas Ave.	1 acre		30	0	(30)	0	(30)
2020-2023	Theater	714 SW Jackson St.	800	seats	0	0	0	296	(296)
	Phase II Total				30	0	(30)	296	(326)

1) Based on the Urban Land Institute parking demand factors, adjusted for local conditions.

2) 50/50 blend of retail and office demand factors.

3) These developments are not in study area, but are close enough to Downtown to influence the Downtown parking market.

4) In addition, vacant space not included in identified projects may be redeveloped. In that case, parking impact may need to be reevaluated.

Source: City of Topeka; Downtown Topeka Inc.

6.2 Impact of Development on Future Parking Supply and Demand

The largest developments anticipated in the near-term in Downtown Topeka include two 15,000+ square foot restaurants and a hotel with a convention center. These projects, along with the other projects listed in Table 16, are expected to increase the number of potential parkers in Downtown by over 850 vehicles, equivalent to the demand for a net of nearly 800 parking spaces.

By the year 2023, two additional major developments will occur in Topeka that may affect the parking system. First, a public plaza is going to be built in an area that currently has 30 parking spaces. The plaza will eliminate these stalls and not replace them. Based on discussions with DTI, the plaza could attract 500 people or more to an event on evenings and weekends. This would translate into demand for 175 parking spaces. Secondly, renovation of the Jayhawk Theater will add demand for 296 spaces. Adding an additional demand of 296 stalls into an already heavily occupied area would be difficult. However, because most of the theater events occur during off-peak hours, Topeka has more than enough capacity to accommodate the Theater demand in the evenings.

Despite the fact that the Phase I developments are expected to generate the demand for a net 800 parking spaces in Downtown, not all of this demand will occur at the same time of day. Just as with existing Downtown office workers, the peak demand period for future office parking will be during the daytime on weekdays. This is in contrast to demand for restaurant parking, which typically peaks in the evenings.

Given the varying needs of the parkers that will be generated by the different types of development, it was necessary to determine when these parkers will demand spaces. **Table 17** shows how the parking demand expected to be generated by Downtown development will be spread out over the daytime and evening/weekend periods and in which facilities that demand is likely to be captured. It should be noted that every facility that is shown serving the demand is within a 2-3 block walk of the development it is serving.

In Table 17, certain types of developments were placed into a daytime or evening/weekend category based on typical patterns of utilization according to the Urban Land Institute (ULI). The daytime category includes convention center and office parkers, while the evening category includes retail, theatre, and restaurant parkers. Finally, residential and hotel parkers were included in both counts, as hotels have similar patterns of utilization throughout the day and residential parkers often have reserved spaces.

By subtracting the anticipated demand from the observed number of vacancies on a typical day, it is possible to estimate the total additional parking supply that will be needed to satisfy the demand. In this table, total demand is the number of vacancies left in the parking structures after subtracting both anticipated demand and observed utilization of parking spaces from the total capacity of a facility. Also, it should be noted that in this table, instead of using actual capacity for demand calculations, practical capacity was used. This was done because once these facilities reach the 85% occupancy level, it is difficult for drivers to find the last spaces.

Table 17 shows that, in the near-future, additional parking demand in Downtown Topeka could fill several of the City's existing garages during the daytime at peak. Garages such as Park-N-Shop, Coronado and Ninth Street may reach and surpass practical capacity during the day. At the end of Phase II, only Townsite would have any daytime capacity.

The table also assumes that everyone seeking these spaces will be parking off-street whereas, in all likelihood, some of these parkers, especially parkers destined for retail or restaurants, may be parking on-street. Previous tables show that only 38% of the street parking in Topeka is occupied, with few streets reaching above 50% occupancy. Some of the patrons of the new retail and restaurant developments may take advantage of the relatively plentiful and affordable on-street parking provided by the City.

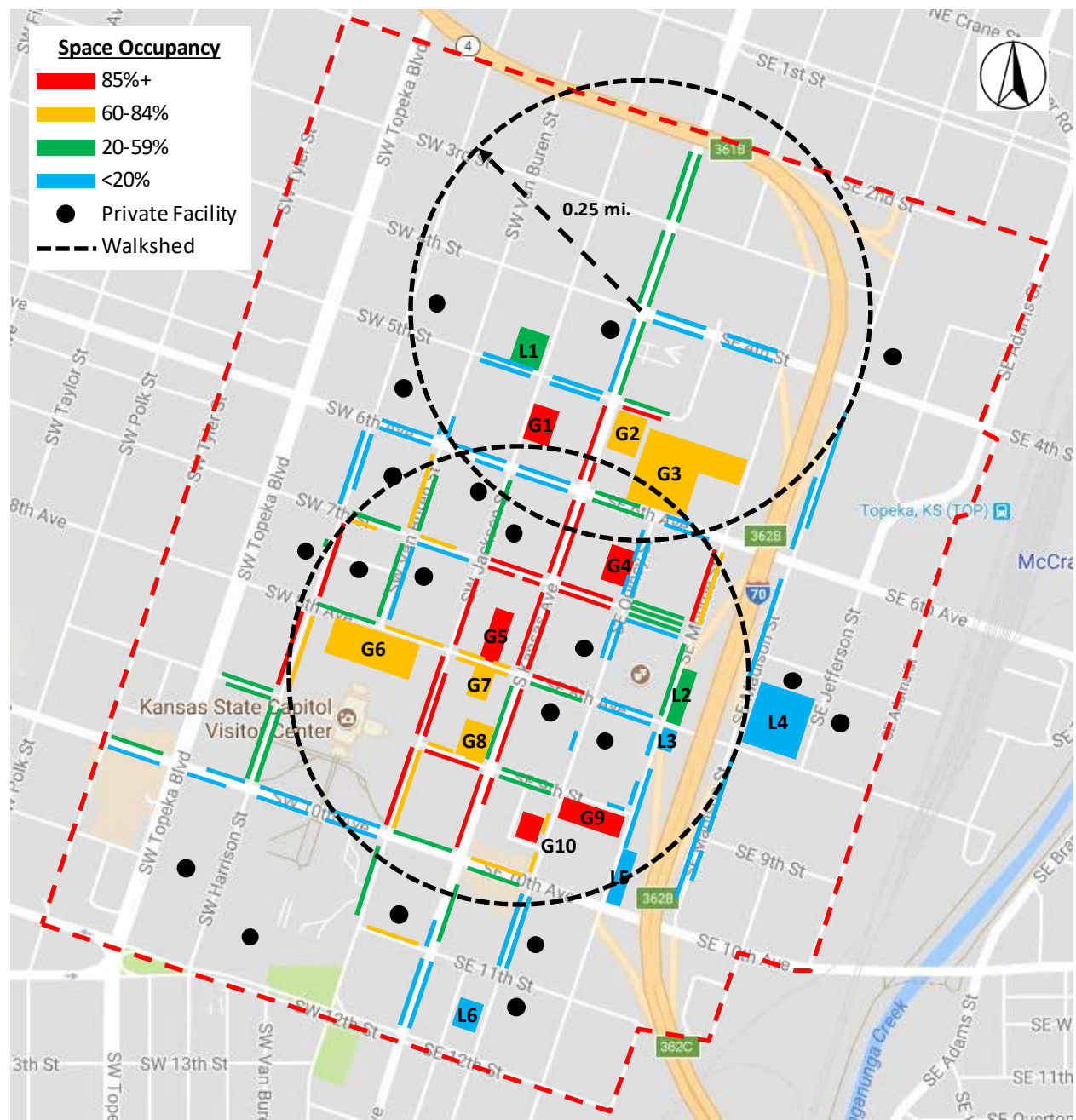
Figures 7 and 8 show the future daytime and evening peak demand figures presented in Table 17 overlaid onto the existing peak daytime and evening parking occupancy conditions observed in Downtown. The result is a visual representation of the anticipated availability of public parking in Downtown, once the noted development projects are completed and occupied.

Table 17: Projected Future Peak Parking Demand in Downtown by Time of Day and Facility

Year	Type of Development	Location	Projected Peak Daytime Demand	Projected Peak Evening + Weekend Demand	On- Street Parking	Centre City (Daytime)	Centre City (Evening + Weekend)	Townsite (Daytime)	Townsite (Evening + Weekend)	512 Jackson (Daytime)	512 Jackson (Evening + Weekend)	Crosby Place (Daytime)	Crosby Place (Evening + Weekend)	9th Street (Daytime)	9th Street (Evening + Weekend)	Coronado (Daytime)	Coronado (Evening + Weekend)	Park N Shop (Daytime)	Park N Shop (Evening + Weekend)	Total
Practical Capacity						196	196	694	694	388	388	220	220	646	646	215	215	332	332	5,050
Vacancies						65	176	104	625	56	349	43	198	166	581	124	194	94	299	3,074
2017-2019	Residential	101 N Kansas Ave	0	0		0	0	0	0	0	0	0	0	0	0	0	0	0	0	
2017-2019	Restaurant	918 S Kansas Ave	46	61		46	61													
2017-2019	Hotel	920 S Kansas Ave	99	79			79							99						
2017-2019	Convention Center for Hotel	912 S Kansas Ave	90	45												90	45			
2017-2019	Restaurant	915 S Kansas Ave	129	173									173	67				62		
2017-2019	Retail	921 S Kansas Ave	18	17			17									18				
2017-2019	Restaurant	112 SW 6th Ave	13	17				13	17											
2017-2019	Office	107 SW 6th Ave	20	2					20	2										
2017-2019	Restaurant	705 S Kansas Ave	147	196	96	3										16		32	196	
2017-2019	Restaurant/Bar	735 S Kansas Ave	28	37															37	
2017-2019	Residential	913 S Kansas Ave	1	1		1	1													
2017-2019	Office/Retail	913 S Kansas Ave	12	6			6													
2017-2019	Residential	718 S Kansas Ave	3	3															3	
2017-2019	Office/Retail	720 S Kansas Ave	33	17															17	
2017-2019	Residential	726 S Kansas Ave	1	1															1	
2017-2019	Residential	600 SE Madison St	0	0		0	0	0	0	0	0	0	0	0	0	0	0	0	0	
2017-2019	Residential	109-115 N Kansas Ave	3	3						3	3									
2017-2019	Residential	826 S Kansas Ave	1	1								1	1							
2017-2019	Office	423 S Kansas Ave	15	2				15	2											
2017-2019	Institutional	335 SW Jackson St	14	1						14	1									
2017-2019	Office	728 S Kansas Ave	5	1								5	5							
	Phase I Total Demand				96	50	164	28	39	16	4	9	179	166	0	124	45	94	254	1,172
	Vacancies Remaining After Phase I					15	12	76	586	40	345	34	19	0	581	0	149	0	45	1,902
2020-2023	Public Plaza/Open Event Space	618-634 S Kansas Ave	0	250					250											
2020-2023	Theater	714 SW Jackson St	89	296		15				40	296	34								
	Phase II Total Demand				0	15	0	0	250	40	296	34	0	0	0	0	0	0	0	
	Vacancies After Demand is Met					0	12	76	336	0	49	0	19	0	581	0	149	0	45	1,267

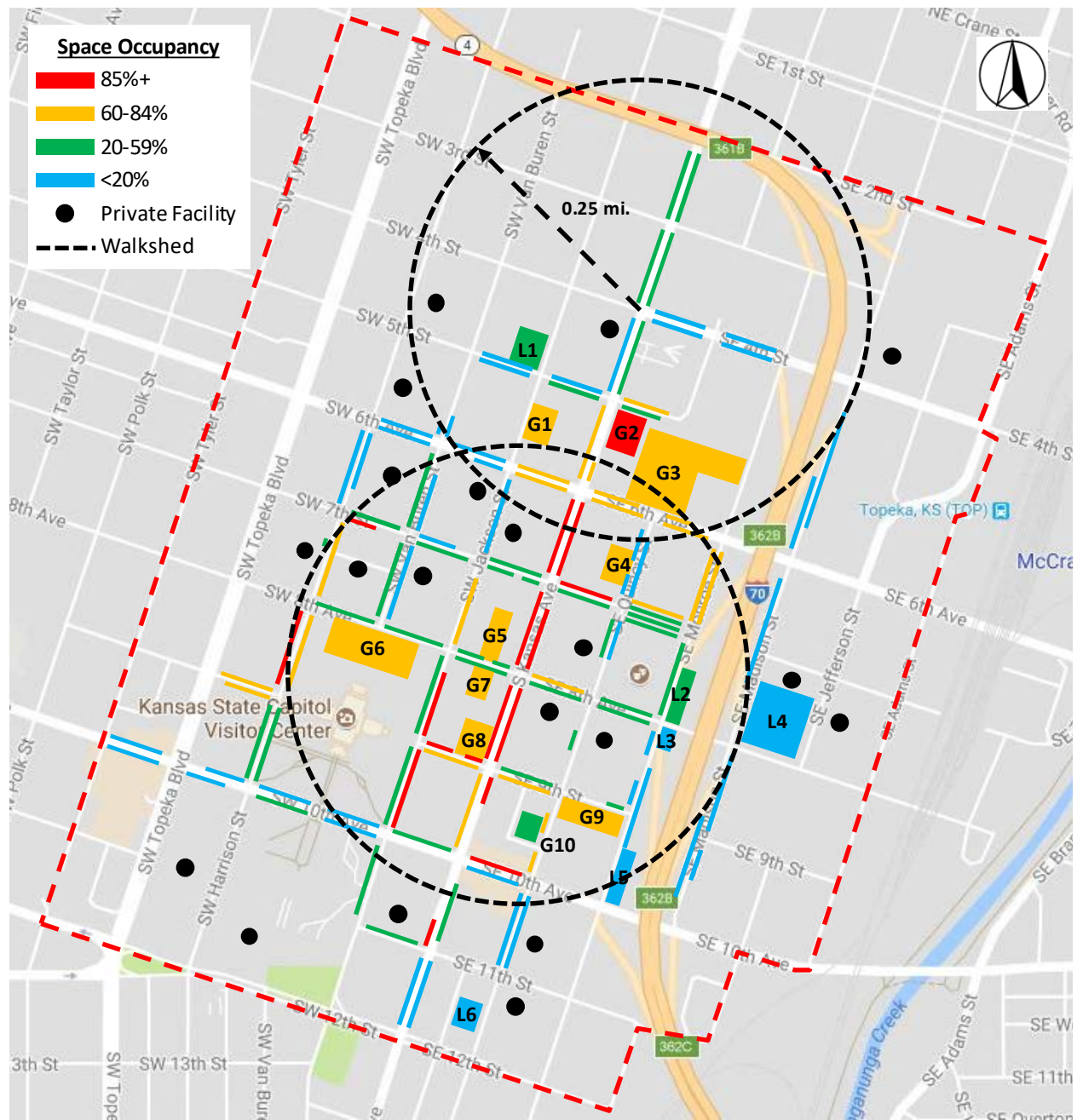
Source: DESMAN

Figure 7: Anticipated Future Weekday AM Peak Occupancy



Source: DESMAN

Figure 8: Anticipated Future Weekday PM Peak Occupancy



Source: DESMAN

As shown in the figures, if/when all of the identified development projects come to fruition, it is anticipated that Downtown Topeka will experience localized shortages of public parking during the daytime peak demand period. In the evenings and on weekends, it is anticipated that these shortages will be primarily concentrated on-street, with retail and restaurant patrons seeking the most convenient, on-street spaces along Kansas Avenue and adjoining streets.

7.0 Conclusions and Summary of Issues

Based on the data collected, the stakeholder discussions and the analysis performed, the following is a list of the key issues to be addressed in the Comprehensive Parking Plan. As best as possible, the issues are grouped by category and correspond to the recommendations to be developed and presented in the final Comprehensive Parking Plan.

1. Parking Demand

- a. There is not a shortage of parking when looking at the Downtown as a whole, but localized on street shortages do exist.
- b. Based on the currently available development plans, over the next two years, future Downtown development is likely to overwhelm several of the City's off-street facilities.
- c. Over the long-term, if the City continues the policy of providing most of the parking downtown, there will be a need for additional facilities and/or agreements with owners of private parking facilities to use their spaces during off-peak hours, unless demand is reduced.

2. Rates

- a. Current on- and off-street parking rates have not been increased since 2010.
- b. The existing parking revenue does not generate sufficient revenue to fully fund the operations and maintenance of the parking system.
- c. The number of hooded meters is excessive and should be rationalized. If the City is not going to charge for parking in certain areas, meters should be removed and time limits strictly enforced.
- d. There is little price differentiation between high and low demand parking spaces resulting in nearby areas of high and low occupancy.

3. Operations

- a. The enforcement of parking violations is well executed but labor intensive.
- b. Back office processing is almost entirely manually conducted and components are not integrated.
- c. The City currently pays \$1.00 to the State DMV to lookup license plates after the first 200 inquiries in a month. There is no out of state lookup available.

4. Policy

- a. The on-street two-hour limit invites abuse, with Downtown employees moving their cars to avoid ticketing; handhelds only track parkers by block, not space number.
- b. A decision must be made on the use of yellow hoods to allow free parking, including if the practice should continue and for how long.
- c. Widespread abuse of ADA placards has been reported.
- d. Wayfinding, especially for out of town visitors is minimal, leaving many parking facilities underutilized.

5. Technology

- a. Parking meters currently accept only coins no other payment options exist. Electronic meters were tested.
- b. Most administrative tasks require manual input.
- c. There are continual issues with Full Court/SL software.

- d. The garages currently use four different parking access and revenue control systems.
- e. Enforcement handhelds are outdated.

6. Future Capital Repair/Replacement

- a. While there is a comprehensive plan in place for capital repair and maintenance, there is not an ongoing reserve fund to pay these costs. Capital repair and equipment replacement costs are currently paid out of the parking fund as needed and as funds are available.

8.0 Operations, Management, Policy, and Physical Improvement Recommendations

8.1 Purpose of Recommendations

The recommendations which follow were developed by DESMAN, in consultation with the City, in order to address each of the issues identified throughout the course of this study. The recommended changes to the operations, management, policies, and physical assets which makeup the City's public parking system are intended to address the current needs of Downtown Topeka, as well as the anticipated needs of the area over the next 10 years. While none of the recommended changes will, by themselves, remedy all of the existing or future parking-related issues within the study area, the goal is to make incremental improvements in order to delay or eliminate the need for additional structured parking facilities, to improve the experience of parking users and to address the concerns raised by the city's stakeholders.

8.2 Recommendations

There are three policies assumed within the proposed recommendations:

1. Continuation of free, two-hour on-street parking along S. Kansas Avenue and associated side streets that currently have yellow hoods on meters. This approach assumes that the City will forgo meter revenue in these areas to support revitalization of downtown. Future updates to the plan could see this policy change. Continuing this policy would establish 550 spaces as free, two-hour parking on these streets. The free parking in these spaces represents lost revenue of more than \$280,000 annually. This solution will require an alternative source of funding to help support the parking system.
2. Implementation of demand management strategies to better utilize existing parking supply available on-street, as well as in garages and surface lots. These demand management strategies include changes to parking rates over time to help balance demand among facilities, increasing the number of permits sold in garages up to the practical capacity of each facility, changing meter rates and time limits to optimize convenience for parkers, combined with other actions to better utilize supply.
3. Development of additional funding strategies beyond existing fees from meters, leases and enforcement, to pay for plan recommendations and capital repair needs of parking facilities.

Along with the current operations of the parking system, the proposed recommendations are anticipated to result in expenses exceeding revenues by more than \$300,000-\$600,000 annually in the short-, medium- and long-term. If the recommendations are acceptable, City staff will evaluate potential funding mechanisms and bring the results back before City Council at a later date. If the parking system is going

to continue to sustain itself as an enterprise fund, additional net revenue will be needed to fund capital and operating expenses.

These policy directions will need to be considered prior to implementing any of the recommendations presented in this report. The results of these decisions will affect the City's entire parking operation and will dictate the flow of subsequent recommendations. In addition, once implemented, certain of the recommendations have the potential to reduce or eliminate the need for other, potentially costlier and more complicated changes to the parking operation.

8.2.1 Specific Recommendations

Once the major policy decisions have been made, a number of specific recommendations can and should be undertaken. DESMAN has formulated a matrix (**Table 18**) which compares the issues previously identified during the course of this study with recommendations aimed at addressing the issues. In addition, the matrix shows the relative financial impact each recommendation is expected to have on the overall financial performance of the parking system, as well as the anticipated timeframe for implementation. In terms of the implementation timeframe, short-term (ST) recommendations were assumed to occur in 1-2 years, medium-term (MT) in 3-5 years and long-term (LT) in 6+ years.

Following the matrix in Table 18 are detailed descriptions of the initial recommendations, along with the anticipated costs associated with each recommendation and the anticipated timeframe for implementation. Lastly, financial projections for the parking system over the next 10 years are presented in order to summarize the potential financial impact of all of the proposed recommendations.

Table 18: Parking Recommendations Matrix

		System Recommendations												Garage Recommendations				On-Street Recommendations						Lots
		Establish a funding mechanism	Acquire Out of State License Plate Lookup	Improve Wayfinding Signage	Establish Capital Repair Reserve Fund	Acquire/Develop Residential Parking Policy	Institute Regular Rate/Fine Increases	Utilize Private Parking in Off Hours	Implement TDM Strategies	Increase Oversell in Garages	Acquire Single PARC System for Garages	Add Electronic Counting and Signage to Garages	Balance Demand Among Parking Facilities	Review Lighting in Garages	Eliminate Yellow Hoods	Evaluate Meter Locations	Increase On-street Parking Rates	Acquire LPR Enforcement System	Add Electronic Meters	Adjust Enforcement Hours	Evaluate Use of Surface Lots			
Issue #	Issue Description	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	
1a.	Localized on-street parking shortages			X					X	X			X	X	X	X	X	X				X	X	
1b.	Future development will overwhelm supply	X			X	X			X	X	X			X								X	X	
1c.	In the long-term, city will need more downtown parking	X			X	X				X	X			X				X						
2a.	Current rates have not been increased since 2010	X						X						X				X						
2b.	Current revenue does not cover expenses plus capital repair needs	X	X					X			X			X		X	X	X	X		X			
2c.	Issue of yellow hooded meters should be resolved															X								
2d.	Little price differentiation between high and low occupancy spaces							X			X			X				X			X		X	
3a.	Enforcement is labor intensive	X																		X	X			
3b.	Back office processes are nearly all manually done	X					X					X								X	X			
3c.	There is no out of state license plate look-up	X	X																					
4a.	Free, 2-hour on-street parking invites abuse															X			X	X				
4b.	Decision is needed about free parking on/near Kansas Avenue	X														X					X			
4c.	Widespread abuse of ADA placards has been reported																			X				
5a.	Wayfinding is minimal	X		X																				
5b.	Drivers are unable to determine if spaces are available in garages	X											X											
6a.	Parking meters accept only coins	X															X	X			X			
6b.	Most administrative tasks require manual input	X					X					X								X				
6c.	There are continual issues with Full Court/SL software	X					X													X				
6d.	Garages use four different PARCS systems	X			X		X					X												
6e.	Enforcement handhelds are outdated	X																		X				
7a.	No capital reserve fund for repairs	X			X			X			X				X			X						
Relative Financial Impact		\$\$\$\$	(\$)	N/A	(\$\$\$\$)	N/A	(\$)	\$\$	N/A	(\$)	\$	(\$\$\$\$)	(\$\$)	\$	\$	(\$)	N/A	\$\$	\$	(\$)	(\$\$\$)	\$	N/A	
Implementation Timeline		ST	ST	ST	ST	ST	ST	MT	MT	LT	ST	ST	MT	MT	LT	ST	ST	ST	ST	ST	ST	MT	LT	

Source: DESMAN

Relative Financial Impact of Recommendations: \$\$\$\$ = Significant Positive Impact on Net Revenue (\$\$\$\$) = Significant Negative Impact on Net Revenue
ST = Short-Term MT = Medium-Term LT = Long-Term

System-Wide Recommendations

- 1) **Establish a funding mechanism to fund parking recommendations.** If all of these recommendations are implemented, the 10-year Parking Fund forecast shows expenses exceeding revenue by an average of approximately \$409,000 annually. The primary driver of this shortfall is the establishment of a capital reserve fund to replace and rehabilitate existing parking infrastructure and setting aside \$383,000/year for this purpose.

In lieu of increasing parking rates and fines, a funding mechanism such as a special service district or community improvement district could be used to fund the operations and capital needs of the Parking Division. This would spread the financial burden associated with operating and maintaining the system over the system's beneficiaries, not just parkers who use the system. In all likelihood, additional funds will be needed beyond user fees if the Parking Division is to be completely self-supporting.

Estimated Cost to implement: Nominal (funding mechanism would need to generate ~\$409,000/year)
Estimated timeframe: Needs to be in place no later than two years after implementation of recommendations

- 2) **Out of State license plate lookup capability should be acquired.** At the present time, the Parking Division is only able to access the records associated with Kansas-registered vehicles. Consideration should be given to contracting for a national data base to facilitate out-of-state collections.

Estimated Cost to implement: Nominal
Estimated timeframe: Short-Term (6 Months)

- 3) **Improve wayfinding signage from Kansas Avenue and major approaches to Downtown to the City's garages.** Additional signage is needed to direct drivers from Kansas Avenue to available spaces in City facilities both east and west of Kansas Avenue. Currently, drivers cruise S. Kansas Avenue looking for on-street parking, while garage spaces are typically readily available.

The City's recently-completed wayfinding program recommended a variety of signs, including more than 10 specific vehicular parking guidance signs, to be placed throughout the downtown. The recommended signs on Kansas Avenue and on key cross streets are intended more-effectively direct motorists to the City's parking garages. After these signs have been procured and installed, parking wayfinding signage should be reassessed in order to determine if additional signage is necessary.

Estimated Cost to Implement: Nominal
Estimated Timeframe: Short-Term (1 Year)

- 4) **Establish a capital repair reserve fund for parking.** Parking garages, surface parking lots, parking meters, signage, and all of the various other physical assets that form a parking system and enable a parking operation to work have a cost associated with them and will require replacement at some point in the future. Building new parking spaces, maintaining existing spaces and replacing equipment can all require significant capital outlays which, at present, come from the revenues generated by the parking system or through debt financing. Due to the significant burden that these large and irregular

expenses can place on a city's finances, it is good practice to set aside money in a reserve fund to help offset these future costs.

Ideally, the City should be setting aside at least \$100/space per year for the 3,183 parking garage spaces and \$25/space per year for the surface lot and on-street spaces to be used for future capital repair and maintenance.

Estimated Cost to implement: ~\$383,000/year, based on existing parking inventory

Estimated Timeframe: Short-Term (Immediately)

- 5) **Establish a policy regarding downtown residential parking.** Historically, downtown parking has been provided by the City. With the number of residential units in downtown expected to grow in the future, a conflict is developing between residential and office parking needs. Resident parking is most appropriate in off-street facilities where vehicles can be conveniently parked when not in use. However, this can create conflicts between the needs of residents and downtown office workers and commercial patrons.

To address this situation, consideration should be given to establishing a provision for downtown residential parking, either an absolute standard, such as a zoning requirement, fee-in-lieu or contracting for existing available parking. As development continues, this could also translate to the City requiring developers to provide residential parking as part of their projects or contributing to a parking fund to assist the City in building structured parking. Based on input from the City's Planning Department, the following should be considered prior to making any changes to the Zoning Code:

- A. If the City chooses to implement minimum parking mandates, these should be restricted to larger-scale developments – perhaps 20 units or more. However, ideally, the City should attempt to work in partnership with developers to utilize the City's existing parking inventory, before requiring that additional off-street parking capacity be added.
- B. The City should create a residential parking permit program for lower scale loft and small apartment developments that would allow for on-street parking, with a permit, in low-demand areas. Additionally, on-street residential permits could allow parking at meters without payment, but only after regular enforcement hours and on weekends. Residential permits should not limit the supply of available parking serving the downtown's retail, restaurant and office uses, when those land uses are active.
- C. For larger-scale housing developments, the City should look to create public private partnerships whereby the City allows new residential development on parking lots owned by the City, in exchange for the developer replacing the existing parking and providing additional supply to serve the development. This is a way for the City to use its parking inventory to promote development, without selling its interest in the land.

In addition to the above proposals from the Planning Department, we recommend that the City continue to sell garage leases for 24-hour parking for residential users, where possible. For instance, the Townsite Garage has the potential to help accommodate the projected residential demand, given the existing and projected future utilization of this facility. The City's surface parking lots may also be used for this purpose, although they are typically in less convenient locations to many of the proposed residential developments.

Estimated Cost to Implement: Nominal (minimal staff time)
Estimated Timeframe: Short-Term (6 Months)

- 6) **New integrated back office software should be acquired to link all facets of parking operations.** The existing JSI and the Lawson systems are cumbersome and difficult to use for the operation of the City's parking system. There are a number of effective software programs which can provide accounting support and integration with parking operations. All can accommodate data and reports from current garage operating systems. The linking of financial and operating data from the off-street facilities with on-street reporting and enforcement will simplify reporting and increase the City's understanding of their parking system.

Estimated Cost to implement: \$50,000
Estimated timeframe: Short-Term (1 – 2 Years)

- 7) **Institute regular rate increases.** One of the most difficult parts of managing a parking system is convincing the public and governing entities of the value of regularly increasing parking rates. Because increasing rates is often difficult politically, the decision to increase rates is generally deferred until financial need dictates. For this reason, it is recommended that regular rate increases be part of the City's plan of operation in the future. Ideally, these increases should at least keep pace with normal cost escalation.

A 10% increase in parking rates and fine amounts every 3 – 4 years would provide a relatively painless way to keep the parking system solvent, as salaries and other costs increase. **Table 19** presents a potential schedule for increasing parking rates when downtown parking demand dictates.

Table 19: Schedule of Current and Potential Future Parking Rates

Facility Name	EXISTING		FIRST INCREASE		SECOND INCREASE		THIRD INCREASE	
	Monthly Lease Rate (covered)	Hourly Parking Rate	Monthly Lease Rate (covered)	Hourly Parking Rate	Monthly Lease Rate (covered)	Hourly Parking Rate	Monthly Lease Rate (covered)	Hourly Parking Rate
512 Jackson Garage	\$67.75	\$1.00	\$75.00	\$1.00	\$83.00	\$1.00	\$91.00	\$1.25
Townsite Plaza Garage	\$67.75	\$1.00	\$75.00	\$1.00	\$83.00	\$1.00	\$91.00	\$1.25
Park-N-Shop Garage	\$67.75	\$1.00	\$75.00	\$1.00	\$83.00	\$1.00	\$91.00	\$1.25
Crosby Place Garage	\$67.75	\$1.00	\$75.00	\$1.00	\$83.00	\$1.00	\$91.00	\$1.25
Centre City Garage	\$67.75	\$1.00	\$75.00	\$1.00	\$83.00	\$1.00	\$91.00	\$1.25
Ninth Street Garage	\$47.43	\$1.00	\$52.00	\$1.00	\$57.00	\$1.00	\$63.00	\$1.25
Coronado Garage	\$67.75	N/A	\$75.00	N/A	\$83.00	N/A	\$91.00	N/A
5th & Jackson Lot	\$45.00	N/A	\$50.00	N/A	\$55.00	N/A	\$61.00	N/A
8th & Madison Lot	\$18.00	N/A	\$20.00	N/A	\$22.00	N/A	\$24.00	N/A
900 Monroe Lot	\$30.00	N/A	\$33.00	N/A	\$36.00	N/A	\$40.00	N/A
Water Tower Lot	\$18.00	N/A	\$20.00	N/A	\$22.00	N/A	\$24.00	N/A
1- or 2-Hour Meters	N/A	\$1.00	N/A	\$1.25	N/A	\$1.50	N/A	\$1.75
10-Hour Meters	N/A	\$0.50	N/A	\$0.75	N/A	\$1.00	N/A	\$1.25
10-Hour Permit	\$44.00	N/A	\$48.00	N/A	\$53.00	N/A	\$58.00	N/A
Hood (Daily)	\$6.00	N/A	\$7.00	N/A	\$8.00	N/A	\$9.00	N/A
Hood (Monthly)	\$67.75	N/A	\$75.00	N/A	\$83.00	N/A	\$91.00	N/A

Source: DESMAN

In addition, as downtown development fills existing parking facilities, it will be important to manage the demand at individual facilities by adjusting prices. Greater variation in monthly rates between high and low occupancy parking facilities can shift demand to underutilized lots and garages. The provision of long-term leases at fixed prices with heavily discounted rates is detrimental to the ability to balance demand and fund future capital repair and maintenance projects. As much as possible, we recommend that leases be limited to a fixed price for one year, with a provision for increases above inflation for each year thereafter. Shorter-term leases enable the City to balance demand using price elasticity.

Estimated Cost to Implement: Nominal
Estimated Timeframe: Medium-Term (3 – 5 Years)

- 8) **Work with the State and other property owners to utilize employee parking in off hours.** There are a large number of State of Kansas and corporately-owned parking facilities used for employee parking during the day (estimated at more than 5,500 spaces within the study area). These facilities often sit empty at night and on weekends. Shared parking should be encouraged to satisfy evening and weekend demand for theaters, restaurants and special events. These types of arrangements are an effective way to delay the need for the City to build additional structured parking.

Estimated Cost to Implement: Nominal
Estimated Timeframe: Medium-Term (3 – 5 Years)

- 9) **Encourage demand management strategies.** Before investing in additional structured parking in the downtown, consideration should be given to continuing efforts to reduce parking demand for employees and residents. The City should continue to encourage the use of other modes of transportation including bicycles, carpooling and public transportation.

Additionally, when demand justifies, in an effort to provide a lower cost parking option and to better utilize the City's surface parking lots on the edges of downtown, such as the 8th and Madison Lot east of I-70, serious consideration should be given to developing a shuttle bus route running from this facility to the core of downtown.

Estimated Cost to Implement: \$200,000 annually
Estimated Timeframe: Long-Term (6+ Years)

Garage Recommendations

- 10) **Increase oversell in garages.** Although the City currently has a policy of overselling leases in its garages, there are typically spaces available during peak demand periods. For this reason, it is recommended that the City begin to gradually increase the number of leases in its garages, while monitoring the occupancy of the garages on a regular basis. Based on DESMAN's analysis, there is potential to lease more than 150 additional spaces total between the 512 Jackson, Townsite Plaza, Ninth Street, and Crosby garages, without exceeding the practical capacity of those facilities.

In order to reduce the anxiety related to parking leaseholders not being able to find an available space in their assigned garage if overselling is increased, the City could implement a policy of assigning an alternative parking location for use in the event that their primary parking location is full. If a unified system of revenue control technology is implemented (as recommended in #11, below), leaseholders

will be able to use the same credential to enter both their primary and secondary parking locations. Additionally, these systems can track garage utilization on a continuous basis, so the Parking Division will know what garages have available capacity and can be assigned as alternate parking locations.

Estimated Cost to Implement: Nominal (minimal staff time)
New Revenue: \$122,000 @ \$67.75 per permit
Estimated Timeframe: Short-Term (Immediately)

- 11) **Garage revenue control systems should be consistent across all facilities.** Currently, the City's seven parking garages operate using four different operating systems. In addition, most of the software and hardware systems are approaching the end of their useful lives or are already beyond their useful lives. The use of several different access and revenue control systems puts a large burden on staff to manually integrate the financial and operating data from these facilities.

At present, only the Center City Garage has an up-to-date access and revenue control system. However, the use of the Coronado garage by the Cyrus Hotel valet operation will likely require new equipment and software as well. This provides a perfect opportunity to begin migrating to a unified system.

We recommend that one system be adopted to run all the City's parking garages and to manage financial data for the parking system. This should be implemented in conjunction with Recommendation 6, above.

Estimated Cost to implement: \$600,000
Estimated timeframe: Short-Term (1 – 2 Years)

- 12) **Add electronic counting and signage on high occupancy off-street parking facilities.** As downtown parking facilities become more occupied, customer service can be improved by providing the number of available spaces in each garage prior to a patron entering the facility. Systems of this type typically include signs at the entrances to a garage indicating the number of available spaces, as well as making this information available online. Any of the revenue control systems that might be recommended in Recommendation 10 (above) would be compatible with electronic counting and signage systems. However, only the TIBA system currently in place in the Centre City garage could support a counting system without upgrade.

Estimated Cost to Implement: \$70,000
Estimated Timeframe: Medium-Term (3 – 5 Years)

- 13) **Balance demand among parking facilities.** As peak occupancy levels raise above 90% on a regular basis, parking garage rates should be increased to help balance demand among garages and surface lots. Rates should be reviewed at least annually to determine if they should be adjusted.

Estimated Cost to Implement: Nominal (minimal staff time)
New Revenue: TBD
Estimated Timeframe: Medium-Term (3 – 5 Years)

- 14) **Review lighting in all parking facilities and replace where appropriate with energy-efficient fixtures.** Energy-efficient lighting fixture prices have decreased significantly in recent years. Coupled with

incentives from electric utilities, there is little reason to delay upgrading lighting in parking facilities, where those upgrades have not already been completed or are not already planned. Additionally, customer service and patron safety can be improved through lighting enhancements. For these reasons, it is recommended that all facilities be surveyed to determine the need for and cost to upgrade lighting systems.

Estimated Cost to Implement: TBD
Estimated Timeframe: Long-Term (6+ Years)

On-Street Recommendations

- 15) **Eliminate yellow hooded meters.** Hooded meters are both unsightly and, in some instances, unnecessary. If the City wishes to provide free on-street parking with strict time limit enforcement, then meters and hoods should be removed, where they still exist. There are other local funding mechanisms available to support the parking functions and maintain the assets.

Estimated Cost to implement: Nominal
Estimated timeframe: Short-Term (1 Month)

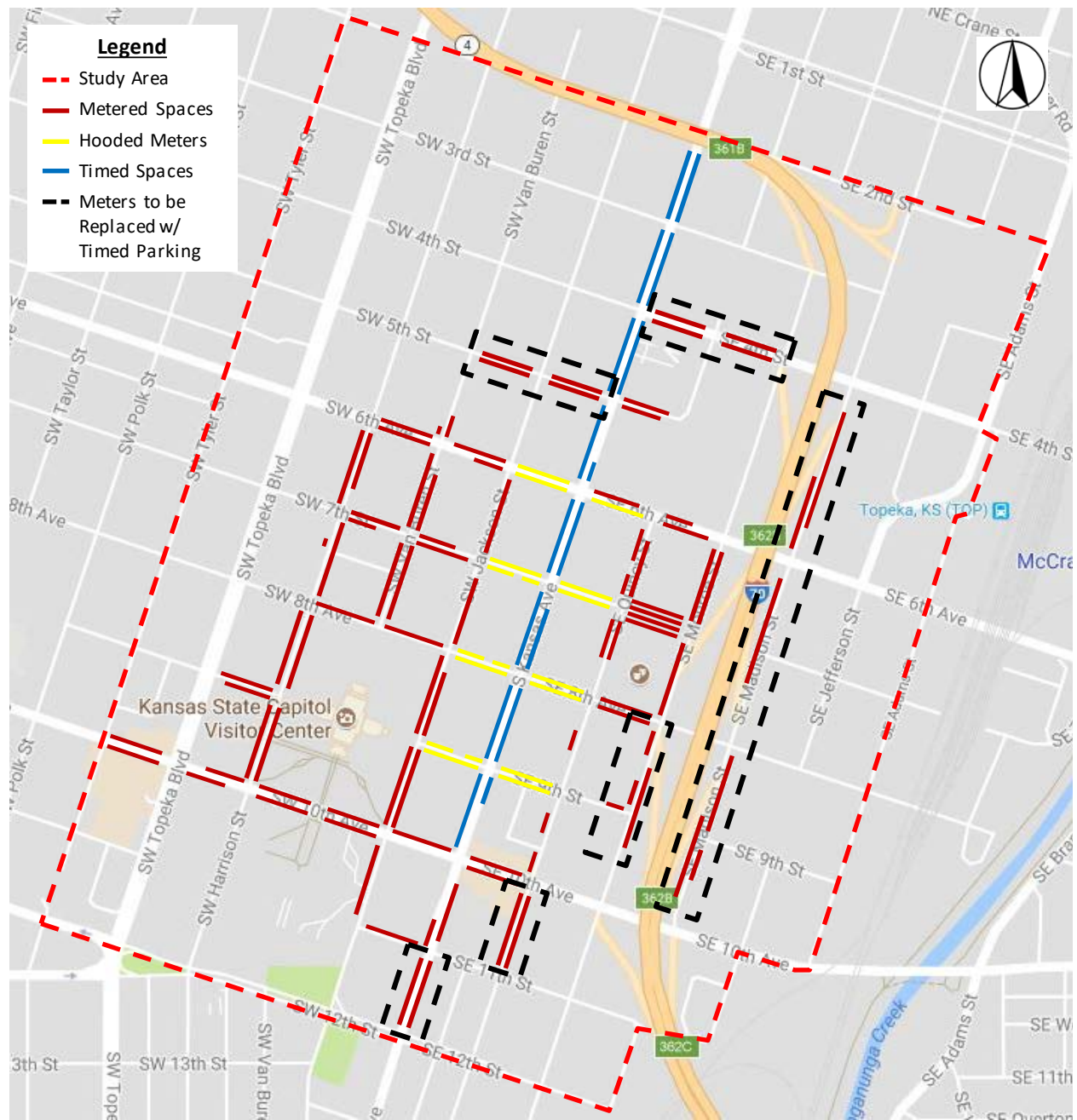
- 16) **Evaluate meter locations.** Since the occupancies of the meters vary significantly by block, the desirability of maintaining meters in all existing locations should be reviewed. In the short-term, we recommend that poorly-producing meters be removed and replaced with timed parking. In the mid-term, the occupancy of the remaining meters should be reviewed and a decision made to eliminate or upgrade to electronic meters. Long-term, as development increases on-street demand, new meter locations and/or elimination of additional meters should be considered.

As shown in **Figure 9**, we have identified several locations where existing meters could potentially be removed and replaced with timed parking, with little to no impact on revenue or the availability of parking; the locations identified contain 405 existing meters. City staff who are intimately familiar with the parking activity patterns in downtown and the meter revenue generated on a street-by-street basis should make the final determination of meters for removal.

In addition, we recommend that 10-hour meters be relocated from areas of high demand to areas with lower demand. For instance, the 53 10-hour meters in the 800 block of SW Jackson Street could be relocated to SW 10th Avenue and replaced with 2-hour meters.

Estimated Cost to Implement: Nominal (minimal staff time)
Estimated New Revenue: Little revenue impact; minimal savings for maintenance and collection
Estimated Timeframe: Short-Term (3 – 6 Months)

Figure 9: Potential Locations for Replacement of Meters w/ Timed Parking



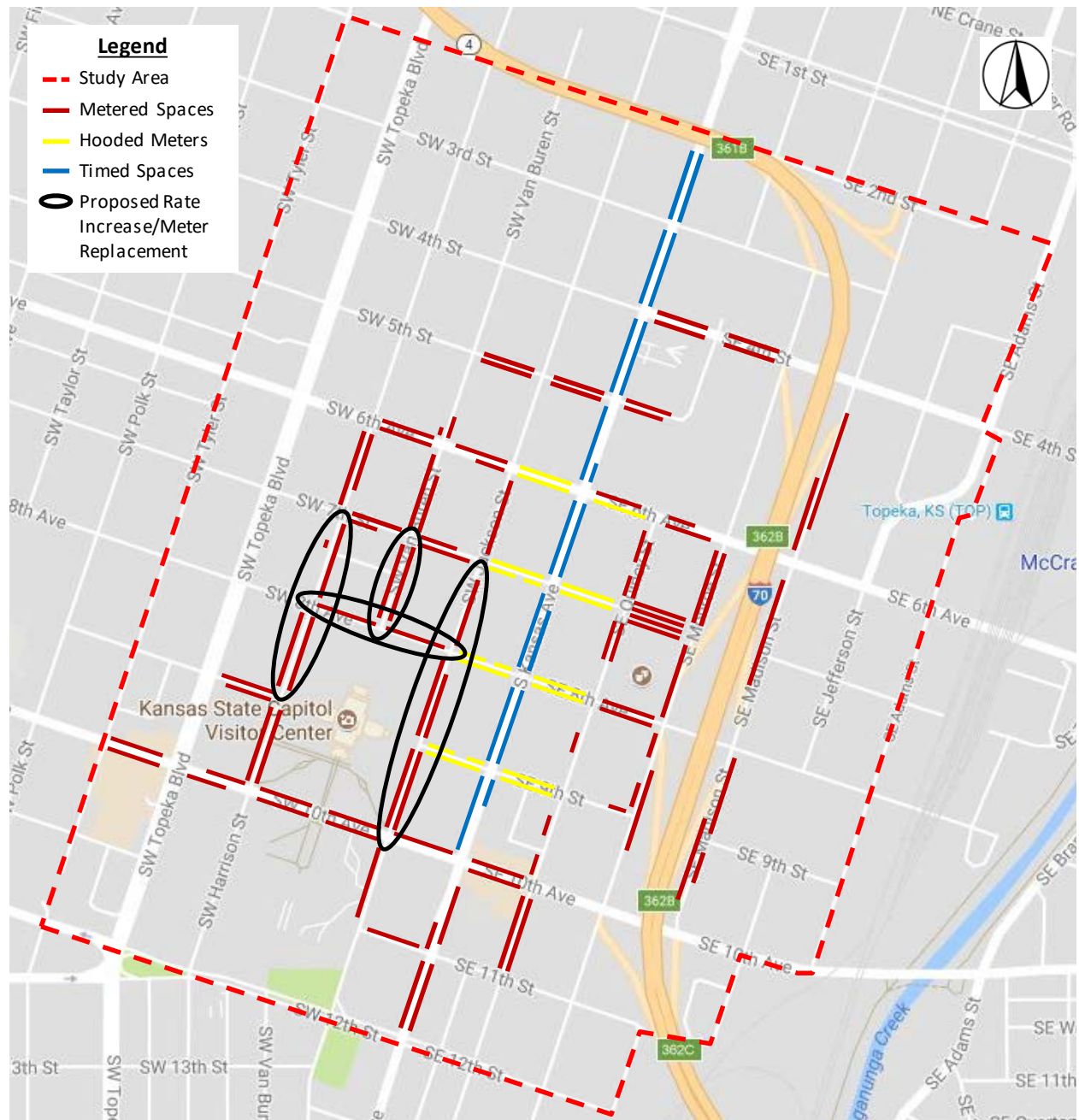
Source: DESMAN

17) **Increase on-street parking rates in high demand areas.** We recommend that meter rates be increased to \$1.25 per hour in the high occupancy areas adjacent to the State Capitol, particularly along SW Jackson Street, SW Van Buren Street and SE Harrison Street south of 7th Street, and on 8th Avenue from Jackson to Harrison, as shown in **Figure 10**. Increasing hourly parking rates in these areas would encourage parkers to disperse to less utilized meters and, by increasing the on-street hourly rate above that of the garages, would encourage use of off-street facilities. There is a total of 318 meters in the identified blocks.

In conjunction with increasing the rates in these areas, the on-street meters should be upgraded to allow for credit payments and payment via cell phone. This new technology will make it easier for parkers to pay, as opposed to having to use five quarters to pay for one hour of parking. This recommendation is discussed in more depth in Recommendation 20, below.

<i>Estimated Cost to implement:</i>	Nominal (minimal staff time)
<i>Estimate New Revenue:</i>	\$30,000
<i>Estimated timeframe:</i>	Short-Term (6 Months – 1 Year)

Figure 10: Proposed Locations for Near-Term Meter Rate Increases and Parking Meter Replacement



Source: DESMAN

- 18) **Increase initial fines for metered/timed parking violations to \$10.00.** In the parking industry, it is a best practice to price overtime/non-payment of parking violations at 10 to 15 times the hourly cost of parking. This pricing structure is intended to encourage payment of the meters and compliance with time limit regulations. If the fine for a violation is too low, parkers are more likely to take their chances on receiving a violation, as opposed to paying for the time they are parked or moving their vehicles within the posted time limit. If the parking rate on Kansas Avenue is increased to \$1.25 per hour, as recommended, then the fine amount for overtime/non-payment violations should be increased in order to maintain the proper cost ratio.

<i>Estimated Cost to Implement:</i>	Nominal (minimal staff time)
<i>Estimated New Revenue:</i>	\$25,000
<i>Estimated Timeframe:</i>	Short-Term (6 Months)

- 19) **Acquire updated enforcement capability for on-street parking.** The current enforcement practices are extremely effective, but very labor intensive. An investment in new technology, such as license plate recognition (LPR), integrated with on-street meters, would eliminate some of the manual effort by enforcement personnel and would improve capture rates. Our experience in other communities suggests that the productivity of personnel using LPR is significantly improved versus manual enforcement. Again, funds would be needed to acquire this technology, but those costs will be offset by increased capture of violators and a longer-term reduction in operating expenses.

We recommend that LPR hardware and software be acquired for two vehicles for use by the City's PCOs. The LPR equipment can be used to enforce time limits on-street and permit restrictions on-street and in the surface lots, as well as on-street meter parking for those parkers who pay via cell phone at a single-space meter.

<i>Estimated Cost to Implement:</i>	\$60,000
<i>Estimated New Revenue:</i>	\$20,000
<i>Estimated Timeframe:</i>	Short-Term (6 Months – 1 Year)

- 20) **Replace on-street meters with technology that would permit use of credit cards and cell phone payments.** The single-space meters currently used downtown are manual meters which do not take credit cards and whose rates cannot be easily adjusted. There are two primary technology options to replace the existing meters, either of which can be coupled with a pay-by cell phone app: 1) electronic single-space meters (previously tested in Topeka) add to a traditional meter by accepting credit cards or 2) multi-space meters provide a kiosk to serve typically 8-10 parking spaces on a block.

There are advantages and disadvantages to each type of technology, principally higher capital costs and longer walking distances for multi-space meters, but lower operating costs, easier enforcement, fewer poles on the sidewalk. The primary advantages of single-space meters is the significantly-lower capital cost and a familiarity with the technology.

Despite the advantages of multi-space meters from an enforcement perspective, given Topeka's hourly on-street parking rates and the cost to procure multi-space meters, we recommend that the City procure and install credit card-enabled single-space meters to replace the existing mechanical meters.

Based on the existing on-street parking inventory within the study area, if the identified spaces on Kansas Avenue and the adjacent streets remain free and the 405 existing spaces identified in Recommendation 16 are changed to timed parking, there are approximately 1,100 remaining on-street metered parking spaces. In order to minimize the financial impact of this recommendation, we have devised a scheme for replacing the meters over time. Assuming that the free spaces remain on Kansas Avenue and the adjacent streets, it is estimated that 318 single-space meters would be needed to control the on-street metered parking spaces in the high occupancy on-street areas (identified in Figure 10).

Over the medium-term, outside of the high occupancy areas, the remaining 784 metered spaces should be evaluated to determine if the existing technology should be replaced with new single-space meters or with timed parking enforced by LPR technology.

<i>Estimated Cost (Short-Term):</i>	\$143,000 (318 meters @ \$450/meter)
<i>Estimated Timeframe:</i>	Short-Term (1 – 2 Years)
<i>Estimated Cost (Medium-Term):</i>	\$353,000 (784 meters @ \$450/meter)
<i>Estimated Timeframe:</i>	Medium-Term (3 – 5 Years)

- 21) **Adjust Enforcement Hours.** Although the current enforcement hours are appropriate given existing activity levels downtown, as evening and weekend activity increases, consideration should be given to extending meter hours later in the evenings on weekdays and instituting paid parking on weekends. An annual review of evening/weekend activity should be conducted to identify major activity areas and inform the decision to extend on-street hours of enforcement.

<i>Estimated Cost to Implement:</i>	TBD
<i>Estimated New Revenue:</i>	TBD
<i>Estimated Timeframe:</i>	Medium-Term (3 – 5 Years)

Surface Lot Recommendations

- 22) **Evaluate the use of the surface lots.** Despite the low lease rates charged at the surface parking lots, the lots remain underutilized compared to the garages. This low level of utilization reflects the locations of the surface lots on the periphery of downtown. Although there is little demand for remote parking today, as demand grows in the core, remote lots may become more desirable as a low-cost parking option. We recommend that the status quo be maintained until demand for remote parking and shuttle service increases.

<i>Estimated Cost to implement:</i>	N/A
<i>Estimated timeframe:</i>	Long-Term (6+ Years)

8.3 Timing of Recommendations

While the impacts of the recommended changes can be predicted to a certain extent, a number of the changes that are being proposed have the potential to impact the public parking system in unknown ways. Due to the uncertainty around the impact that these recommendations will have on the current and future parking dynamics within the study area, the proposed implementation timetable has been designed to allow time for the impacts of the changes to be felt, before additional changes are made to the system. In our experience, this approach is more successful than attempting to implement all of the recommended

changes at one time and dealing with any unintended consequences in a piecemeal way. Hopefully, this will allow changes to the parking system to be made in a methodical way, avoiding a situation where the City spends resources on recommendations that do not result in an improved parking operation or must walk back a change that had an unintended, negative consequence.

8.4 Anticipated Cost of Implementation

For each of the recommended changes or improvements, an anticipated cost has been provided for use in the City's budgeting process. While the actual costs of implementing the recommendations will likely vary somewhat from these figures, these planning level cost estimates are intended to provide the City with an idea of the financial commitment associated with each recommendation. That cost, along with the potential benefits of each recommendation, will allow for an objective comparison of the merits of each proposed recommendation. Similarly, some of the recommendations, such as rate increases, will generate revenue. We have also attempted to identify the magnitude of the revenue increases associated with these recommendations. Some recommendations are seen as low cost and more easily implementable, while others will require more significant capital outlays and/or more planning in order for implementation to be successful.

Table 20 presents the projected financial performance of the parking system over the next 10 years, based upon the above recommendations and implementation timeframes.

Table 20: Projected Financial Performance of the City of Topeka Parking Division

	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
	Budget	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected
ON-GOING FUND BALANCE	\$ 143,183	\$ (548,032)	\$ (790,972)	\$ (1,168,332)	\$ (1,511,188)	\$ (2,117,920)	\$ (2,689,816)	\$ (3,129,881)	\$ (3,620,880)	\$ (3,864,919)	\$ (4,125,068)
OPERATING RESERVE	\$ 759,652	\$ 330,235	\$ 330,235	\$ 330,235	\$ 332,205	\$ 356,896	\$ 356,896	\$ 356,896	\$ 358,866	\$ 385,532	\$ 385,532
Profit/Loss	\$ (616,469)	\$ (360,979)	\$ (242,941)	\$ (377,359)	\$ (340,886)	\$ (582,042)	\$ (571,895)	\$ (440,065)	\$ (489,028)	\$ (217,373)	\$ (260,150)
REVENUE¹	\$ 2,856,370	\$ 3,302,355	\$ 3,302,355	\$ 3,302,355	\$ 3,322,055	\$ 3,568,963	\$ 3,568,963	\$ 3,568,963	\$ 3,588,663	\$ 3,855,324	\$ 3,855,324
Fees for Service:	\$ 2,654,083	\$ 2,654,083	\$ 2,654,083	\$ 2,654,083	\$ 2,654,083	\$ 2,654,083	\$ 2,654,083	\$ 2,654,083	\$ 2,654,083	\$ 2,654,083	\$ 2,654,083
Municipal Court	\$ 183,287	\$ 183,287	\$ 183,287	\$ 183,287	\$ 183,287	\$ 183,287	\$ 183,287	\$ 183,287	\$ 183,287	\$ 183,287	\$ 183,287
Miscellaneous	\$ 19,000	\$ 19,000	\$ 19,000	\$ 19,000	\$ 19,000	\$ 19,000	\$ 19,000	\$ 19,000	\$ 19,000	\$ 19,000	\$ 19,000
Revenue from Recommendations	\$ -	\$ 445,984	\$ 445,984	\$ 445,984	\$ 465,684	\$ 712,592	\$ 712,592	\$ 712,592	\$ 732,292	\$ 998,954	\$ 998,954
EXPENSES²	\$ 3,472,840	\$ 3,663,334	\$ 3,545,295	\$ 3,679,714	\$ 3,662,941	\$ 4,151,005	\$ 4,140,858	\$ 4,009,028	\$ 4,077,691	\$ 4,072,697	\$ 4,115,474
Employee Compensation	\$ 652,426	\$ 668,737	\$ 685,455	\$ 702,592	\$ 720,157	\$ 738,160	\$ 756,614	\$ 775,530	\$ 794,918	\$ 814,791	\$ 835,161
Benefits	\$ 225,639	\$ 231,280	\$ 237,062	\$ 242,989	\$ 249,064	\$ 255,290	\$ 261,672	\$ 268,214	\$ 274,920	\$ 281,793	\$ 288,837
Utilities	\$ 284,777	\$ 291,896	\$ 299,194	\$ 306,674	\$ 314,341	\$ 322,199	\$ 330,254	\$ 338,510	\$ 346,973	\$ 355,647	\$ 364,539
Professional Services and Contractors	\$ 308,751	\$ 316,470	\$ 324,382	\$ 332,491	\$ 340,803	\$ 349,323	\$ 358,057	\$ 367,008	\$ 376,183	\$ 385,588	\$ 395,227
Miscellaneous	\$ 3,500	\$ 3,588	\$ 3,677	\$ 3,769	\$ 3,863	\$ 3,960	\$ 4,059	\$ 4,160	\$ 4,264	\$ 4,371	\$ 4,480
Insurance	\$ 64,103	\$ 65,706	\$ 67,349	\$ 69,032	\$ 70,758	\$ 72,527	\$ 74,340	\$ 76,199	\$ 78,104	\$ 80,056	\$ 82,058
Maintenance	\$ 83,655	\$ 85,747	\$ 87,890	\$ 90,088	\$ 92,340	\$ 94,648	\$ 97,015	\$ 99,440	\$ 101,926	\$ 104,474	\$ 107,086
Rent	\$ 1,800	\$ 1,845	\$ 1,891	\$ 1,938	\$ 1,987	\$ 2,037	\$ 2,087	\$ 2,140	\$ 2,193	\$ 2,248	\$ 2,304
Purchased Services	\$ 234,971	\$ 240,845	\$ 246,866	\$ 253,038	\$ 259,364	\$ 265,848	\$ 272,494	\$ 279,307	\$ 286,289	\$ 293,447	\$ 300,783
Supplies	\$ 129,100	\$ 132,328	\$ 135,636	\$ 139,027	\$ 142,502	\$ 146,065	\$ 149,716	\$ 153,459	\$ 157,296	\$ 161,228	\$ 165,259
Capital Outlay	\$ 261,528	\$ 268,066	\$ 274,768	\$ 281,637	\$ 288,678	\$ 295,895	\$ 303,292	\$ 310,875	\$ 318,646	\$ 326,613	\$ 334,778
Debt Service	\$ 822,588	\$ 784,526	\$ 718,825	\$ 688,839	\$ 681,484	\$ 907,452	\$ 833,656	\$ 636,587	\$ 638,378	\$ 564,841	\$ 537,361
Expenses from Recommendations	\$ 400,000	\$ 572,300	\$ 462,300	\$ 567,600	\$ 497,600	\$ 697,600	\$ 697,600	\$ 697,600	\$ 697,600	\$ 697,600	\$ 697,600

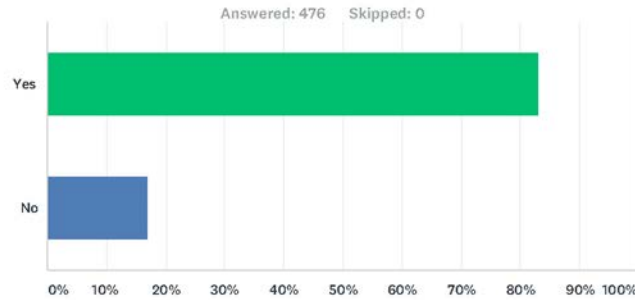
1) Regular parking rate increases were assumed in 2019, 2023 and 2027. These figures do not account for additional revenue from future demand growth.

2) Assumed annual expense growth of 2.5%, not including additional expenses associated with implementing recommendations.

Source: DESMAN

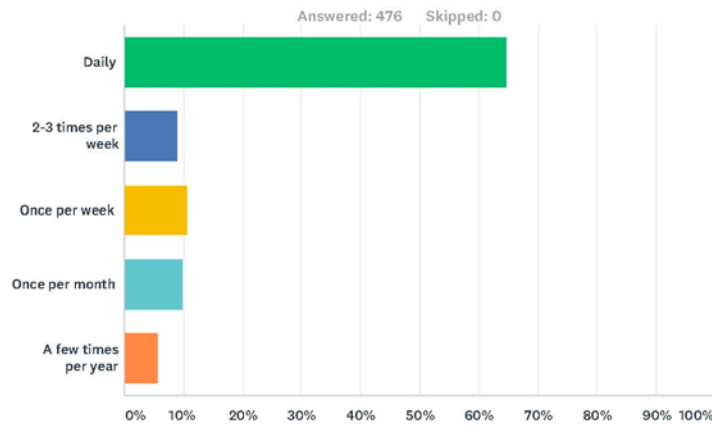
APPENDIX A: Online Parking Survey Summary

Q1 Do you live in Topeka?



Answer Choices	Responses	
Yes	82.98%	395
No	17.02%	81
Total		476

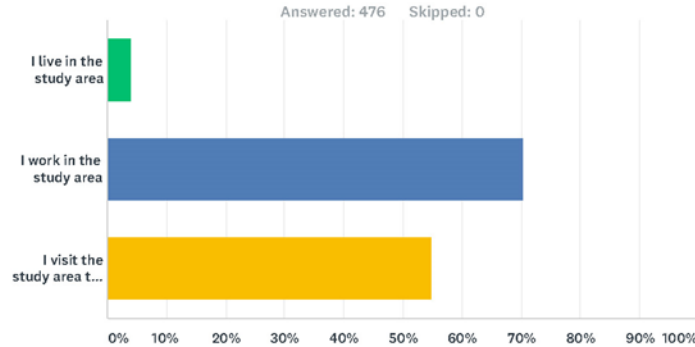
Q2 How often do you visit the downtown study area?



Answer Choices	Responses	
Daily	64.71%	308
2-3 times per week	9.03%	43
Once per week	10.71%	51
Once per month	9.87%	47
A few times per year	5.67%	27
Total		476

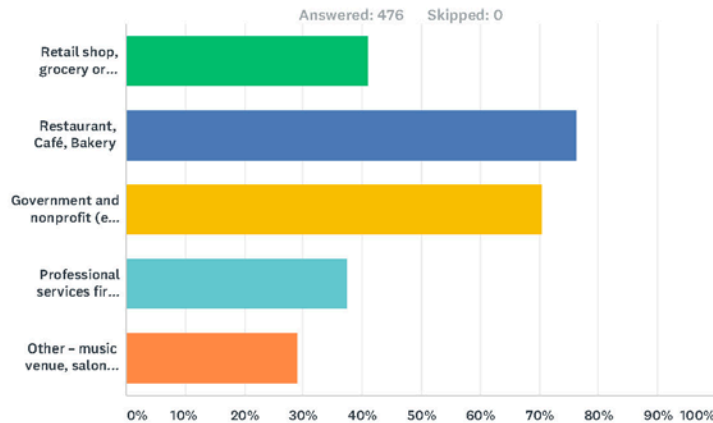
APPENDIX A: Online Parking Survey Summary (cont.)

Q3 Please select all of the following that describe you:



Answer Choices	Responses	
I live in the study area	3.99%	19
I work in the study area	70.38%	335
I visit the study area to access downtown businesses, services, attractions, etc.	54.83%	261
Total Respondents: 476		

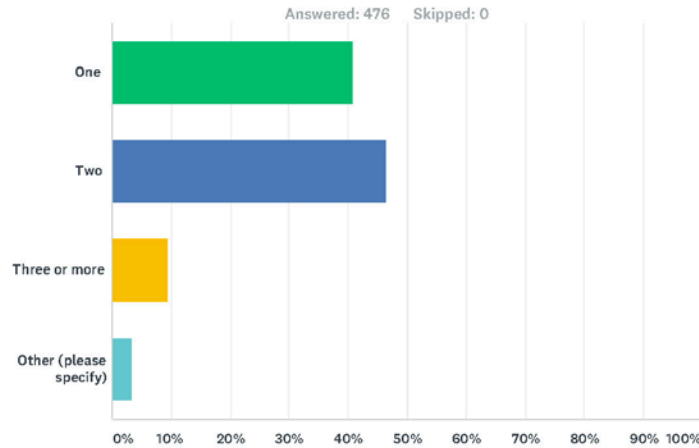
Q4 What types of businesses do you visit when making a trip to the study area? (Please select all that apply)



Answer Choices	Responses	
Retail shop, grocery or convenience store	40.97%	195
Restaurant, Café, Bakery	76.26%	363
Government and nonprofit (e.g. city offices, county offices, Post Office, etc.)	70.59%	336
Professional services firms (e.g. law, architecture/engineering, accounting, realty, marketing, medical, etc.)	37.39%	178
Other - music venue, salon, spa, barber shop, etc.	28.99%	138
Total Respondents: 476		

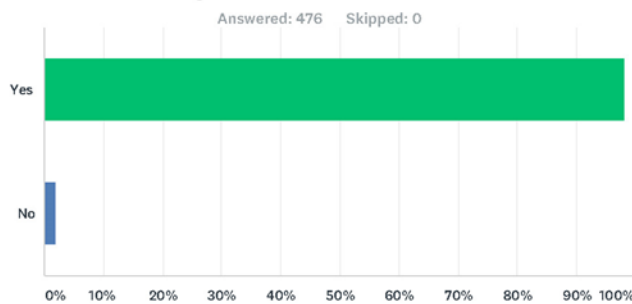
APPENDIX A: Online Parking Survey Summary (cont.)

Q5 How many businesses or destinations do you typically visit/patronize when making a single trip to the study area?



Answer Choices	Responses	
One	40.76%	194
Two	46.43%	221
Three or more	9.45%	45
Other (please specify)	3.36%	16
Total		476

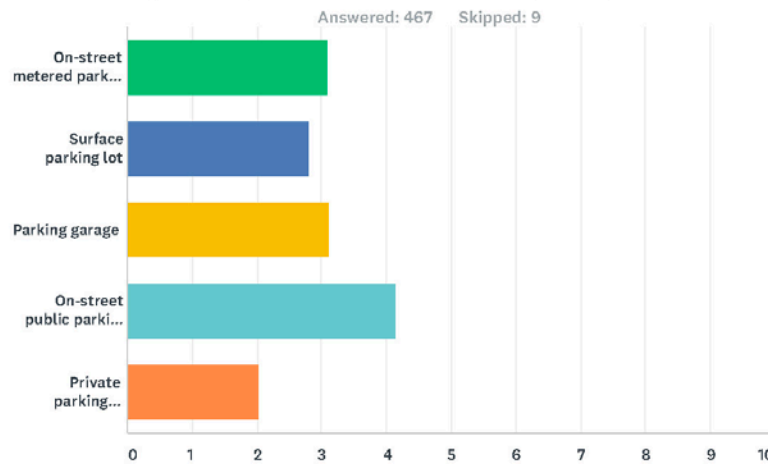
Q6 When visiting the downtown study area, do you typically drive a personal vehicle?



Answer Choices	Responses	
Yes	98.11%	467
No	1.89%	9
Total		476

APPENDIX A: Online Parking Survey Summary (cont.)

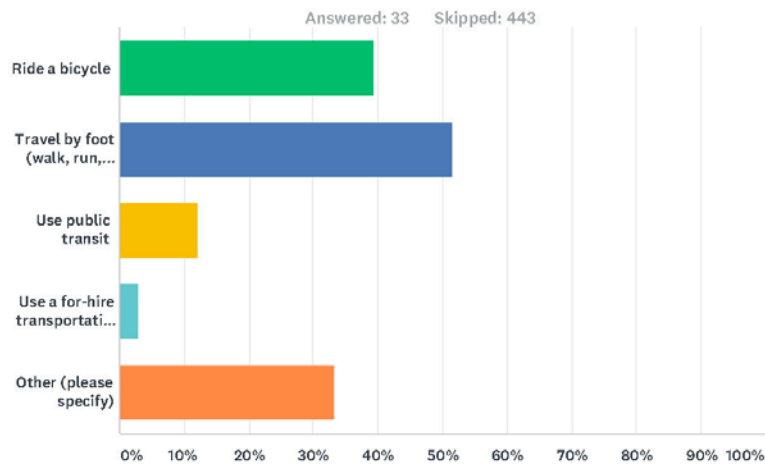
Q7 If "yes" to Question 6, where do you typically prefer to park when you visit? (Please rank your parking preference, with "1" being the place you are most likely to park and "5" being the place you are least likely to park)



	1	2	3	4	5	Total	Score
On-street metered parking space	14.62% 62	27.83% 118	26.65% 113	13.92% 59	16.98% 72	424	3.09
Surface parking lot	6.36% 25	17.05% 67	35.62% 140	32.32% 127	8.65% 34	393	2.80
Parking garage	26.39% 114	14.12% 61	16.90% 73	29.40% 127	13.19% 57	432	3.11
On-street public parking space (no meter)	47.39% 200	32.23% 136	11.37% 48	5.92% 25	3.08% 13	422	4.15
Private parking facility	13.48% 55	7.60% 31	6.37% 26	12.99% 53	59.56% 243	408	2.02

APPENDIX A: Online Parking Survey Summary (cont.)

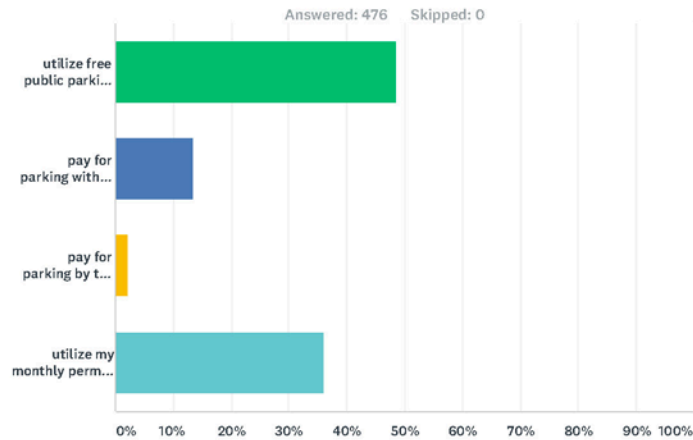
Q8 If "no" to Question 6, what mode(s) of transportation do you typically utilize when traveling to downtown Topeka? (Please select all that apply)



Answer Choices	Responses	
Ride a bicycle	39.39%	13
Travel by foot (walk, run, etc.)	51.52%	17
Use public transit	12.12%	4
Use a for-hire transportation service (e.g. taxi or Uber)	3.03%	1
Other (please specify)	33.33%	11
Total Respondents: 33		

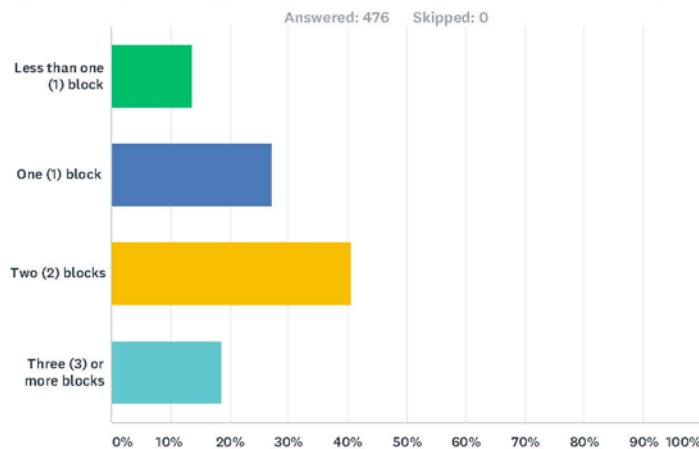
APPENDIX A: Online Parking Survey Summary (cont.)

**Q9 Please select the one statement that best describes you:
When using public parking in Topeka, I typically...**



Answer Choices	Responses	
utilize free public parking spaces	48.53%	231
pay for parking with coins at the parking meters	13.45%	64
pay for parking by the hour at a parking garage or surface lot	2.10%	10
utilize my monthly permit in a parking garage or surface parking lot	35.92%	171
Total		476

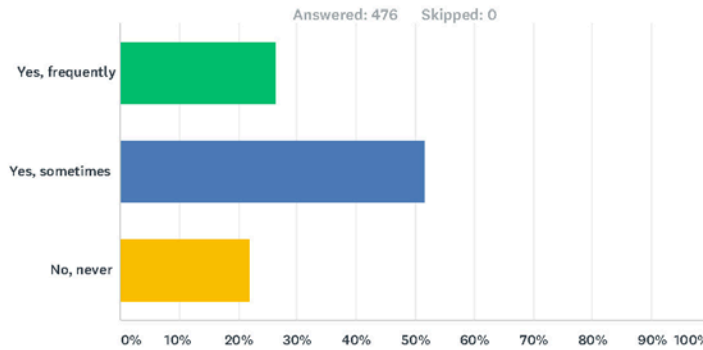
**Q10 What is the maximum distance you are willing to walk from
public parking to your destination(s) in Topeka?**



Answer Choices	Responses	
Less than one (1) block	13.66%	65
One (1) block	27.10%	129
Two (2) blocks	40.55%	193
Three (3) or more blocks	18.70%	89
Total		476

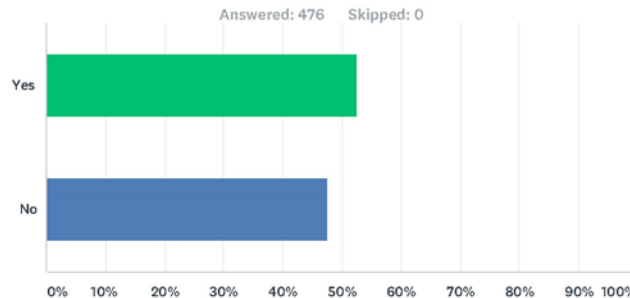
APPENDIX A: Online Parking Survey Summary (cont.)

Q11 When using public parking in the study area, do you have difficulty finding an available parking stall/space within an acceptable distance from your destination?



Answer Choices	Responses
Yes, frequently	26.26% 125
Yes, sometimes	51.68% 246
No, never	22.06% 105
Total	476

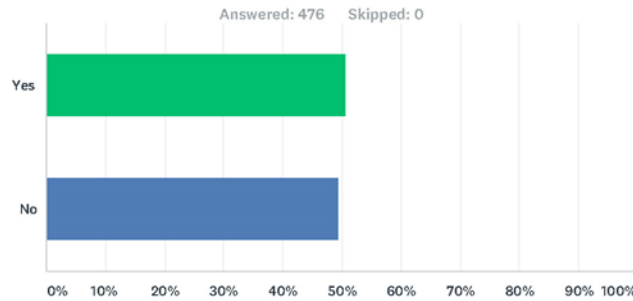
Q12 If you have difficulty finding available public parking within an acceptable distance from your destination, does this discourage you from visiting Topeka?



Answer Choices	Responses
Yes	52.52% 250
No	47.48% 226
Total	476

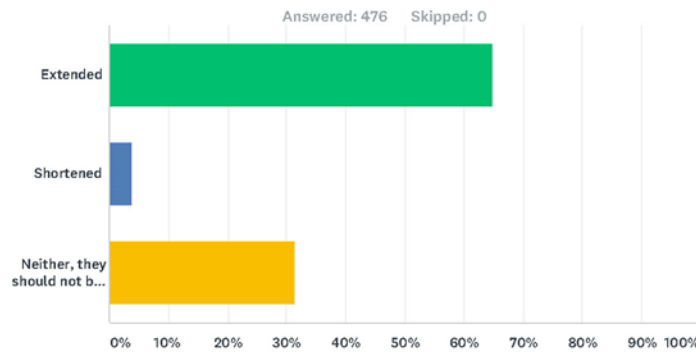
APPENDIX A: Online Parking Survey Summary (cont.)

Q13 Do the parking time limits in downtown Topeka meet your needs?



Answer Choices	Responses
Yes	50.63% 241
No	49.37% 235
Total	476

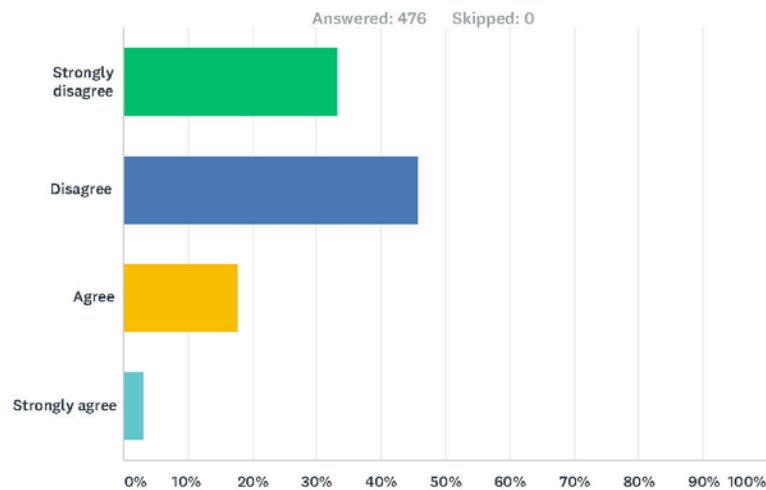
Q14 Do you believe public parking time limits should be extended or shortened?



Answer Choices	Responses
Extended	64.92% 309
Shortened	3.78% 18
Neither, they should not be changed	31.30% 149
Total	476

APPENDIX A: Online Parking Survey Summary (cont.)

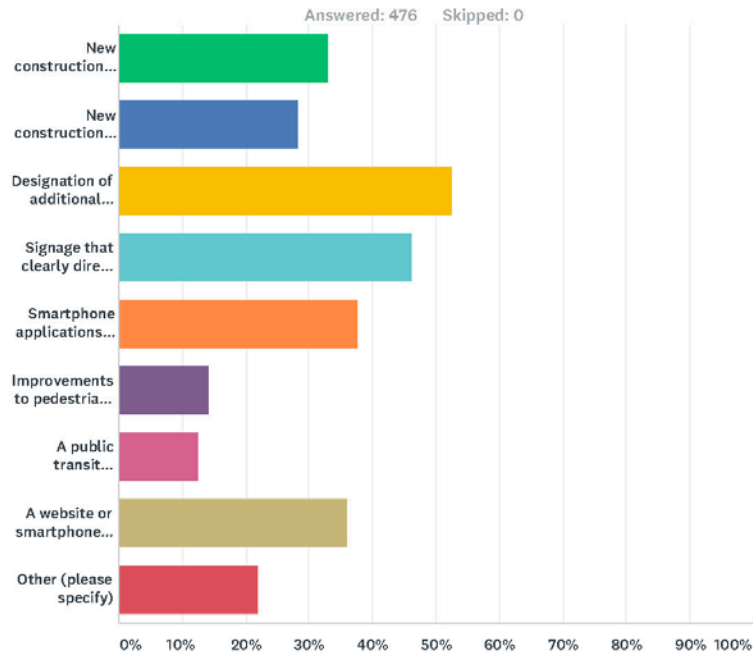
Q15 Rate the degree to which you agree/disagree with the following statement: Compared to the current Topeka parking rates, I am willing to pay more in order to improve my experience by making available parking easier to find, use and pay for.



Answer Choices	Responses	
Strongly disagree	33.19%	158
Disagree	45.80%	218
Agree	17.86%	85
Strongly agree	3.15%	15
Total		476

APPENDIX A: Online Parking Survey Summary (cont.)

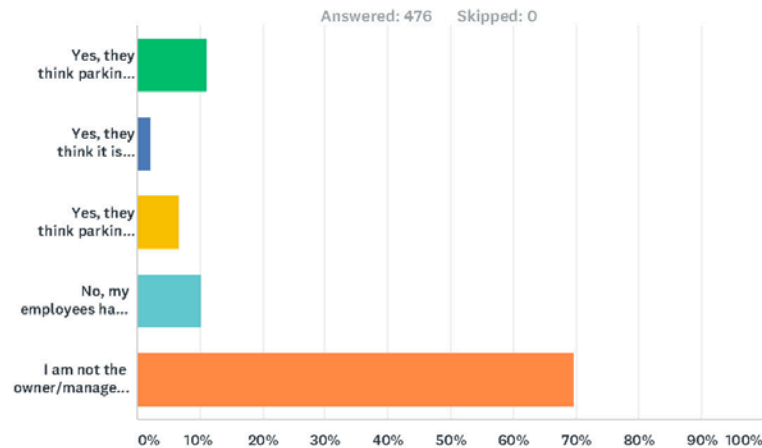
Q16 What improvements to the public parking system would be most meaningful to you? (Select all that apply)



Answer Choices	Responses	
New construction of additional surface lot parking spaces	32.98%	157
New construction of additional garage parking spaces	28.15%	134
Designation of additional areas for on-street parking	52.52%	250
Signage that clearly directs motorists to parking facilities such as garages and surface lots	46.22%	220
Smartphone applications that enable motorists to find parking spaces	37.61%	179
Improvements to pedestrian and bicycle facilities	14.29%	68
A public transit circulator bus route that serves Topeka	12.61%	60
A website or smartphone application that reports real-time availability of parking spaces	35.92%	171
Other (please specify)	22.06%	105
Total Respondents: 476		

APPENDIX A: Online Parking Survey Summary (cont.)

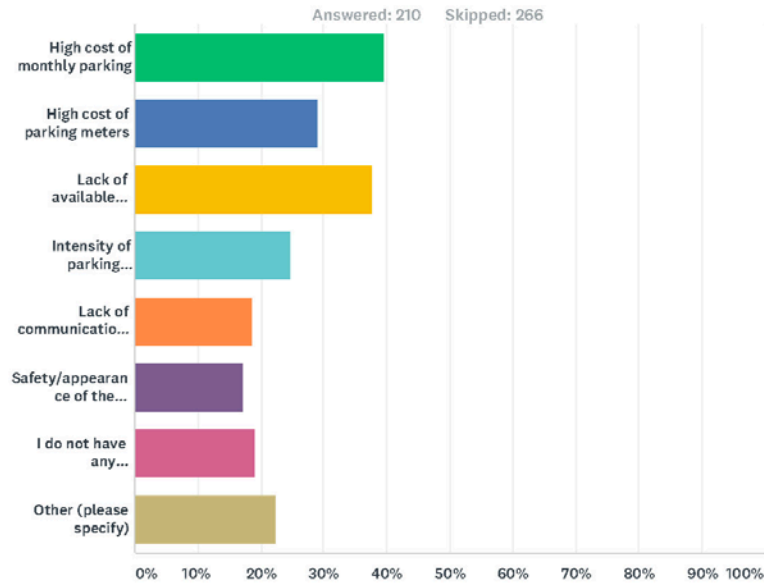
Q17 If you are a business owner/manager, have your employees voiced concerns over the cost or availability of parking?



Answer Choices	Responses	
Yes, they think parking is too expensive	11.13%	53
Yes, they think it is hard to find parking	2.10%	10
Yes, they think parking is too expensive and hard to find	6.72%	32
No, my employees have not voiced concerns about parking	10.29%	49
I am not the owner/manager of a business in downtown Topeka	69.75%	332
Total		476

APPENDIX A: Online Parking Survey Summary (cont.)

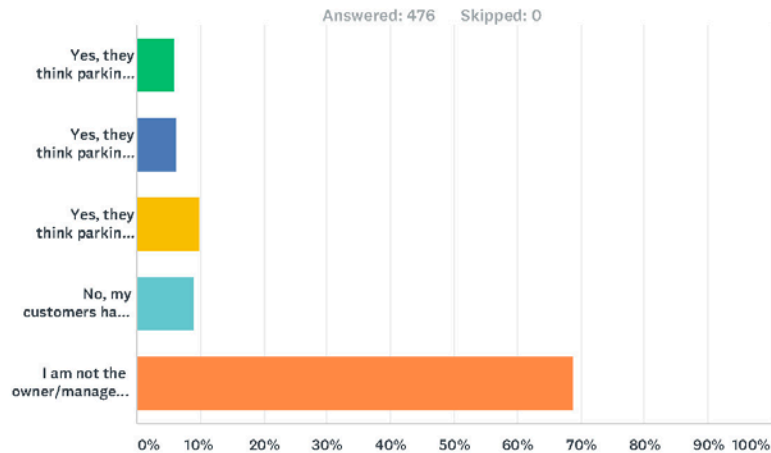
Q18 As the owner/manager of a business in downtown Topeka, do you have any concerns/issues regarding parking? (Please select all that apply)



Answer Choices	Responses	
High cost of monthly parking	39.52%	83
High cost of parking meters	29.05%	61
Lack of available spaces	37.62%	79
Intensity of parking enforcement	24.76%	52
Lack of communication from the City regarding parking	18.57%	39
Safety/appearance of the parking facilities	17.14%	36
I do not have any issues/concerns regarding parking	19.05%	40
Other (please specify)	22.38%	47
Total Respondents: 210		

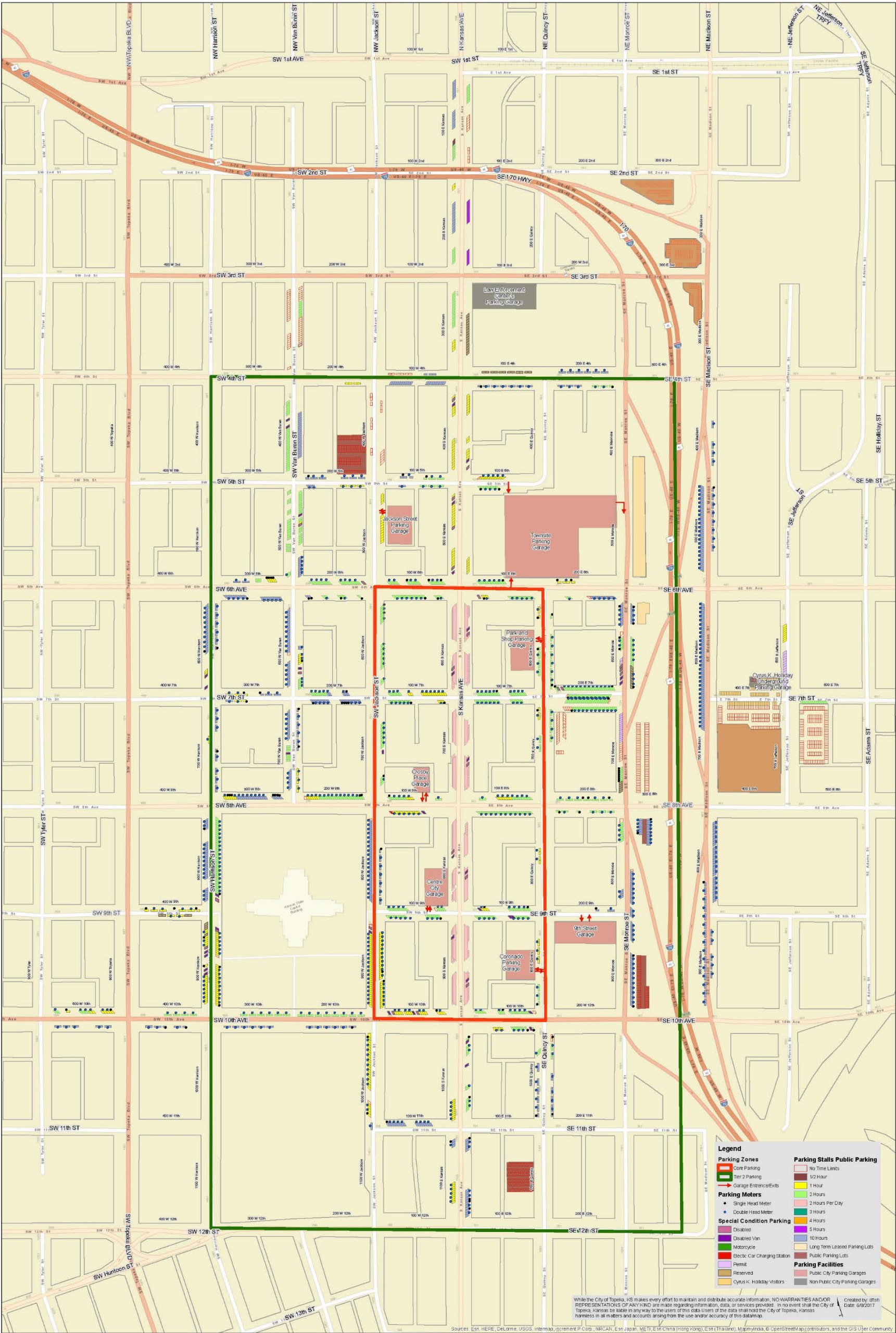
APPENDIX A: Online Parking Survey Summary (cont.)

Q19 If you are a business owner/manager, have your customers voiced concerns over the cost or availability of parking?



Answer Choices	Responses	
Yes, they think parking is too expensive	5.88%	28
Yes, they think parking is hard to find	6.30%	30
Yes, they think parking is too expensive and hard to find	9.87%	47
No, my customers have not voiced concerns about parking	9.03%	43
I am not the owner/manager of a business in downtown Topeka	68.91%	328
Total		476

APPENDIX B: City Parking Map





City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
December 5, 2017

DATE: December 5, 2017
CONTACT PERSON: Councilmember Elaine Schwartz
DOCUMENT #:
SECOND PARTY/SUBJECT: Tobacco Products - **PROJECT #:**
Prohibit Sales Under 21
CATEGORY/SUBCATEGORY 013 Ordinances - Codified / 054 Criminal Code
CIP PROJECT: No
ACTION OF COUNCIL: 11-21-17 Discussion. **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

ORDINANCE introduced by Councilmember Elaine Schwartz, amending Section 9.05.080 of the Code of the City of Topeka, adding a local amendment to the Uniform Public Offense Code concerning the sale or furnishing of cigarettes, electronic cigarettes, tobacco products and liquid nicotine to any person under age 21.

Voting Requirement: Majority vote of the Governing Body (6).

(The amendment would prohibit the sale or furnishing of cigarettes and other tobacco-related products to adults between the ages of 18 and 20.)

VOTING REQUIREMENTS:

Majority vote of the Governing Body (6).

POLICY ISSUE:

Whether to prohibit sales of cigarettes and other tobacco-related products to adults between the ages of 18 and 20.

STAFF RECOMMENDATION:

Staff is making no recommendation as this is a policy decision to be made by the Governing Body.

BACKGROUND:

The Shawnee County Health Department has asked the City to enact an ordinance similar to the recently passed Shawnee County resolution prohibiting the sale or furnishing of cigarettes, electronic cigarettes, tobacco products and liquid nicotine to adults between the ages of 18 and 20. Currently, the City prohibits the

sale/furnishing of cigarettes, electronic cigarettes, and tobacco products to minors only (individuals under the age of 18). The County's resolution applies only to the unincorporated areas with Shawnee County.

Conviction would be a Class B Misdemeanor with a minimum fine of \$200. Retailer detailers would have a defense to prosecution if they can prove that the purchaser exhibited identification showing that the purchaser was 21 or older.

BUDGETARY IMPACT:

Unknown at this time in terms of the law enforcement resources necessary to enforce the ordinance. Currently, there are approximately 30 active Tobacco Novelty Licenses issued within city limits.

SOURCE OF FUNDING:

Police Department

ATTACHMENTS:

Description

Ordinance

Shawnee County Resolution No. HR-2017-2

League of Kansas Municipalities Letter of Opinion

1 (Published in the Topeka Metro News _____)

2
3 ORDINANCE NO. _____

4
5 AN ORDINANCE introduced by Councilmember Elaine Schwartz, amending §
6 9.05.080 of the Code of the City of Topeka, adding a local
7 amendment to the Uniform Public Offense Code concerning the
8 sale or furnishing of cigarettes, electronic cigarettes, tobacco
9 products and liquid nicotine to any person under age 21.

10
11 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA,
12 Kansas:

13
14 Section 1. That section 9.05.080, Uniform Public Offense Code, of The Code
15 of the City of Topeka, Kansas, is hereby amended to read as follows:

16 **Uniform Public Offense Code.**

17 (a) Adoption. There is hereby incorporated by reference for the purpose of
18 regulating public offenses within the corporate limits of the city of Topeka, Kansas, the
19 Uniform Public Offense Code for Kansas Cities, 31st Edition (2015), prepared and
20 published in book form by the League of Kansas Municipalities, Topeka, Kansas,
21 (hereinafter referred to as "UPOC 2015") except for 10.24 ("Smoking Prohibited"), 10.25
22 ("Smoking; Posting Premises"), 10.26 ("Smoking Prohibited; Penalties") and 11.11
23 ("Cruelty to Animals"), which are specifically deleted and omitted. One copy of said
24 Uniform Public Offense Code shall be marked or stamped "Official Copy as adopted by
25 Ordinance No. 19988," with all sections or portions thereof intended to be omitted or
26 changed clearly marked to show any such omission or change and to which shall be
27 attached a copy of said ordinance and filed with the city clerk to be open to inspection
28 and available to the public at all reasonable hours.

29 (b) Amendments.

30 (1) Section 10.6 of UPOC 2015, relating to bows and arrows, is hereby
31 amended by adding the following exception:

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

(2) Section 5.7 of UPOC 2015, relating to selling, giving or furnishing cigarettes or tobacco products to a minor is hereby deleted and the following language is substituted therefor:

(a) It shall be unlawful for any person to:

(1) Sell, furnish or distribute cigarettes, electronic cigarettes, tobacco products or liquid nicotine to any person under 21 years of age; or

(2) Buy any cigarettes, electronic cigarettes, tobacco products or liquid nicotine for any person under 21 years of age.

(b) It shall be a defense to a prosecution under this section if:

(1) The defendant is a licensed retail dealer, or employee thereof, or a person authorized by law to distribute samples;

(2) The defendant sold, furnished or distributed the cigarettes, electronic cigarettes, tobacco products, or liquid nicotine to the person under 21 years of age with reasonable cause to believe the person was of legal age to purchase or receive cigarettes, electronic cigarettes, tobacco products or liquid nicotine; and

(3) To purchase or receive the cigarettes, electronic cigarettes, tobacco products or liquid nicotine, the person under 21 years of age exhibited to the defendant a driver's license, Kansas non driver's identification card or other official or apparently official

56 document containing a photograph of the person and purporting to
57 establish that the person was of legal age to purchase or receive
58 cigarettes, electronic cigarettes, tobacco products or liquid nicotine.

59 (4) For purposes of this section the person who violates this
60 section shall be the individual directly selling, furnishing or
61 distributing the cigarettes, electronic cigarettes, tobacco products or
62 liquid nicotine to any person under 21 years of age or the retail
63 dealer who has actual knowledge of such selling, furnishing or
64 distributing by such individual or both.

65 (c) It shall be a defense to a prosecution under this subsection

66 if:

67 (1) The defendant engages in the lawful sale, furnishing or
68 distribution of cigarettes, electronic cigarettes, tobacco products or
69 liquid nicotine by mail; and

70 (2) The defendant sold, furnished or distributed the
71 cigarettes, electronic cigarettes, tobacco products or liquid nicotine
72 to the person by mail only after the person had provided to the
73 defendant an unsworn declaration, conforming to K.S.A. 53-601
74 and amendments thereto, that the person was 21 or more years of
75 age.

76 (d) The words and phrases in Section 5.7 of UPOC 2015 shall
77 have the same meanings as defined in K.S.A. 79-3301, and amendments
78 thereto. "Liquid nicotine" shall mean the active ingredient of the tobacco
79 plant (nicotine) in liquefied form suitable for the induction of nicotine,

whether by nasal spray, ingestion, smoking or other means, into the human body. "Sale" shall mean any transfer of title or possession or both, exchange, barter, distribution or gift of cigarettes, electronic cigarettes, tobacco products or liquid nicotine with or without consideration.

(f) Violation of this section shall constitute a Class B violation punishable by a minimum fine of \$200.

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

Section 3. This ordinance shall take thirty (30) days after publication in the official newspaper.

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

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

PASSED AND APPROVED by the Governing Body on _____.

CITY OF TOPEKA, KANSAS

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk

HOME RULE RESOLUTION NO. HR-2017-2

A RESOLUTION PROHIBITING THE SALE OR FURNISHING OF CIGARETTES, ELECTRONIC CIGARETTES, TOBACCO PRODUCTS OR LIQUID NICOTINE TO ANY PERSON UNDER AGE 21

SPONSORED BY COMMISSIONER ARCHER

WHEREAS, the Board of County Commissioners of the County of Shawnee, Kansas desires to promote the public health, safety, and welfare of the citizens of Shawnee County by reducing the health risks associated with cigarettes, electronic cigarettes, tobacco products or liquid nicotine for persons under the age of twenty-one (21).

NOW, THEREFORE, The Board of County Commissioners of the County of Shawnee, Kansas, meeting in regular session this 10th day of August, 2017, and intending to exercise its powers of home rule pursuant to K.S.A. 19-101a, does hereby resolve as follows:

SECTION 1: PURPOSE

The purpose of this Resolution is to promote the public health, safety, and welfare of the citizens of Shawnee County by reducing the health risks associated with cigarettes, electronic cigarettes, tobacco products or liquid nicotine for persons under the age of twenty-one (21).

SECTION 2: DEFINITIONS

The words and phrases used in this Resolution shall have the same meanings as defined in K.S.A. 79-3301, and amendments thereto. For purposes of this Resolution, "Liquid Nicotine" shall mean the active ingredient of the tobacco plant (nicotine) in liquefied form suitable for the induction of nicotine, whether by nasal spray, ingestion, smoking or other means, into the human body.

SECTION 3: SALE OR FURNISHING OF CIGARETTES, ELECTRONIC CIGARETTES, TOBACCO PRODUCTS OR LIQUID NICOTINE TO ANY PERSON UNDER AGE 21 IN THE UNINCORPORATED AREA OF SHAWNEE COUNTY, KANSAS PROHIBITED; DEFENSES.

- A. In the unincorporated area of Shawnee County, Kansas, it is unlawful for any person to sell or furnish any cigarettes, electronic cigarettes, tobacco products or liquid nicotine to

any person under the age of twenty-one (21); or to purchase any cigarettes, electronic cigarettes, tobacco products or liquid nicotine for any person under the age of twenty-one (21).

B. It shall be a defense to prosecution under this Section if:

1. The defendant is a licensed retail dealer or a person authorized by law to distribute samples; and
2. The defendant sold or furnished the cigarettes, electronic cigarettes, tobacco products or liquid nicotine to the person under twenty-one (21) years of age with reasonable cause to believe the person was of legal age to purchase or receive cigarettes, electronic cigarettes, liquid nicotine or tobacco products; and
3. To purchase or receive the cigarettes, electronic cigarettes, tobacco products or liquid nicotine, the person under twenty-one (21) years of age exhibited to the defendant a driver's license, Kansas non-driver's identification card or other official or apparently official document containing a photograph of the person and purporting to establish that the person was twenty-one (21) or more years of age; or
4. The defendant engages in the lawful sale or furnishing of cigarettes, electronic cigarettes, tobacco products or liquid nicotine by mail and the defendant sold or furnished the cigarettes, electronic cigarettes, tobacco products or liquid nicotine to the person by mail only after the person had provided to the defendant an unsworn declaration, conforming to K.S.A. 53-601 and amendments thereto, that the person was twenty-one (21) or more years of age.

C. For purposes of this section, the person who violates this section shall be the individual directly selling or furnishing any cigarettes, electronic cigarettes, tobacco products or

liquid nicotine to any person under twenty-one (21) years of age or the retail dealer who has actual knowledge of such selling or furnishing by such individual or both.

SECTION 4: ENFORCEMENT

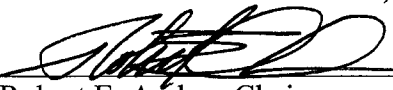
Penalty for Violation: Violations of any provision of this Resolution shall be punishable by a fine of Two Hundred Dollars (\$200.00).

SECTION 5: OTHER PROVISIONS

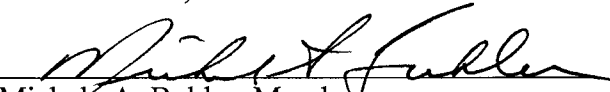
- A. Invalidity of Part: If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this Resolution or any part thereof, is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Resolution or any part thereof.
- B. Effective Date: This Resolution shall take effect thirty (30) days after publication in the official County newspaper.



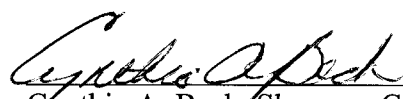
BOARD OF COUNTY COMMISSIONERS SHAWNEE COUNTY, KANSAS

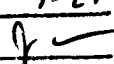

Robert E. Archer, Chair

No
Kevin J. Cook, Vice-Chair


Michele A. Buhler, Member

ATTEST:


Cynthia A. Beck, Shawnee County Clerk

Approved as to Legality
and Form: Date 7-27-17

ASST. CO. COUNSELOR
Received _____

11/15/17

Sarah Fertig
Memorial Hall
120 SW 10th Ave
2nd Floor
Topeka KS 66612

Dear Ms. Fertig:

I am writing in response to your request for the League's position on whether a city ordinance or county resolution that prohibits the sale of cigarettes or tobacco products to persons under 21 years of age is valid under state law. My opinion will focus solely on the League's area of expertise, city ordinances.

K.S.A. 79-3321(l) provides that it is unlawful for any person to "sell, furnish or distribute cigarettes, electronic cigarettes or tobacco products to any person under 18 years of age." K.S.A. 79-3321(m) makes it unlawful for any person "who is under 18 years of age to purchase or attempt to purchase cigarettes, electronic cigarettes or tobacco products," and K.S.A. 79-3321(n) makes it unlawful for any person "who is under 18 years of age to possess or attempt to possess cigarettes, electronic cigarettes or tobacco products."

Under Article 12, §5(b) of the Kansas Constitution, cities can only be bound by state laws uniformly applicable to all cities regardless of whether the subject matter of the state law is one of statewide or local concern. The State may only preempt the constitutional authority of cities in the manner prescribed in the Home Rule Amendment. See *Kline v. Unified Government of Wyandotte County / Kansas City, Kansas*, 277 Kan. 516, 85 P.3d 1237 (2004).

The Supreme Court has "a duty to preserve the validity of the ordinance and to search for ways to uphold its constitutionality. [It] must presume that the ordinance is constitutional, resolve all doubts in favor of validity, uphold the ordinance if there is any reasonable way to construe it as constitutional, and before striking the ordinance." *City of Wichita v. Hackett*, 275 Kan. 848, 853, 69 P.3d 621, 625-26 (2003).

Cities may enact an ordinary home rule ordinance when there is a uniform state law on the subject and the city would like to supplement the state law provided there is no conflict between the state law and the local ordinance.

"The primary method of determining whether an ordinance is inconsistent with a state standard is to see whether the local law prohibits what the state law permits or the state law prohibits what the local law permits. *Missouri Pacific Railroad v.*

Board of Greeley County Comm'rs, 231 Kan. 225, 227, 643 P.2d 188 (1982). Where a municipal ordinance merely enlarges on the provisions of a statute by requiring more than is required by the statute, there is no conflict between the two unless the legislature has limited the requirements for all cases to its own prescription. *Leavenworth Club Owners Assn. v. Atchison*, 208 Kan. 318, Syl. ¶ 3, 492 P.2d 183 (1971)." *City of Wichita v. Basgall*, 257 Kan. 631, 635, 894 P.2d 876, 880 (1995).

The fact that the local ordinance is more restrictive than the state law does not create a conflict. See *City of Wichita*, 275 Kan. at 635 (upheld an ordinance extending the city's DUI ordinance to cover operating a bicycle while under the influence); See also *Hutchison Human Relations Commission v. Midland Credit Management, Inc.*, 213 Kan. 308, 517 P.3d 158 (1973) (affirmed the ability of cities to establish local civil rights agencies despite the existence of state laws prohibiting acts of discrimination); See also *City of Junction City v. Lee*, 216 Kan. 495, 499, 532 P.2d 1292 (1975) (upheld an ordinance defining the crime of unlawful use of weapons as the carrying of both concealed and unconcealed weapons despite the uniform state law only making it a crime to carry a concealed weapon); See also *Leavenworth Club Owners Association v. Atchison*, 208 Kan. 318, 492 P.2d 183 (1971) (upheld an ordinance making establishing a more restrictive closing time for private clubs than state law).

The fact that the state has enacted legislation on a subject does not necessarily deprive a city of power to deal with the same subject. Legislative intent to reserve exclusive jurisdiction to the state must be clearly manifested in the statute before it can be held the state has withdrawn power from the city to regulate the area. See *Junction City*, 216 Kan. at 502. If the area of law has not been clearly preempted by the Legislature, local action is permitted. See *Kline*, 277 Kan. At 516; See also *Junction City*, 295 Kan. at 438.

K.S.A. 79-3321 fails to contain clear preemptive language. As such, it is the opinion of the League that the Legislature has failed to clearly preempt the field. Unless there is a uniform law applicable to all cities which contains language expressly prohibiting local legislation, then a city has the authority pass an ordinance on the subject provided there is no conflict between the local provisions and state law. Both the state statute and the city ordinances in question providing for more restrictive age requirements to purchase cigarettes and tobacco products are prohibitory. The only difference is that the local law goes further in its prohibition. As such, these are valid exercises of a city's constitutional home rule authority.

Sincerely,



Amanda Stanley
Legal Counsel
The League of Kansas Municipalities



STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

DEREK SCHMIDT
ATTORNEY GENERAL

October 23, 2017

MEMORIAL HALL
120 SW 10TH AVE., 2ND FLOOR
TOPEKA, KS 66612-1597
(785) 296-2215 • FAX (785) 296-6296
WWW.AG.KS.GOV

Larry Baer, General Counsel
League of Kansas Municipalities
300 SW 8th Ave.
Topeka, KS 66603-3951

Re: OR 2017-39

Dear Mr. Baer:

Our office has received the enclosed request for an attorney general opinion from State Senator Jeff Longbine, regarding whether a city ordinance or county resolution that prohibits the sale of cigarettes or tobacco products to persons under 18 years of age is valid under state law.

The inquiry and our response might fall within areas in which your organization may have expertise or an interest. In an effort to consider your position in the matter, we invite you to provide us with any information or legal arguments relating to statutes, regulations, court decisions, administrative proceedings and policy statements that you deem relevant to the issue to be addressed. If you wish to do so, please provide your input within two weeks from the date of this letter.

Please be advised that any input you provide will be subject to the Kansas Open Records Act, K.S.A. 45-215 *et seq.*

If you have or acquire knowledge of any legal or administrative proceedings pending or to be filed regarding the issues of the opinion request, please notify us immediately.

Thank you for your assistance in this matter of mutual concern.

Sincerely,

OFFICE OF THE ATTORNEY GENERAL
DEREK SCHMIDT

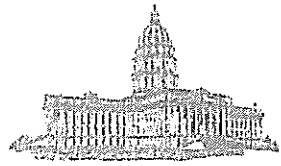
Sarah Fertig
Assistant Attorney General

SF:sb
Enclosure

DISTRICT OFFICE:
2801 LAKERIDGE RD
EMPORIA, KS 66801
620-342-2744

State of Kansas
Senate Vice President
CHAIR FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

ROOM 341-E, STATE CAPITOL
TOPEKA, KANSAS 66612
(785) 296-7361
E-Mail: jeff.longbine@senate.ks.gov



JEFF LONGBINE
SENATOR, SEVENTEENTH DISTRICT

October 18, 2017

The Honorable Derek L. Schmidt
Attorney General of Kansas
120 S.W. 10th Avenue
Topeka, Kansas 66612

Dear General Schmidt:

A number of Kansas cities and counties, primarily in the eastern part of the state, have been enacting local laws prohibiting the sale of cigarettes and tobacco products to persons under the age of 21. This is in contrast to the provisions of K.S.A. 2016 Supp. 79-3321(l) which prohibits such sales to persons under the age of 18.

The state law referenced above appears to be a law uniformly applicable to all cities and counties, and I am advised that, with respect to uniformly applicable state laws, cities and counties may still enact ordinances and resolutions, respectively, through the exercise of their home rule powers, as long as the ordinances or resolutions are more restrictive than the state law and are not in conflict with it.

It also is my understanding that the courts have determined that an ordinance or resolution is in conflict with a uniformly applicable state law if the ordinance or resolution authorizes what the state law prohibits or prohibits what the state law authorizes. While the pertinent state law is prohibitory in nature (i.e., it prohibits tobacco sales to persons under 18), the fact is, under this state law, persons 18 years of age or older may lawfully purchase cigarettes or tobacco products. Whereas, under the ordinance and resolutions at issue, persons 18 years of age but under the age of 21 may not lawfully purchase cigarettes or tobacco products.

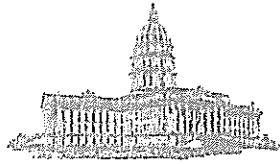
Thus, it appears that these ordinances are in conflict with the pertinent state law, because they prohibit what the state law authorizes.

Finally, I am told that supporters of these ordinances and resolutions contend that they are authorized by K.S.A. 2016 Supp. 21-6114, which states, in part:

DISTRICT OFFICE:
2801 LAKERIDGE RD
EMPORIA, KS 66801
620-342-2744

State of Kansas
Senate Vice President
CHAIR FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

ROOM 341-E, STATE CAPITOL
TOPEKA, KANSAS 66612
(785) 296-7361
E-Mail: jeff.longbine@senate.ks.gov



JEFF LONGBINE
SENATOR, SEVENTEENTH DISTRICT

Nothing in this act shall prevent any city or county from regulating smoking within its boundaries, so long as such regulation is at least as stringent as that imposed by this act.

The foregoing is contained in a section of the act which makes it unlawful (with certain exceptions) "to smoke in an enclosed area, or at a public meeting." However, that act does not relate to the lawful age to purchase cigarettes or tobacco products.

Based on the foregoing, I would respectfully request your opinion as to whether an ordinance of a city or resolution of a county which prohibits the sale of cigarettes or tobacco products to persons under the age of 21 is valid.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Jeff Longbine". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

Jeff Longbine
State Senator, 17th District



**City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
December 5, 2017**

DATE:	December 5, 2017		
CONTACT PERSON:	Nickie Lee, Finance Director	DOCUMENT #:	
SECOND PARTY/SUBJECT:	Downtown Business Improvement District	PROJECT #:	
CATEGORY/SUBCATEGORY	013 Ordinances - Codified / 002 Administration		
CIP PROJECT:	No		
ACTION OF COUNCIL:		JOURNAL #:	12
		PAGE #:	

DOCUMENT DESCRIPTION:

DISCUSSION related to the ordinance establishing a service fee levy for 2018 relating to the Capital City Downtown Business Improvement District.

(Discussion on the continued imposition of business improvement service fees on businesses located within the Capital City Downtown Business Improvement District. The ordinance will be considered by the Governing Body on December 12, 2017.)

VOTING REQUIREMENTS:

Discussion only.

POLICY ISSUE:

Approval would impose business improvement service fees which are used to provide a variety of services to downtown businesses: a portion of the landscaping, lighting between 4th and 10th Streets on S. Kansas Avenue, maintenance of improvements in City right-of-way in the district, programs to enhance downtown and promote economic development downtown.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to adopt the ordinance.

BACKGROUND:

State law authorizes the imposition of service fees on businesses located within a business improvement district created by a city. Topeka has established such a district downtown. The fees are assessed based upon the square footage and location of the business.

Beginning in 2017, the Board recommended introducing the tier structure as outlined on the map and varied fee structure as follows:

Tier 1: Up to 999 square feet, the fee is \$60, over 1000 square feet, the rate is .0805 per square foot, with a cap of \$15,000.

Tier 2: Up to 999 square feet, the fee is \$60, over 1000 square feet, the rate is .0605 per square foot, with a cap of \$15,000.

Tier 3: Up to 999 square feet, the fee is \$60, over 1000 square feet, the rate is .0405 per square foot, with a cap of \$15,000.

Additionally, vacant structures would pay as follows: \$.0405 per square foot in Tier 1; \$.0305 per square foot in Tier 2; \$.0205 per square foot in Tier 3.

The BID Board recommends the same fee structure for 2018.

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

Description

2018 BID Ordinance

Downtown BID Map

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Brent Trout, amending City of Topeka Code § 3.40.030 establishing a service fee levy for 2018 relating to the Capital City Downtown Business Improvement District and specifically repealing said original section.

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

Section 1. That section 3.40.030, Method of raising revenue, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

3.40.030 Method of raising revenue.

(a) The method to be used to raise the funds necessary for the district shall be the levy of service fees upon all businesses located within the district. "Business" means a fixed place of business where one or more persons are employed or engaged in the purchase, sale, provision or manufacturing of commodities, products or services. The ownership of real estate which is unoccupied and which is held for investment purposes, for sale or lease, shall be considered a business. For the purposes of this chapter, the operation of multifamily residential property and the operation of structured parking facilities shall not be considered to be a business.

(b) The service fees shall be based upon the location of the business in one of the tier areas located in the map which is incorporated by reference. However, the maximum service fee per business will not exceed \$15,000 regardless of the number of square feet or tier area. The service fees assessed shall be as follows:

Number of square feet	Rate
0 – 999	\$60 (all tiers)
1,000 plus (tier	\$.0805 per square

Number of square feet	Rate
one)	foot
1,000 plus (tier two)	\$.0605 per square foot
1,000 plus (tier three)	\$.0405 per square foot
Unoccupied Real Estate	Rate
Tier One	\$.0405 per square foot
Tier Two	\$.0305 per square foot
Tier Three	\$.0205 per square foot

(c) For the purposes of this chapter, the number of square feet of floor area occupied shall be determined as the total area designated for the exclusive use by the owner or tenants expressed in square feet and measured from the centerline of joint partitions and from outside wall faces. In the case of leased property, square feet of floor area occupied is considered that area for which tenants pay rent. In no event shall square feet of floor area occupied include public toilets, corridors, stairwells, elevators, mechanical equipment rooms, lobbies, mall areas, or hotel sleeping rooms. Further, in no event shall square feet of floor area occupied include area which is unusable or is not occupied due to applicable city codes. In the case of a building occupied by a single business, the gross floor area may be reduced by subtracting the actual measured square footage of excluded areas as defined in this section or by subtracting 15 percent of the gross floor area, whichever is greater.

(d) Service fees under this section shall be levied for the year ~~2017~~2018 and shall be due and payable in two semiannual installments. Service fees shall be deemed

delinquent if not paid within 30 days of the due date provided for the second semiannual installment.

Section 2. That original § 3.40.030, of The Code of the City of Topeka, Kansas, is hereby specifically repealed.

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

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

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

PASSED AND APPROVED by the Governing Body on _____.

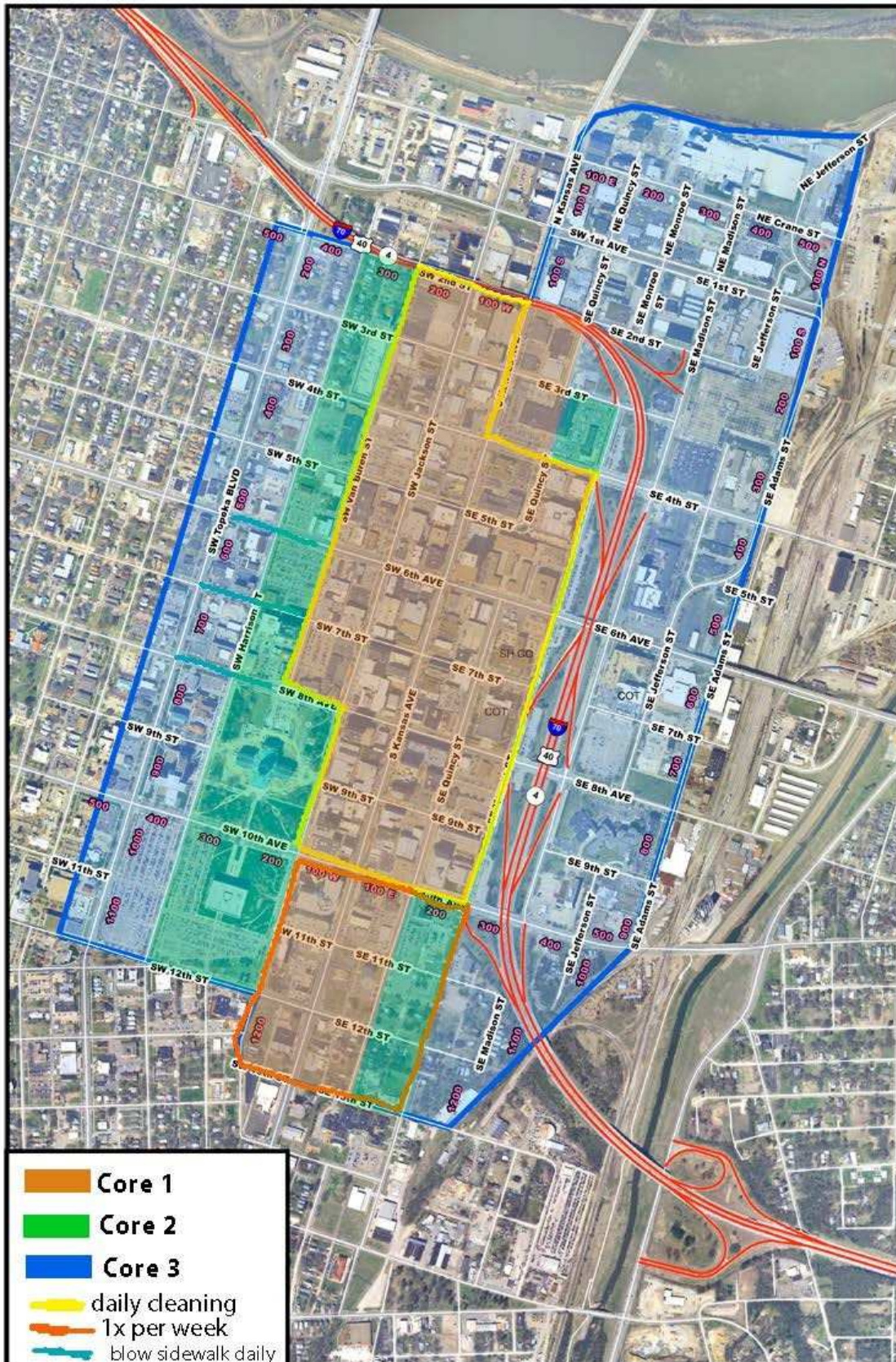
CITY OF TOPEKA, KANSAS

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk

Downtown Business Improvement District





City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
December 5, 2017

DATE:	December 5, 2017	
CONTACT PERSON:	Bill Fiander / Dan Warner	DOCUMENT #:
SECOND PARTY/SUBJECT:	Tim Esparza	PROJECT #:
CATEGORY/SUBCATEGORY	014 Ordinances – Non-Codified / 009 Planning	
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

DISCUSSION related to updating the Tennessee Town Neighborhood Plan as an element of the Comprehensive Plan. (CPA17/02)

VOTING REQUIREMENTS:

Discussion only, no action required by the Governing Body.

POLICY ISSUE:

Key policies issues from the Plan include:

- Major revitalization theme to "fill in the gaps". There is surplus of vacant lots throughout the neighborhood which presents a great opportunity for infill development. SORT housing funds have been set aside to help implement infill housing in the secondary target area.
- "Tennessee Town North Focus" - the area north of Munson Avenue is the most critical area of need in the neighborhood. Improving the conditions in these blocks through infrastructure and housing improvements will have a positive impact throughout the entire neighborhood.
- Tennessee Town has history in its roots. The Plan promotes preserving the neighborhood's historic structures, includes design guidelines to ensure new construction is compatible, and encourages cultural heritage improvements.

STAFF RECOMMENDATION:

Discussion item only.

BACKGROUND:

Planning Process - Tennessee Town was awarded a Stages of Resource Targeting (SORT) grant in 2017 to improve infrastructure and housing in designated target areas. Prior to determining infrastructure needs and

target areas, their neighborhood plan needed to be updated from the previous 2001 plan. A kickoff meeting was held in March 2017, followed by 5 steering committee meetings. The planning process wrapped up in September with a final meeting. The NIA voted to approve the plan at their September 26, 2017 meeting.

The Plan - The updated plan includes six chapters and four appendices. Each chapter is summarized below.

Chapter 1 – Introduction and Purpose

Beginning in 1998, Tennessee Town began revitalization efforts to halt the neighborhood's slide into disrepair. In 2001, the first Tennessee Town Neighborhood Plan was adopted. At the time the neighborhood plan was adopted, the Topeka Planning Department rated Tennessee Town as an "intensive care" neighborhood, meaning that it was one of the city's neighborhoods "with the most seriously distressed conditions." In 2014, Tennessee Town began a new journey to improve its "at risk" rating to "outpatient" while building on the diversity that the neighborhood embodies. In 2016, the Tennessee Town Neighborhood Improvement Association (NIA) applied to the City of Topeka for Stages of Resources Targeting (SORT) funding. In late 2016, the Topeka City Council approved the Tennessee Town Neighborhood to be one of two designated neighborhoods to receive planning assistance in 2017 and implementation funding in the following two years. With this decision comes the opportunity to update the neighborhood plan and create new opportunities to guide future resource allocation and project ideas.

Chapter 2 – Neighborhood Profile

The background information for the Plan is contained in this chapter: location and character, history, socioeconomic trends, and a needs and opportunities profile summary. Some main points for Tennessee Town include:

History: The earliest residents of Tennessee Town were newly freed slaves who migrated from the South to the West as part of the Exoduster Movement. After arriving in Topeka and establishing Tennessee Town, the settlers built homes, businesses, schools and churches, making Tennessee Town one of the centers of Topeka's African-American community. Soon after, businesses, schools and churches began to dot the Tennessee Town landscape. By the early 1900's, four churches had sank roots in Tennessee Town. The Colored Women's Club was also founded at about that time.

Profile Summary

1. The neighborhood is bounded by 10th Avenue to the north, Washburn Avenue to the west, Huntoon Street to the south, and Clay Street to the east. It comprises approximately 89 acres of land with 224 parcels.
2. Single family structures dominate the architectural character of the neighborhood with 65% of all parcels being devoted to single family residential use
3. Housing Conditions in Tennessee Town exhibit an average rating of 52% with minor deficiencies and 30% with major deficiencies
4. The highest concentration of blocks with intermediate or major deterioration can be found in the northern half of the neighborhood
5. Single-family structures account for 68% of all housing units, of which 45% are owner occupied.
6. There are significant infrastructure challenges facing the neighborhood, with many streets requiring new pavement, many alleys needing repair, several areas needing sidewalk infill, and other costly repairs such as water line replacement.

Chapter 3 – Vision and Goals

This chapter looks to define what the Tennessee Town community wants to accomplish over the next 10 years by defining their vision and the goals to achieve it. The goals within the plan are:

1. Preserve the viable-single family character of the neighborhood, while accommodating commercial, office and higher density residential within established higher intensity areas.
2. Increase the quality of the housing stock to promote the desirability to live in Tennessee Town through investment and targeted marketing
3. Provide infrastructure improvements to the Tennessee Town neighborhood that demonstrate commitment to continued improvements in the quality of life of the residents
4. Create a safe, clean, and livable environment for all those in Tennessee Town to live, learn, work and play
5. Create a positive image for Tennessee Town while preserving its deeply rooted historic character and rich social heritage.

Chapter 4 – Future Land Use Plan

The Tennessee Town Neighborhood planning area currently contains a diverse mix of land uses, including residential, office, institutional, retail, and open space. Tennessee Town's future land use plan calls for only a few changes from the current development and will share many similarities to the 2001 Tennessee Town future land use map. The neighborhood will remain predominantly single family residential use. However, the former

“Dillon’s block” will reflect changes to ownership and upcoming plans to construct a new health clinic. Due to this, the neighborhood will no longer have any areas designated for commercial use. This updated conceptual guide will also highlight the numerous churches in the area, showing them as “institutional” use. Kings Court and an expanded Lane Garden will also be noted as open space.

Chapter 5 – Revitalization Strategy

The key revitalization strategies for Tennessee Town are to provide infill housing and rehabilitation efforts, highlight and preserve its history, and to strategically focus on improving infrastructure in the northern portion of the neighborhood. SORT housing infill will begin in the secondary target area, but the potential for future infill will be recommended throughout the entire neighborhood. Rehabilitation efforts will be employed in the primary and secondary target areas—spreading outward accordingly. SORT infrastructure projects will include the improvement of three local streets within the target areas. Portions of SW Lincoln, SW Lane, and SW Munson within the primary target area will be targeted with SORT funds. The recommendation includes mill and overlay, base patch, and curbs.

Additional revitalization strategies included in the plan address housing; character and image; circulation and infrastructure; community building Initiatives; and parks and open space.

Chapter 6 – Implementation

At the final meeting the neighborhood came to an agreement on several projects that would serve as the best investments for SORT funding:

SORT Housing

- Infill housing
 - Priority of plan is to support and encourage new housing to be built in Tennessee Town. This plan sets aside \$75k in SORT housing funds to help implement new housing in the secondary target area.
- Rehabilitation
 - There is also \$255k in SORT housing dedicated to housing rehabilitation activities in the target areas.

SORT Infrastructure

- Repave the following streets (mill and overlay, base patch, and curbs)
 - SW 11th from Lane to Clay
 - SW Munson from Clay to the alley between Lincoln and Lane
 - SW Lincoln from Munson to 10th
- Concrete the alley
 - The alley between Munson to 11th between Lane and Lincoln
- Repair the alleys
 - Lincoln Westward ½ block between 10th and 11th
 - 11th northward 2 lots between Lincoln and 10th
- Water line replacement
 - New water line under 11th St from Clay to Washburn

Other

- County-wide ½ cent sales tax projects
 - Reconstruct Huntoon Street and 12th Street
- Park improvements
- Potential ice house redevelopment
- African-American Heritage improvements

BUDGETARY IMPACT:

There is no budgetary impact to the City by adopting the plan. Implementation of the plan to carry out SORT target area infrastructure and housing improvements as currently budgeted for in the CIP and Consolidated Plan will require governing body approval.

SOURCE OF FUNDING:

Not applicable

ATTACHMENTS:

Description

Ordinance
Summary Report
Tennessee Town Neighborhood Plan
October 16, 2017 Planning Commission Minutes

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by Brent Trout, City Manager, pertaining to an amendment to the text and map of the Topeka Comprehensive Plan for the Tennessee Town Neighborhood Plan. (CPA 17/02)

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. The Comprehensive Plan for the City of Topeka may be adopted by the Governing Body upon the recommendation of the Topeka Planning Commission.

Section 2. Section 18.05.020 of the Topeka Municipal Code lists the elements that may be included in the Comprehensive Metropolitan Plan, and specifies that the Plan may include neighborhood plans for all geographic sub-areas of Topeka.

Section 3. The Tennessee Town Neighborhood Plan, a copy of which is attached hereto as Attachment A and incorporated by reference as if fully set forth herein, provides long-range guidance for the future growth and development of the area generally bounded by SW 10th Street to the north, SW Clay Street to the east, SW Huntoon Street to the south, and SW Washburn to the west. The Neighborhood Plan sets forth a ten (10) year vision with goals and strategies relating to land use, housing, historic preservation, parks, infrastructure, public safety, and community organization in a comprehensive manner that recognizes the desire to increase the livability of the Tennessee Town Neighborhood.

Section 4. The Topeka Comprehensive Metropolitan Plan is hereby amended by the addition of the Tennessee Town Neighborhood Plan as a separate Plan Element.

Section 5. 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,

_____, 2017.

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk

To Be Codified

Not To Be Codified

X

CITY OF TOPEKA PLANNING DEPARTMENT

SUMMARY REPORT

Re: CPA17/02 – Tennessee Town Neighborhood Plan

Planning Process

Tennessee Town was awarded a Stages of Resource Targeting (SORT) grant in 2017 to improve infrastructure and housing in designated target areas. Prior to determining infrastructure needs and target areas, their neighborhood plan needed to be updated from the previous 2001 plan. A kickoff meeting was held in March 2017, followed by 5 steering committee meetings. The planning process wrapped up in September with a final meeting. The NIA voted to approve the plan at their September 26, 2017 meeting.

The Plan

The updated plan includes six chapters and four appendices. Each chapter is summarized below.

Chapter 1 – Introduction & Purpose

Beginning in 1998, Tennessee Town began revitalization efforts to halt the neighborhood's slide into disrepair. In 2001, the first Tennessee Town Neighborhood Plan was adopted. At the time the neighborhood plan was adopted, the Topeka Planning Department rated Tennessee Town as an "intensive care" neighborhood, meaning that it was one of the city's neighborhoods "with the most seriously distressed conditions." In 2014, Tennessee Town began a new journey to improve its "at risk" rating to "outpatient" while building on the diversity that the neighborhood embodies. In 2016, the Tennessee Town Neighborhood Improvement Association (NIA) applied to the City of Topeka for Stages of Resources Targeting (SORT) funding. In late 2016, the Topeka City Council approved the Tennessee Town Neighborhood to be one of two designated neighborhoods to receive planning assistance in 2017 and implementation funding in the following two years. With this decision comes the opportunity to update the neighborhood plan and create new opportunities to guide future resource allocation and project ideas.

Chapter 2 – Neighborhood Profile

The background information for the Plan is contained in this chapter: location and character, history, socioeconomic trends, and a needs & opportunities profile summary. Some main points for Tennessee Town include:

History: The earliest residents of Tennessee Town were newly freed slaves who migrated from the South to the West as part of the Exoduster Movement. After arriving in Topeka and establishing Tennessee Town, the settlers built homes, businesses, schools and churches, making Tennessee Town one of the centers of Topeka's African-American community. Soon after, businesses, schools and churches began to dot the Tennessee Town landscape. By the early 1900's, four churches had sank roots in Tennessee Town. The Colored Women's Club was also founded at about that time.

Profile Summary

1. The neighborhood is bounded by 10th Avenue to the north, Washburn Avenue to the west, Huntoon Street to the south, and Clay Street to the east. It comprises approximately 89 acres of land with 224 parcels.
2. Single family structures dominate the architectural character of the neighborhood with 65% of all parcels being devoted to single family residential use
3. Housing Conditions in Tennessee Town exhibit an average rating of 52% with minor deficiencies and 30% with major deficiencies
4. The highest concentration of blocks with intermediate or major deterioration can be found in the northern half of the neighborhood
5. Single-family structures account for 68% of all housing units, of which 45% are owner occupied.
6. There are significant infrastructure challenges facing the neighborhood, with many streets requiring new pavement, many alleys needing repair, several areas needing sidewalk infill, and other costly repairs such as water line replacement.

Chapter 3 – Vision and Goals

This chapter looks to define what the Tennessee Town community wants to accomplish over the next 10 years by defining their vision and the goals to achieve it. The goals within the plan are:

1. Preserve the viable-single family character of the neighborhood, while accommodating commercial, office and higher density residential within established higher intensity areas.
2. Increase the quality of the housing stock to promote the desirability to live in Tennessee Town through investment and targeted marketing
3. Provide infrastructure improvements to the Tennessee Town neighborhood that demonstrate commitment to continued improvements in the quality of life of the residents
4. Create a safe, clean, and livable environment for all those in Tennessee Town to live, learn, work and play
5. Create a positive image for Tennessee Town while preserving its deeply rooted historic character and rich social heritage.

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The Tennessee Town Neighborhood planning area currently contains a diverse mix of land uses, including residential, office, institutional, retail, and open space. Tennessee Town's future land use plan calls for only a few changes from the current development and will share many similarities to the 2001 Tennessee Town future land use map. The neighborhood will remain predominantly single family residential use. However, the former "Dillon's block" will reflect changes to ownership and upcoming plans to construct a new health clinic. Due to this, the neighborhood will no longer have any areas designated for commercial use. This updated conceptual guide will also highlight the numerous churches in the area, showing them as "institutional" use. Kings Court and an expanded Lane Garden will also be noted as open space.

Chapter 5 – Revitalization Strategy

The key revitalization strategies for Tennessee Town are to provide infill housing and rehabilitation efforts, highlight and preserve its history, and to strategically focus on improving infrastructure in the northern portion of the neighborhood. SORT housing infill will begin in the secondary target area, but the potential for future infill will be recommended throughout the entire neighborhood. Rehabilitation efforts will be employed in the primary and secondary target areas—spreading outward accordingly. SORT infrastructure projects will include the improvement of three local streets within the target areas. Portions of SW Lincoln, SW Lane, and SW Munson within the primary target area will be targeted with SORT funds. The recommendation includes mill and overlay, base patch, and curbs.

Additional revitalization strategies included in the plan address housing; character and image; circulation and infrastructure; community building Initiatives; and parks and open space.

Chapter 6 – Implementation

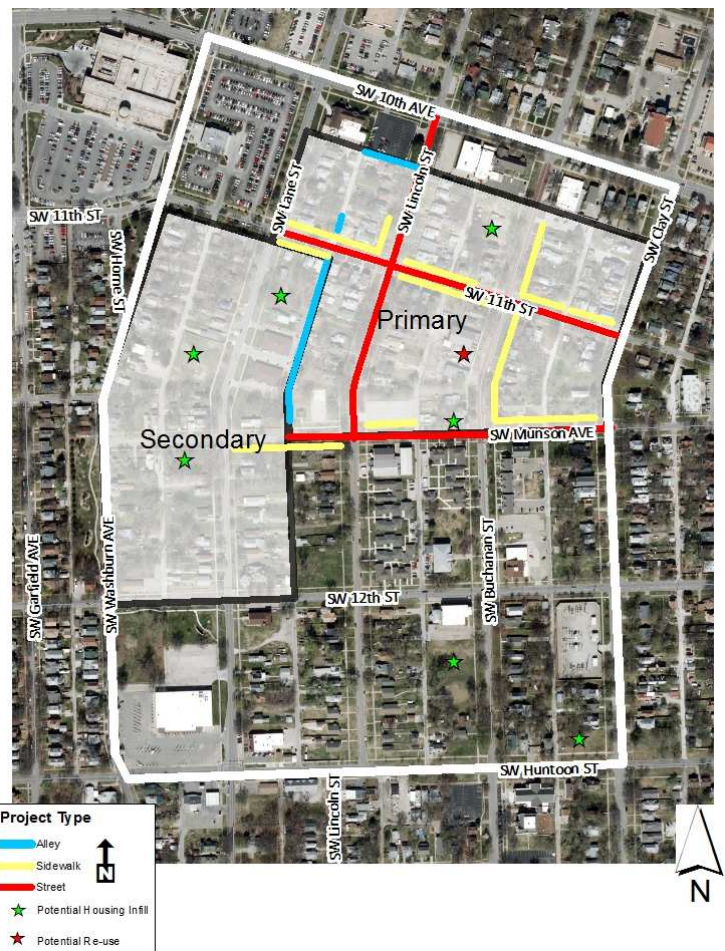
At the final meeting the neighborhood came to an agreement on infrastructure projects that would serve as the best investments for SORT funding. Below are the selected projects.

SORT Housing

- Infill housing
 - Priority of plan is to support and encourage new housing to be built in Tennessee Town. This plan sets aside \$75k in SORT housing funds to help implement new housing in the secondary target area.
- Rehabilitation
 - There is also \$255k in SORT housing dedicated to housing rehabilitation activities in the target areas.

SORT Infrastructure

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 - New water line under 11th St from Clay to Washburn

Other

- County-wide ½ cent sales tax projects
 - Reconstruct Huntoon Street and 12th Street
- Park improvements
- Potential ice house redevelopment
- African-American Heritage improvements

Recommendation

The Topeka Planning Commission met to hold the Public Hearing on the Tennessee Town Neighborhood Plan on October 16, 2017 and voted unanimously to recommend approval of the Plan to the Topeka Governing Body.

Staff recommends **APPROVAL** of the Tennessee Town Neighborhood Plan.

TENNESSEE TOWN

Topeka, Kansas



Neighborhood Plan

An Element of the
Topeka Comprehensive Plan

A Cooperative Effort By:

The Tennessee Town Neighborhood Improvement Association

&

Topeka Planning Department



ADOPTED:

Topeka Planning Commission, 10.16.17

Topeka Governing Body, **DATE**

ACKNOWLEDGEMENTS

Tennessee Town Neighborhood Improvement Association

Michael Bell – President
Pat DeLapp – Vice President
Sandy Lassiter – Secretary-Treasurer
Don Fortin – CAC Member

City of Topeka Mayor

Larry Wolgast

Topeka City Council

Karen Hiller	Tony Emerson	Elaine Schwartz
Sandra Clear	Michelle De La Isla	Jeff Coen
Sylvia Ortiz	Brendan Jensen	Richard Harmon

Topeka Planning Commission

Wiley Kannarr, Chair

Brian Armstrong	Ariane Burson
Rosa Cavazos	Marc Fried
Dennis Haugh	Carole Jordan
Katrina Ringler	Matt Werner

Topeka Planning Department

Bill Fiander, AICP, Director
Dan Warner, AICP, Comprehensive Planning Manager, Tim Esparza, Planner I

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CHAPTER 1

INTRODUCTION AND PURPOSE

INTRODUCTION AND PURPOSE

BACKGROUND

In August, 1996, the Tennessee Town Neighborhood Improvement Association (NIA), through the Central Topeka TurnAround Team, submitted a request to the Topeka-Shawnee Metropolitan County Planning Commission for the rezoning of their neighborhood to a single-family residential classification. In September of 1997, Topeka City Council passed a resolution directing the Planning Commission and staff to prepare the necessary studies, reports, and recommendations in response to the this request. Planning staff collected field data in 1998 and facilitated goal statements in support of the NIA's planning process. However, due to staffing commitments, the plan and downzoning proposal were not finalized at that time. The NIA moved forward with adoption of a draft strategic plan to begin addressing many of their housing needs.

In 2001, the Tennessee Town Neighborhood Plan was adopted. At the time the neighborhood plan was adopted, the Topeka Planning Department rated Tennessee Town as an "intensive care" neighborhood, meaning that it was one of the city's neighborhoods "with the most seriously distressed conditions." All of the city's neighborhoods were rated, with the most distressed being rated "intensive care," those with fewer issues "at risk," those with fewer issues still "outpatient," and those with few or no issues "healthy." The Planning Department said that while Tennessee Town had been declining, it had "high revitalization potential, and therefore is considered a high priority for reinvestment." Three short years later, in 2004, the Planning Department reexamined the health of all of the city's neighborhoods, including Tennessee Town. With the addition of 61 new or rehabilitated single- and multi-family housing units created by public and private partners, increased property values and safety, and infrastructure improvements, among other upgrades, Tennessee Town went from being rated "intensive care" to "at risk." No other Topeka Neighborhood had moved up one whole rating in such a short period of time, let alone accomplishing such an achievement while starting out as one of the most distressed neighborhoods in the city.

In 2014, Tennessee Town began a new journey to improve its "at risk" rating to "outpatient" while building on the diversity that the neighborhood embodies. In 2016, Tennessee Town submitted an application and was selected as a SORT neighborhood. With this decision comes the opportunity to update the neighborhood plan and create new opportunities to guide future resource allocation and project ideas.

ACCOMPLISHMENTS SINCE THE 2001 PLAN

- In partnership with the City of Topeka and Topeka City Homes, the NIA was able to rehabilitate several single-family housing units throughout Tennessee Town. The creation of new housing allowed the NIA to begin the process of becoming a neighborhood with no abandoned homes or vacant lots. These changes have inspired other homeowners in the neighborhood to begin rehabilitating their own homes as well.

- The NIA's work at creating or rehabilitating housing, while maintaining the neighborhood's historical, social, and economic character enabled the NIA to balance the need to develop quality in-fill housing with the need to compliment the architectural fabric of the neighborhood.
- The NIA and Faith Temple Church created King's Court, a basketball facility and playground on Southwest Lincoln and Munson Streets. By building this new community asset, they helped the neighborhood achieve its goal of becoming more "kid-friendly" and were even able to include local youth and their families in the overall decision making process. There has also been an increase in youth programs sponsored by neighborhood churches.
- The Buchanan Center created a neighborhood history area featuring photographs and other memorabilia.

PURPOSE

In 2016, the Tennessee Town Neighborhood Improvement Association (NIA) applied to the City of Topeka for Stages of Resources Targeting (SORT) funding. In late 2016, the Topeka City Council approved the Tennessee Town Neighborhood to be one of two designated neighborhoods to receive planning assistance in 2017 and implementation funding in the following two years.

In the spring and summer of 2017, the NIA and Planning staff was able to collaborate on finalizing a neighborhood plan that fully addressed land use, housing, economic development, safety, infrastructure, and neighborhood character issues as well as the vision and goals from the previous neighborhood plan. The purpose of this document is to provide long-range guidance and clear direction to the City and its agencies, residents, and private/public interests for the future revitalization of the Tennessee Town neighborhood. It establishes a 10-year vision and appropriate policies for land use, housing, community character, and circulation for the Tennessee Town neighborhood. This Plan provides the policy basis from which to identify appropriate zoning, capital improvements and programs for implementation.

Recommendations for infrastructure, housing, and parks all involve major City/County expenditures that are constrained by the amount of tax revenues the City/County collects. Other neighborhood plans also compete for such allocations. Reliance on non-City funding sources will also determine the pace of implementation. Thus, another purpose of this plan is to provide guidance for *priorities* in order to determine the most prudent expenditures with limited resources.

Through the SORT program, Tennessee Town residents seek to continue efforts to reach a status of a "Healthy" neighborhood. If Tennessee Town is successful in this, it will be the first NIA to go from "Intensive Care" to "Healthy."

RELATION TO OTHER PLANS

The Plan is a comprehensive community-based approach to neighborhood planning that constitutes an amendment to the Comprehensive Plan and is regularly monitored, reviewed, and updated as needed. It is intended to balance neighborhood needs with city-wide objectives and be consistent with goals of existing and future elements of the Comprehensive Plan including Downtown, Transportation, Economic Development, and Trails Elements. This plan is consistent with the 2001 plan for Tennessee Town and aligns with other City of Topeka plans such as the Washburn Lane Parkway Plan, Bikeways Plan, Pedestrian Plan, Futures 2014, and the Land Use and Growth Management Plan.

PROCESS

This document has been prepared in collaboration with the Tennessee Town NIA. Beginning in January of 2017 planning staff conducted a property-by-property land use and housing survey of the neighborhood and collected pertinent demographic data. (Refer to flow chart on following page 5)

This “state-of-the-neighborhood” information was shared and presented during the kickoff meeting on March 29, 2017. The steering committee, comprised of neighborhood volunteers, met 5 times between April and September, and looked in-depth at issues such as goals and guiding principles, land use and zoning, circulation and parks, corridors, and selected SORT Target Areas.

A summary of the final plan was presented to the community at a final meeting held on September 26, 2017 at the First Church of the Nazarene located at 1001 SW Buchanan Street. A work session was held with the Planning Commission on September 16, 2017.

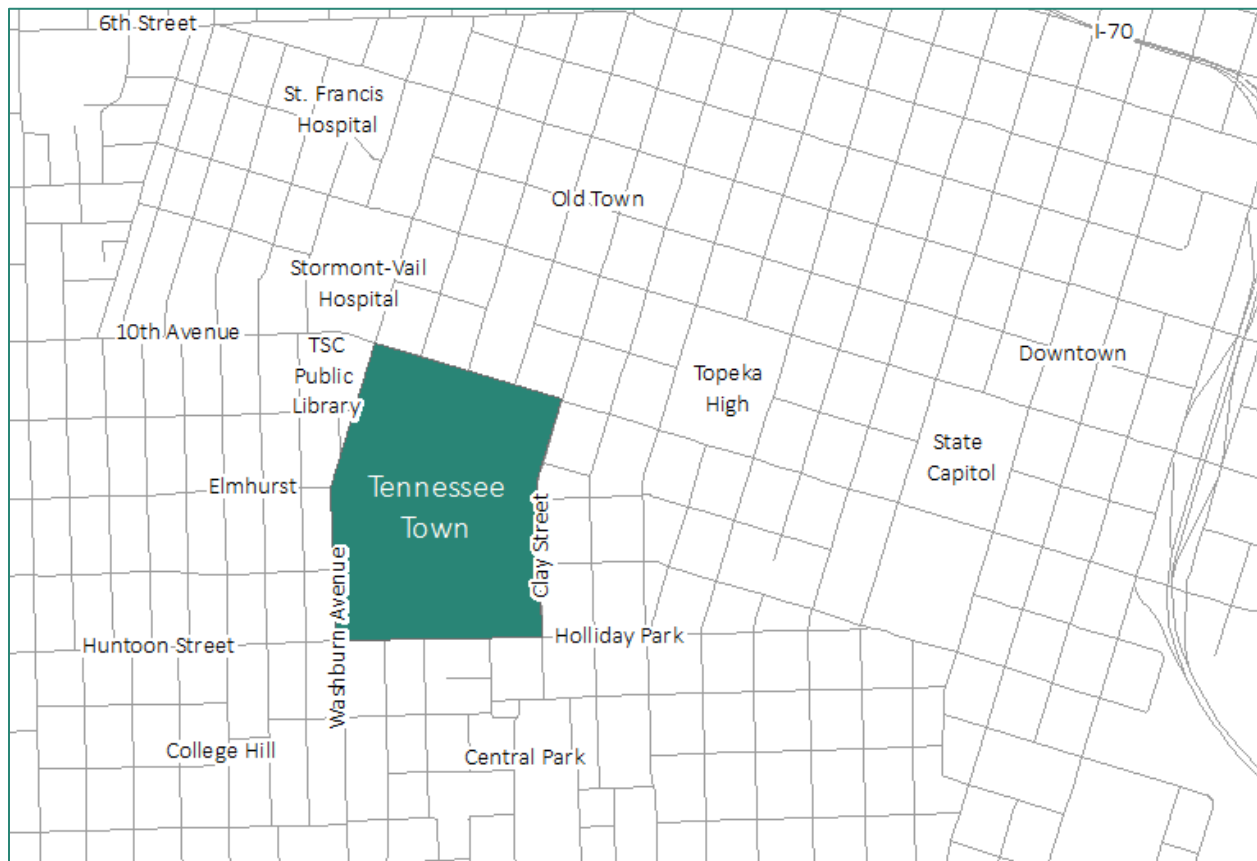
TENNESSEE TOWN NEIGHBORHOOD PLAN PROCESS



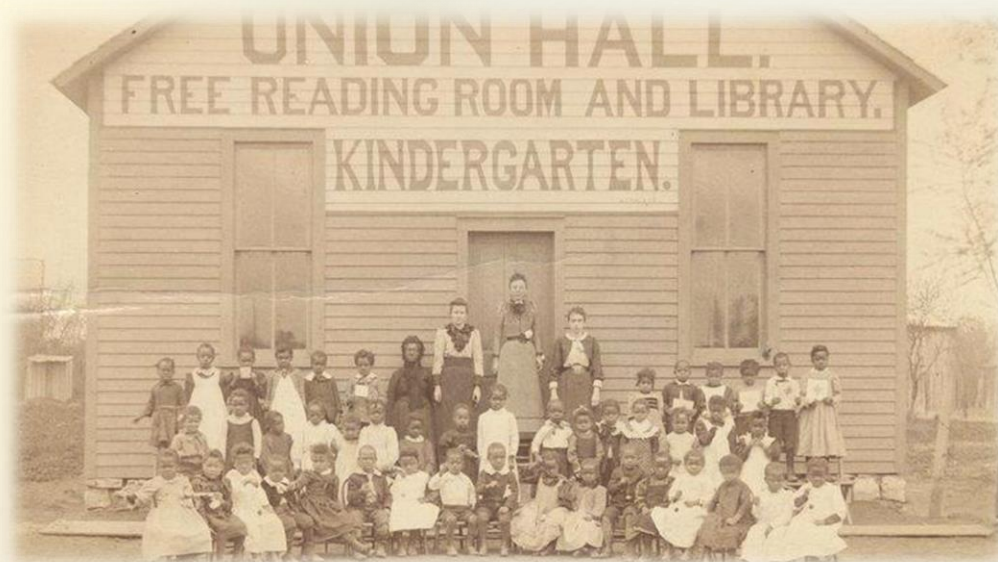
NEIGHBORHOOD PROFILE

LOCATION AND CHARACTER

The Tennessee Town Neighborhood is located in the city of Topeka, Kansas, approximately one mile southwest of the State Capitol Building and Downtown. The neighborhood is bounded by 10th Avenue to the north, Washburn Avenue to the west, Huntoon Street to the south, and Clay Street to the east. The neighborhood comprises approximately 89 acres with roughly 35 acres dedicated primarily to residential land use.



Heavily traveled arterial streets, Washburn Avenue, 10th Avenue and Huntoon Street bound three sides of the neighborhood. The areas to the west, east, and south are generally residential in character with the area bordering 10th Avenue and the northwest corner of the neighborhood being generally institutional and medical service uses. A major resource for the neighborhood is its proximity to major employers, institutions, and services, much of which is within walking distance. Topeka's Medical District is adjacent to the neighborhood, as well as the recently expanded Topeka Public Library. Schools within walking distance are Lowman Hill Elementary, Topeka High School, Robinson Middle School, Cair Paravel Latin, Mater Dei Catholic Elementary, and Washburn University.



Students and teachers standing in front of Union Hall located at the southwest corner of 11th & Lincoln. This was a kindergarten for African American children sponsored by the Central Congregational Church.

HISTORY

The earliest residents of Tennessee Town were newly freed slaves who migrated from the South to the West as part of the Exoduster Movement. Some of them, who left plantation life behind in Tennessee, arrived in Topeka in 1879 on what was then the western edge of the city, in an area known as King's Addition. After arriving in Topeka and establishing Tennessee Town, the settlers built homes, businesses, schools and churches, making Tennessee Town one of the centers of Topeka's African-American community. The 1880 Topeka census identified 880 blacks in the city, comprising 31 percent of the city's population. Lacking financial and city support to aid their efforts to settle here, living conditions were less than those of the rest of the city. However, during the 1890's, Tennessee Town residents began to garden and trade produce for clothes and other necessities. Soon after, businesses, schools and churches began to dot the Tennessee Town landscape.

Also during the 1890's, the first white man to show any real interest in Tennessee Town, Dr. Charles Sheldon, came into the settlement from his post as pastor of Central Congregational Church, which still stands at SW Huntoon and Buchanan Street. He spent three weeks in Tennessee Town surveying the people and conditions. He found that there were about 800 people who had migrated here directly after leaving behind plantation life in the South, 100 children between the ages of three and seven who might be considered kindergarten age, and four black churches. Sheldon thought that Jordan Hall would be a good place to start a kindergarten, and by the spring of 1893, the first black kindergarten west of the Mississippi River was opened.

By the early 1900's, four churches had sank roots in Tennessee Town: Shiloh Baptist (still on the southwest corner of 12th and Buchanan Streets), Mt. Olive Episcopal (now Asbury-Mt. Olive United Methodist Church, on the northeast corner of 12th and Buchanan Streets), The Church of God (now Lane Chapel, at 12th and Lane Streets), and the Christian Church (now Dovetail, at 12th and Washburn Streets). The Colored Women's Club was also founded at about that time. It occupied the house at 1149 SW Lincoln St. until a few years ago. The Topeka nonprofit Living the Dream, Inc. restored the clubhouse now owned by Faith Temple.

During the 1970s Tennessee Town experienced the first rumblings of a renaissance. The Community Development Block Grant Program, through the U.S. Department of Housing and Urban Development, began in Topeka in 1974. CDBG funds began to come to Topeka as an entitlement to poor neighborhoods like Tennessee Town.

In 1976, Tennessee Town became one of the first Neighborhood Improvement Associations in the city. A group of Kansas State University architecture students came into the neighborhood in the early 1980's to conduct a semester-long inventory of housing. The results of their work were impressive, including recommendations for in-fill housing that included actual prototypes. At about that same time the neighborhood began working with Topeka Metropolitan Planning on a comprehensive look at Tennessee Town, including housing, infrastructure and safety issues. A comprehensive manual was compiled, along with an executive summary.

The 1980's began the downward spiral of Tennessee Town. Once a proud, vibrant neighborhood inhabited by low- to middle-class folks who often worked two jobs to support their families, lived in modest but well-kept homes and interacted with their neighbors on a daily basis; Tennessee Town became older, less vibrant, more lower-class socioeconomically and less interactive. As the neighborhood's most senior residents began to pass on, the neighborhood began to decay and slowly wither away. Homes that were formerly owned became rentals, and some of the landlords and renters seemed indifferent about keeping up with basic maintenance to their homes. Stable families were often replaced with short term renters, tending to only live here for only months. Older homes were demolished, creating vacant lots, but new homes were not built in their places. The commercial strip along the 1300 block of SW Huntoon St. deteriorated even faster than the housing. Many businesses in the area suffered structural damage or closed all together during this time. A number of businesses have been in and out of that strip since then.

Nevertheless, a few positive outcomes did occur during the 1980's. In the 1980's was the construction of the Tennessee Town Plaza Apartments through the Topeka Housing Authority. Tennessee Town Plaza's units were, and still are, geared towards seniors and the physically challenged. Tennessee Town Plaza, since its inception, has been one of THA's most successful complexes. The first phase of construction, completed in 1983, replaced aged housing in the second 1100 block of SW Buchanan St. and along the 1200 blocks of SW Munson Street and 12th Street. The second phase, completed in 2010, replaced aged housing and vacant lots in the second 1100 block of SW Lincoln St. Also, two infill houses were built in the 1980's, one on Lincoln and the other on Lane. Residents during this time also rallied for hands-on participation in brick sidewalk projects, tree planting and neighborhood cleanups.

Things began to change in the late 1990's. Beginning in 1998, Tennessee Town began revitalization efforts to halt the neighborhood's slide into disrepair. By 2001, the NIA's neighborhood plan was adopted by local government, setting new standards for stability and growth. At the time the neighborhood plan was adopted, the Topeka Planning Department rated Tennessee Town as an "intensive care" neighborhood, meaning that it was one of the city's neighborhoods "with the most seriously distressed conditions." The Planning Department said that while Tennessee Town had been declining, it had "high revitalization potential, and therefore is considered a high priority for reinvestment."

In 2004, the Planning Department reexamined the health of all of the city's neighborhoods, including Tennessee Town. During this time, the neighborhood experienced

many positive changes. With the addition of 61 new or rehabilitated single- and multi-family housing units created by public and private partners, increased property values and safety, and infrastructure improvements, among other upgrades, Tennessee Town went from being rated "intensive care" to "at risk." No other Topeka Neighborhood had moved up one whole rating rung in such a short period of time, let alone doing it while starting out with the rating characterizing the most distressed neighborhoods in the city. New decorative lighting along Lane and Washburn, Millennium Park, the library expansion, and the Art Park all benefited the community. Around 2009 the 12th Street sidewalk, Kings Court expansion, and the Leal Family house build privately in keeping with design guidelines further aided the neighborhood's image. In 2016, Tennessee Town submitted an application and was selected as a SORT neighborhood, with the decision to update the neighborhood plan prior to the funding of implementation projects or the selection of target areas.

CHARACTER

Tennessee Town is comprised of five subdivisions: Kings Addition, Moffits, W.H. Brooks Jr. 2nd (Bona), Lafayette Place Addition, and Youngs Addition 3. The typical lot sizes in Tennessee Town are 25 feet wide and between 150 to 162 feet deep. The street widths for those running north to south are on average 100 feet wide and the streets that run east to west are 75 to 80 feet wide. The average lot size in Tennessee Town is 0.13 acres.

Single family structures dominate the architectural character of the neighborhood. Homes in this neighborhood are typically small to accommodate the small lot size common throughout the neighborhood. Other characteristics of the architecture in this Tennessee Town include front facing doors/ porches, raised foundation, and horizontal siding.



1942 Tennessee Town Aerial



2016 Tennessee Town Aerial

EXISTING CONDITIONS

HEALTH

The Neighborhood Element of the Comprehensive Plan establishes a neighborhood health rating system for all neighborhoods in Topeka to prioritize planning assistance and resource allocation. This uses five categories—Poverty Level, Public Safety, Residential Property Values, Single Family Homeownership, and Boarded Houses—to assign a health rating to each Census Tract Block Group. Tennessee Town encompasses 2 block groups, with group 5.3 comprising the northern section of the neighborhood and 4.1 in the southern section. In 2011, Tennessee Town, due to the continued efforts of neighborhood members and the City of Topeka, moved from a classification of “Intensive Care” to “Outpatient.” The 2014 Health Ratings showed the two block groups as “At Risk” due in part to the economic downturn. In 2013, Tennessee Town was named Topeka’s most improved neighborhood. Please see Appendix A for more detailed information.

LAND USE

The neighborhood is predominantly residential, with 72% of all parcels being devoted to residential uses. Single-family residential use accounts for 65% of all parcels and 50% of the land area within Tennessee Town (see Table #1). Vacant land accounts for 16% of all parcels and 12% of the total land area. Four parcels are committed to public open space. The remaining land area falls in the following categories: commercial – office, commercial – retail/service, institutional, parking/other, and recreation/open space.

Table #1: Existing Land Use – Tennessee Town

Land Use Category	Parcels	Percent	Acres	Percent
Residential – Single Family	180	64.75%	29.45	49.45%
Residential – Two Family	9	3.24%	1.36	2.29%
Residential – Multi Family	12	4.32%	3.83	6.43%
Commercial	7	2.52%	3.18	5.34%
Institutional	12	4.32%	5.17	8.67%
Industrial	0	0%	0	0%
Office	4	1.44%	0.58	1.64%

Shawnee County Appraiser’s Office (2017)

In the early 2000’s, multiple entities such as the City of Topeka and the Topeka Housing Authority began new construction and rehabilitation activities throughout the neighborhood including a Habitat for Humanity House on Southwest Buchanan.

Map #1 illustrates the existing land use in the neighborhood. Several areas in the interior of the neighborhood have high concentrations of two- and multi-family residential structures. These areas of medium/high density residential development are generally located where high intensity uses are encroaching upon older single-family residential neighborhoods. Commercial and office uses are generally located on the perimeter of the neighborhood along 10th Avenue, and at Huntoon Street and Lane Avenue.

ZONING

Historically, the neighborhood was zoned for single-family uses. Gradually, the neighborhood began to experience more intensive residential zoning with Clay Street, and the northern portions of Buchanan and Lincoln converting to two-family residential around the mid-1940s. From the mid-1940's until around 1956, the zoning in the neighborhood transformed, roughly splitting the area between two-family and multi-family. One of the goals of the 2001 plan was to "down zone" to reflect the single family character of the neighborhood. In 2001, the neighborhood was rezoned based on the future land use map of the 2001 plan. Map 2 illustrates the current zoning for Tennessee Town and reflects a residential pattern.

HOUSING DIVERSITY

The housing density of 7.7 units/acre found in Tennessee Town can be attributed to the number of single family housing units with a few multiple-family structures. In 2000 at the time of the first neighborhood plan, the housing density in Tennessee Town was 5.4 units/acre. Of the housing units, 68% in the neighborhood are single-family structures while multiple-family structures account for 32% of the housing units. Each of these numbers have increased since 2000. Present densities are low considering the amount of vacant land. Tables 2 and 3 demonstrate the housing diversity and housing values of Tennessee Town.

Table #2: Housing Density – Tennessee Town

Housing Type	Units	Percent	Acres	Units/Acre
Single Family	180	67%	29.45	6.1
Two Family	18	7%	1.36	13.2
Multiple Family	69	26%	3.83	18
<i>Net Density Residential</i>	<i>2637</i>	<i>100%</i>	<i>34.6</i>	<i>7.7</i>
<i>Net Density All</i>	<i>267</i>		<i>59.6</i>	<i>4.5</i>
<i>Gross Density (with ROW)</i>			<i>88.59</i>	<i>3</i>

Shawnee County Appraiser's Office (2017)

Table #3: Property Values

	Median	Mean	Minimum	Maximum
Residential – Single Family	\$32,680	\$42,378	\$2,680	\$113,400
Residential – Two Family	\$38,290	\$41,137	\$25,310	\$64,680
Residential – Multi Family	\$185,645	\$206,848	\$36,860	\$600,200
Vacant	\$1,805	\$3,444	\$420	\$37,720

Shawnee County Appraiser's Office (2017)

HOUSING CONDITIONS

Housing conditions in Tennessee Town exhibit a below-average rating, with only slightly more than half of the residential structures having minor deficiencies, as seen in Table #4 (*housing conditions and ratings are defined in Appendix "A"*). Housing Conditions in Tennessee Town exhibit an average rating of 52% with minor deficiencies and 30% with major deficiencies.

The highest concentration of blocks with intermediate or major deterioration can be found in the northern half of the neighborhood, (see on Map #3). Blocks north of Munson contain the highest concentrations of deteriorated housing, particularly in the second 1100 block of Washburn Avenue, and the second 1100 block of Clay and Lane Streets. (*NOTE: Average block conditions are relative to the neighborhood and should not be compared to other neighborhoods. Refer to Appendix "A" for specific definitions of conditions*)

Table #4: Housing Conditions

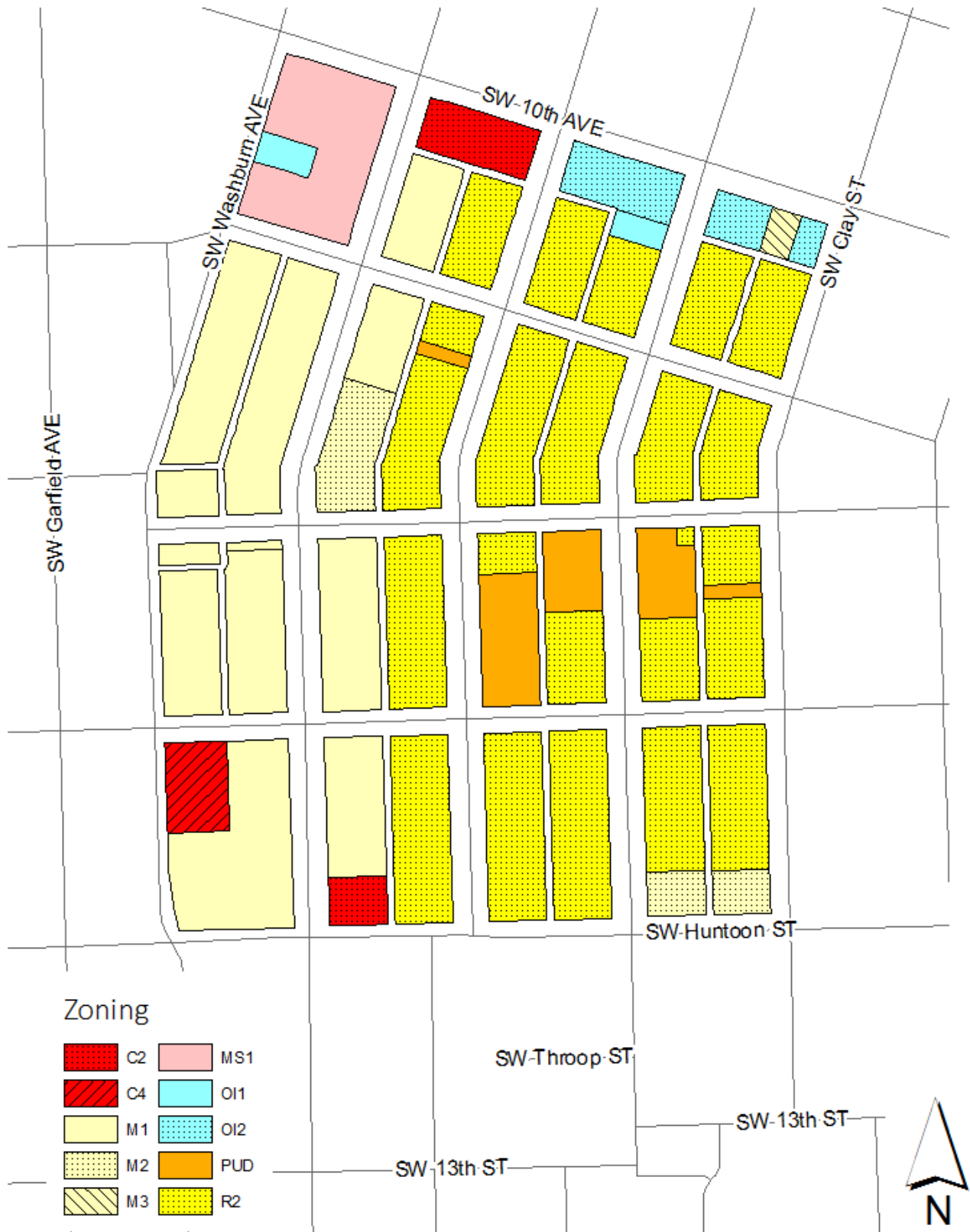
Housing Type	Minor Deficiencies		Intermediate Deficiencies		Major Deficiencies		Total
	Prop.	Percent	Prop.	Percent	Prop.	Percent	Prop.
Single Family	92	87.6%	31	29.5%	57	54.3%	180
Two Family	5	4.8%	2	1.9%	2	1.9%	9
Multi-Family	8	7.6%	2	1.9%	2	1.9%	12
Total	105	52.2%	35	17.4%	61	30.3%	201

Shawnee County Appraiser's Office (2017)

Current Land Use Map 1



Zoning Map 2



Housing Conditions Map 3



TENURE (OWNER VS RENTER)

Tennessee Town has almost double the number of renter-occupied housing units compared to the number of owner-occupied housing units (see Table 4). Single-family structures account for 68% of all housing units, of which 45% are owner occupied.

The areas with the highest concentrations of homeownership are located around 12th Street and Buchanan Street. A slightly higher concentration of blocks with high levels of owner occupancy can be found in the northern portion of the neighborhood than in the southern section of the neighborhood. The lowest owner occupancy levels can be found along Lincoln Street and Washburn Avenue. These trends are demonstrated in Map #4.

INFRASTRUCTURE

Infrastructure includes pavement, sidewalk, curb and alleyway conditions. All of the streets in Tennessee have been improved to urban standards. Infill projects have improved sidewalks on many streets and all have curb and gutter drainage systems in place. The one area with major infrastructure problems in this area is SW Munson Avenue and SW Buchanan Street. The cross section of these streets has poor pavement, curb, and sidewalk conditions. Another area in need of infrastructure rehabilitation is on SW Lincoln between 10th Street and 11th Street. If alley repair is prioritized by the neighborhood, staff will evaluate conditions at that time. Sewer, water and storm water infrastructure are evaluated for possible replacement when cost estimates for street are being developed. The infrastructure conditions are illustrated by Map #5

PUBLIC SAFETY

Map # 6 illustrates the number of reported major crimes committed by block according to crime statistics provided by the Topeka Police Department for 2016. Criminal activity was dispersed throughout the neighborhood. Although blocks with high levels of crime can be found throughout the community, high concentrations of reported major crimes occurred on Lane and Washburn between 11th and Munson Streets, and on Lincoln Street and Buchanan Street between Munson and 12th. Major crimes are defined as Part 1 crimes – murder, rape, robbery, aggravated assault, burglary, and theft. Almost every single major reported crime in Tennessee Town during 2016 was some form of burglary or theft.

Tenure (Owner vs Renter) Map 4

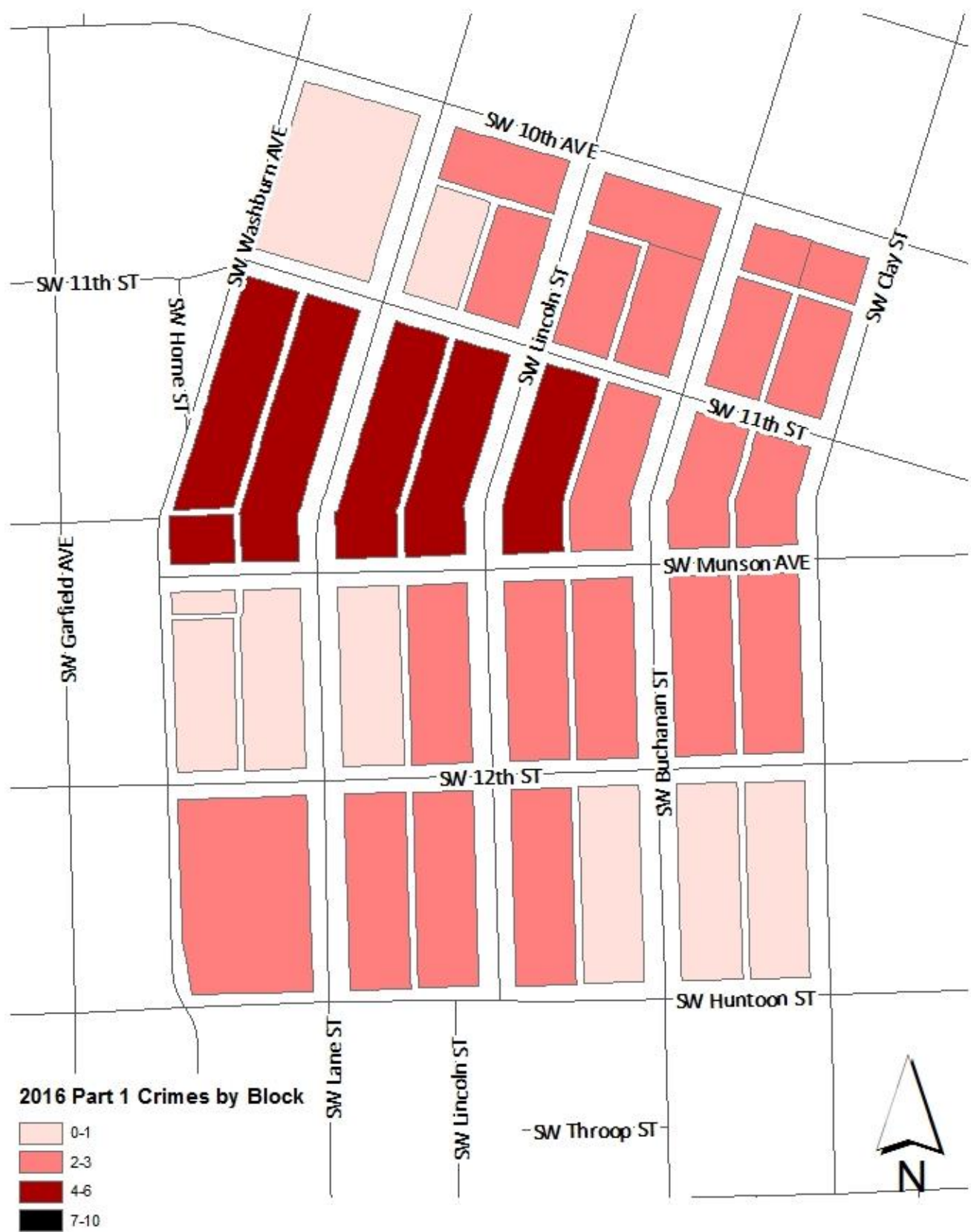


Infrastructure Conditions Map 5



*Infrastructure conditions include: pavement, sidewalk, and curb conditions

Major Reported Crimes 2016
Map 6



BUILDING ACTIVITY

Development activity in the neighborhood between 1990 and 1997 was limited almost entirely to demolitions. No building permits were issued for new construction during that time period. The 12 building permits issued for that time period were for demolitions. Development activity in the neighborhood between 2000 and 2016 has been similar with many of the building permits being for primarily demolitions. Building permits (Map #7) tracked are for new construction or whole demolitions and do not include rehabilitation or additions.

Building Permits 1990-2016
Map 7



CIRCULATION

As identified by the Topeka-Shawnee County Transportation Plan, the neighborhood is bound to the west by the minor arterials SW Washburn Avenue and SW Lane Street, to the north and south and by minor arterials 10th Ave and Munson Street and to the east by the collector Clay Street. The neighborhood also experiences heavy traffic as one minor arterial street, 12th Street, runs through the interior of the neighborhood.

Tennessee Town is well served by the City's bus service with bus lines running on 10th, Washburn, Lane, Huntoon, and 12th.

PUBLIC FACILITIES

On the corner of Southwest Lane and 12th Street is Aaron Douglas Park. This park is currently owned and maintained by Shawnee County.

HISTORIC PROPERTIES

In Tennessee Town, there is one registered historic property. 1149 Southwest Lincoln is on the Register of Historic Kansas Places and is known as the Topeka Council of Colored Women's Club Building.

HALFWAY HOUSE ORDINANCE

The 2001 plan promoted the establishment of a halfway house ordinance. That idea was implemented when standards for halfway houses were employed in the city's zoning code. There is currently one halfway house in the neighborhood.

SOCIO-ECONOMIC TRENDS

*Refer to Socio-Economic Tables (Table 5-Table 7)

Tennessee Town is located within parts of census tracts 4 and 5. Information from the US Census on population, age, households and income are summarized in Tables #5-7. The neighborhood population increased by 21 percent between 1990 and 2010. The largest decrease was seen in the under 5 years old cohort, accounting for 14 percent of the population in 1990 as opposed to 4 percent in 2010. The 45-54 year old cohort, accounting for 16 percent of the 2010 population as opposed to 5 percent of the 1990 population experienced the largest increase in population.

Within the decades spanning from 1990 to 2010, the number of households in Tennessee Town increased, while the average household size decreased. The number of households increased by 56 %, while the persons per household decreased by a small fraction. The number of female headed households with a child under 18 years of age slightly increased during this time as well. Between 1990 and 2010, the number of families increased 14.5%, moving from 131 to 150. With this increase in households and families, also comes a 34% increase in the number of married couples. Although many of these numbers are smaller if taken as a percentage of the neighborhood's total households, it seems as though the perception of being family oriented has held strong throughout the years in Tennessee Town.

Incomes in the neighborhood increased in real terms during the 1990's to 2010. The household median income more than doubled, increasing from \$10,774 in 1990 to \$24,538 in 2010. Over that same decade, per capita income increased from \$6,373 to \$15,417. The number of people below the poverty level decreased significantly, representing 19.17 percent of the population in 2010 compared to 49.4 percent in 1990. The population can therefore be described as an increasing population with smaller household sizes, residing in an aging housing stock. It is an aging population with lower incomes, which are just over half of the household median income of the City of Topeka.

Table #5: Population Demographics

POPULATION	Tennessee Town 2010		Tennessee Town 1990		Topeka	
Total	765	100%	605	100%	127,473	100%
Female	342	45%	330	55%	66,532	52%
Male	423	55%	275	45%	60,941	48%
Black	148	19%	413	68%	17,918	14%
White	505	66%	156	26%	102,698	81%
Other	60	8%	36	6%	13,732	11%
Hispanic Origin	82	11%	0	0%	17,026	13%
Under 5 years	30	4%	85	14%	9,505	7%
5 to 9 years	53	7%	61	10%	8,948	7%
10 to 14 years	103	13%	44	7%	7,877	6%
15 to 19 years	77	10%	27	4%	8,050	6%
20 to 24 years	66	9%	50	8%	9,200	7%
25 to 34 years	60	8%	129	21%	18,601	15%
35 to 44 years	108	14%	58	10%	14,714	12%
45 to 54 years	125	16%	31	5%	17,080	13%
55 to 64 years	51	7%	41	7%	15,312	12%
65 and over	93	12%	79	13%	18,186	14%
Median Age	28		27		36	

Table #6: Households

HOUSEHOLDS	Tennessee Town 2010		Tennessee Town 1990		Topeka	
Households	357.84	100%	229	100%	53,943	100%
Families	150	42%	131	57%	30,707	56.92%
With Children <18	219	61%	99	76%	14,240	26.40%
Husband-Wife	86	24%	64	28%	20,430	37.87%
Female-Headed (no husband)	62	17%	48	21%	7,661	14.20%
With Children <18	80	22%	48		4,760	8.82%
Persons per Household	2.13		2.64		2.29	
Persons Per Family	5.09		3.49		2.99	

Table #7: Income and Work

INCOME	Tennessee Town 2010	Tennessee Town 1990	Topeka
Household Median	\$24,538	\$10,774	\$40,342
Family Median	\$32,105	\$11,563	\$52,483
Family Per Capita Income	\$15,417	\$6,373	\$21,638
Below Poverty Level			
Percent of Families	19.7%	49.4	23.4%
Percent with children <18	52.0%	61.2	41.0%

US Census Bureau. (2010)

PROFILE SUMMARY:

The Tennessee Town neighborhood is a proud neighborhood rooted in its single-family development. Its character gave way somewhat to more multi-family over the years. However, the neighborhood was downzoned in 2001 in order to reflect the single family character of the neighborhood. Following the 2001 neighborhood plan, improvements were made in the area south of Munson. The conditions in the remaining portion have now presented the neighborhood with a number unique of opportunities and constraints, as summarized by the following:

NEEDS AND CONSTRAINTS

- Problems associated with low-income concentrations: social, transportation, health
- What the neighborhood considers “slumlords” running down rental properties
- Deteriorating housing stock
- Abandoned houses
- Most concentrated in the north half of neighborhood
- 16% of all parcels are vacant
- Loss of Dillon’s grocery store has put a strain on the inventory of amenities within walking distance

STRENGTHS/ OPPORTUNITIES

- Diversity of land uses and proximity to downtown typifies strength of traditional neighborhood living, working, shopping, recreating, and schooling within walking distance
- Family oriented neighborhood with over 82% of housing types dedicated to single family structures
- Close knit, supportive community strengthens quality of life
- Aaron Douglas Art Park/ Fair/ Mural attracts positive attention to the area and draws in local artists
- Kings Court Basketball Tournament attracts positive attention to the neighborhood
- Neighborhood is spatially close to the medical district, Lowman Hill Elementary, Robinson Middle School, Cair Paravel Latin, Mater Dei Catholic Elementary, and Topeka High School
- A concentration of churches and the Buchanan Center provide anchors and amenities, which increases the social utility of residents
- Grace Med developing a clinic on the former Dillon's lot will further strengthen the neighborhood
- Vacant lots available for infill housing gives the neighborhood the potential to increase home ownership and overall neighborhood appeal
- A history rooted in African American culture presents the opportunity to share a story of historical significance

CHAPTER 3
VISION AND
GOALS

VISION AND GOALS

VISION STATEMENT

"The History of Tennessee Town Will Live On"

The sweet smells of home cooking waft through the screen door like ambrosia. Soft voices of sweet souls inside blend in with the food smells to create a symphony of delights auditory and olfactory.

A voice calls out to children seated on the porch outside: only a few more minutes of cool breezes before bed-time. Elders chat and laugh in cool, relaxing voices as they play dominos. Smaller children play games of "hide and seek" and "red light, green light" on the front lawn; one of them yawns a child's yawn of exhaustion after a long summer's day of play. Soon the children's bedrooms will be cool enough for sleep.

Neighbors call out from their porch across the street. Yes, it was hot today. Yes, we will see you at church tomorrow. We'll call Mrs. Johnson in the morning to see if she needs a ride to church. You sleep well, too.

As the children tire of their yard games, they gather on the porch to listen to adult conversations about which they know little but know that those conversations carry a serious tone. The children know instinctively that the stories told that night will define them as adults.

The eldest of the elders, 85 years young and full of vim and vigor, tells the story of how her neighborhood -- their neighborhood -- came to be.

"In the 1870s, after the Civil War had divided this country north and south, black and white, newly freed slaves began to leave the South to start new lives in the West," she said.

"That migration became known as the Exoduster Movement," she said. "They went west under the big, broad sky of hope. They crossed the Mississippi, mindful of its breadth and of the oppression its mighty waters would lead to as it meandered south.

"They arrived in this part of Kansas in the late 1870s. Some of them, who had left Tennessee behind, arrived in Topeka in 1879 and founded Tennessee Town on the southwestern edge of our city in what was known then as King's Addition. The Tennessee Town settlement was a result of the Compromise of 1877, which ended Reconstruction and led to the Exoduster Movement. That initial settlement included about 3,000 settlers who were able to buy land outright and put down stakes in their new home.

"Unfortunately, but not unexpectedly, some Topekans weren't thrilled with their new neighbors of southern and African ancestry. In fact, Topeka's Mayor at the time, Michael C. Case, said that, instead of providing assistance to the immigrants to facilitate their efforts to settle, the city should provide assistance through distributing road maps with the routes back to Tennessee highlighted! (He didn't quite put it that way, but that was his message.)

"Relatively undaunted, the settlers built two- and three-room houses to deal with the cold Kansas winters. Help came later in 1879 when a conference of the Methodist Episcopal Church decided to address the settlers' situation. The First Congregational Church also assisted,

including underwriting the construction of the Tennessee Town Congregational Church with the understanding that it would be a relief center as well as a church.

"After the settlers built homes, other edifices that housed businesses, schools and churches began to dot the Tennessee Town landscape. In the 1880 Topeka census 880 blacks were found to comprise 31 percent of the city's population.

"Of course, lacking finances and city support for their efforts to settle here, living conditions were less than those of the rest of the city. The local press, mistakenly but not surprisingly, attributed the 'substandard' living conditions to the incompetence of the settlers. That bigotry remains a problem to this day.

"During the 1890s our predecessors began to garden and trade produce they produced for clothes and other necessities, thereby refuting the contention and the bigotry of the press.

"Wherever there is new development there will be old problems. In the 1890s Jordan Hall was the center of gam-bling and other activities of an unsavory nature. Andrew Jordan founded the building, which also doubled as a dance hall. It was located just down the street from us, at Lincoln and Munson Streets. Munson Street was then called King Street.

"Also during the 1890s the first white man to show any real interest in Tennessee Town, Dr. Charles Sheldon, came into the settlement from his post as pastor of Central Congregational Church. He spent three weeks in Tennessee Town surveying the people and conditions. He found that there were about 800 people who had migrated here directly after leaving behind plantation life in the South, 100 children between the ages of three and seven who might be considered kindergarten age, and four black churches.

"Sheldon thought that Jordan Hall would be a good place to start a kindergarten, and by the spring of 1893 the first black kindergarten west of the Mississippi River was opened. There were three teachers, a principal (Carrie Roberts), and two assistants (Jeanette Miller and Margaret Adams). Mrs. Jane Chapman was instrumental in helping in several projects, including organizing a PTA for the children's mothers.

"Two years later new quarters were found for the kindergarten; it had been such a success that it had outgrown its confines at Jordan Hall! The new kindergarten was housed at the Tennessee Town Congregational Church. The kindergarten, at its new location, taught our children until 1910 when the city -- better late than never -- decided to support it and relocated it at the Buchanan School, now known as the Buchanan Center, at 12th and Buchanan Streets.

"The most prominent graduate of the Tennessee Town kindergarten was the attorney Elisha Scott. Scott's two sons, John and Charles, both became attorneys also and argued the Kansas portion of the landmark Brown v. Topeka Board of Education case that outlawed segregation in public schools. One of the other graduates of the kindergarten was a long-time neighbor of ours, Minus Gentry. He lived at 1191 Lincoln until his death in 1991 at the age of 95.

"After the success of the kindergarten a library was established in Tennessee Town; Rev. B.C. Duke was its first librarian.

"By the first decade of the 1900s four churches had sank roots in Tennessee Town: Shiloh Baptist (still on the southwest corner of 12th and Buchanan Streets), Mt. Olive Episcopal (now Asbury-Mt. Olive United Methodist Church, on the northeast corner of 12th and Buchanan Streets), The Church of God (now Lane Chapel, at 12th and Lane Streets), and the Christian Church (now Dovetail, at 12th and Washburn Streets).

"The Colored Women's Club was also founded at about that time. It occupied a house in the first 1100 block of Lincoln Street until the turn of this century. The city's icehouse was built around this time in the first 1100 block of Lincoln. The buildings still stand there.

"Tribute was paid to Charles Sheldon for his 13 years of work in Tennessee Town. Sheldon put his memories of his service in Tennessee Town into book form: 'In His Steps,' which at one time was the most widely read book in the world next to the Bible, was the result. Looking back on Sheldon's time in Tennessee Town, I must say it was a mixed blessing. Undoubtedly conditions improved because he was able to bridge the gap between the needs of the new settlers and a reticent city. However, the condescending tone he took towards the 'heathens' in Tennessee Town who needed to be 'Christianized' in 'In His Steps' was unforgivable. The only unassailable thing we had then was our dignity, and his words attempted to take that away from us.

"Many community leaders emerged in the early 1900s. Mother Emma Gaines, along with Mr. and Mrs. Thomas Gaines and Robert Baker, founded Gaines Funeral Home. Other community leaders included Betty Patterson, Sally Oglesvie, Annie Gentry, Henry Williams, Andrew Jordan, Rilda Preer, Mrs. Louis Knott, Mrs. Ed Link, Andrew Ferguson, Rev. and Mrs. B.C. Duke, H.I. Monroe and George Graham.

"Throughout the next several decades businesses sprang up along Huntoon Street, including the Caravan Club, which was the favored watering hole for our state legislators for years. Silver's Furs occupied a storefront along Huntoon for years, too. The Brown v. Board case ended school segregation, but it also ended the existence of Topeka's historically black schools, including Buchanan School. Bobo's Drive In, at Huntoon and Lincoln Streets, was a neighborhood restaurant for years, but our neighborhood residents sometimes were served in brown-paper bags until the 1960s. Dibble's Grocery Store was located in a lovely Tudor-style building at Huntoon and Lane Streets until the middle 1970s; Dillon's built a new store there and was a neighborhood presence for 40 years until it abandoned the neighborhood and Central Topeka. GraceMed Health Care soon will move into the former Dillon's building. The gas across the street has been at its current location for decades. First Impressions Printing, across Lane Street from Dillons, became WCW Property Management. The Topeka and Shawnee County Public Library, as it's now called, has been at our northwestern border since its inception, as has Stormont-Vail Hospital.

During the 1970s Tennessee Town experienced the first rumblings of a renaissance. The Community Development Block Grant Program, through the U.S. Department of Housing and Urban Development, began in Topeka in 1974. CDBG funds began to come to Topeka as an entitlement to poor neighborhoods like ours. In 1976, Tennessee Town became the first Neighborhood Improvement Association in the city. Mrs. Lillian Bennett was our first president. She served in that capacity for 10 years.

"A group of Kansas State University architecture students came into our neighborhood in about 1980 to conduct a semester-long inventory of housing. The results of their work were impressive, including recommendations for in-fill housing that included actual prototypes! At about that same time the neighborhood began working with Metropolitan Planning on a comprehensive look at Tennessee Town, including housing, infrastructure and safety issues. A big manual was compiled, along with an executive summary. Those two efforts to ready our neighborhood for revitalization inspired hope.

"The 1980s began the downward spiral of Tennessee Town. Once a proud, vibrant neighborhood inhabited by low- to middle-income folks who often worked two jobs to support their families, lived in modest but well-kept homes and interacted with their neighbors on a daily basis, Tennessee Town became older, less vibrant, more lower-income and less interactive. However, the one constant throughout this period was the pride that the elder residents still felt for their neighborhood.

"As our senior neighbors began to die, the neighborhood did, too. Homes that were formerly owned became rentals. Stable families were often replaced with people who tended to only live here for several months. Older homes were razed, creating vacant lots, but new homes were rarely built in their places.

"The commercial strip along Huntoon deteriorated even faster than the housing here did. Silver's Furs suffered a fire in the 1970s and closed. Bobo's closed in the 1980s, as did the Caravan Club. A number of businesses have been in and out of that strip.

"Our people began to lose faith in the proposition that, if we remained vigilant, the city would eventually get to us. Except for sidewalks, through CDBG funds, the city didn't seem to care.

"But, and this is important, *our people never lost faith in each other.*

"And, of course, your family has lived in Tennessee Town for the past 90 years. Your mothers and fathers for six generations have loved this neighborhood for what it was and will be: a stable, working-class, low- to moderate-income, family-oriented residential area where people know one another, visit with one another on our porches, pray together at our five churches, meet as a unit to plot a future that is carefully considered and completely inclusive, and preserve the lore and history of the neighborhood so that it may be treasured and passed on to successors yet unknown. You and your successors must fight to preserve this neighborhood, because I only plan on being here another 30 years or so!"

A laugh from her daughter ended the conversation. The children, with eyelids heavy from impending slumber, went to their cooled bedrooms with the story of their ancestors still fresh in their minds.

Back on the porch the woman who had just woven the incredible story of her neighborhood -- indeed, her life -- rocked back and forth in her chair.

A twinkle could be detected in her eyes. She knew that the next caretakers of her neighborhood were now ready to do right by it.

She smiled.

Fifteen years later the eldest of the elders and her family gathered for her 100th birthday. The neighborhood's Black History Museum conference room was filled with five generations of the elder's family. Neighborhood friends attended, also. The five churches also were represented by their respective pastors. The Mayor and three city council members also took time to pay tribute to Tennessee Town's Miss Jane Pittman.

The elder's daughter, the one who laughed at her mother's prediction of life-long service to her neighborhood, had assumed her mother's position as leader. The daughter gathered everyone around the day's honoree and said:

"On this day, the 100th birthday of my mother, let us rejoice. Let us rejoice that we are all here to give thanks and praise to her and her many accomplishments and sacrifices for this

neighborhood. Let us rejoice that her many years of service have resulted in many improvements here, including new and rehabilitated housing and an absence of vacant lots.

"Let us rejoice that we have a thriving senior and physically challenged apartment complex that respects our neighbors who are aged and handicapped.

"Let us rejoice that we have a youth outreach program that has placed many of our young at Washburn University and in other positions from which they could succeed.

"Let us rejoice that we have a community center and commons area for our neighbors to gather for special, or everyday, occasions.

"Let us rejoice that we have lush, tranquil greenspaces scattered about our neighborhood, where our children can play and their parents can relax.

"Let us rejoice that we have lighting and infrastructure improvements to streets and alleys that have made travel, both by car and by foot, safer.

"Let us rejoice that we have this Black history museum, which pays tribute on a daily basis to the struggles and successes of predecessors and shines light on what successors must never forget -- that is, if they hope to succeed in the future.

"And let us certainly rejoice that what was once a neighborhood on the brink 15 years earlier has rebounded and become, once again, a haven for diversity, respect, spirituality, culture and education and that Tennessee Town's come-back has been driven by its residents.

"And now, a few words from our guest of honor. Mama..."

The elder, still walking on her own and with most of her vim and vigor still intact, looked around the room at all of the warm, familiar faces -- and at the warm but unfamiliar faces, too -- and smiled. She drew in a breath and said:

"The baton has been passed. You have done magnificently, but the race is not over. It will never be. The history and lore of this neighborhood and, by extension, yourselves, must be watered and weeded. You must remain vigilant, because no one else will care about us unless we care about us. I am very grateful that I have been allowed to see the changes here. They are wonderful! I am satisfied, and you should be, too."

Later that fall the eldest of the elder's went home to God. It was as if she had hung in there long enough to see her work, as well as the work of others, rewarded. Her neighborhood was poorer because of her absence there.

But Heaven was much richer because of her presence there.

Her picture hangs in the entry way of the museum as a constant reminder that dreams can come true.





GOALS AND GUIDING PRINCIPLES

LAND USE

Preserve the viable-single family character of the neighborhood, while accommodating commercial, office and higher density residential within established higher intensity areas.

- Single family residential should remain the predominant land use
- Restrict commercial activity to its current locations and preclude large institutional encroachment into the neighborhood
- Strengthen current park system by providing additional equipment and increase the amount of useable greenspace accessible to residents.
- Define a neighborhood center that can serve as a mixed-use commons for community-based activities and events

HOUSING

Increase the quality of the housing stock to promote the desirability to live in Tennessee Town through investment and targeted marketing

- Improve existing housing stock through public and private investment
- Strive to achieve a neighborhood of no abandoned homes or vacant lots
- Support new infill development and ensure it is complimentary to the traditional character of the neighborhood through design guidelines and standards
- Encourage landlords and homeowners to improve the appearance and living conditions of their properties through rehabilitation activities such as voluntary compliance, increased code enforcement, or any other mechanism deemed appropriate/feasible
- Promote Tennessee town as a niche market for elderly accessible housing, environmental friendly housing, or affordable housing due to its unique lot sizes and configurations.

PUBLIC FACILITIES AND INFRASTRUCTURE

Provide infrastructure improvements to the Tennessee Town neighborhood that demonstrate commitment to continued improvements in the quality of life of the residents

- Continue street, sidewalk and alley infrastructure improvements so they may provide the level of service required for their current use and support future planned development
- Create pedestrian friendly streetscapes (streets and sidewalks) that connect to neighborhood amenities and assets while increasing pedestrian safety.
- Make neighborhood parks more “kid friendly”, appealing, and accessible.

SAFETY

Create a safe, clean, and livable environment for all those in Tennessee Town to live, learn, work and play

- Promote a strong relationship with police and promote community wide educational programs and efforts related to crime prevention and detection techniques
- Increase effectiveness of public and private lighting in order to reduce incidents of crime and increase public safety
- Ensure playgrounds and parks are open and visible from the streets.
- Support improvements that will increase safety of pedestrians and school children at crossings and bus stops
- Organize volunteer resources to take on a more organized and proactive role in safety

NEIGHBORHOOD CHARACTER

Create a positive image for Tennessee Town while preserving its deeply rooted historic character and rich social heritage.

- Identify, preserve, and promote the heritage of Tennessee Town by ensuring that it remains welcoming and supportive to a diversity of people
- Historic infrastructure elements, such as brick streets, sidewalks, and stone curbs should be preserved where appropriate
- Identify, preserve and restore historic structures
- Create a cultural heritage center that documents the neighborhood’s linkages to Black History in Topeka
- Enable youth to enhance their academic and life skills by increasing participation and investment of local churches in neighborhood revitalization activities
- Identify neighborhood gateways and work to enhance and beautify their image

CHAPTER 4

FUTURE LAND USE PLAN

Future Land Use Map 8



FUTURE LAND USE PLAN

The Tennessee Town Neighborhood planning area currently contains a diverse mix of land uses, including residential, office, institutional, retail, and open space. The Tennessee Town Land Use Plan (Map 8) graphically illustrates a conceptual guide for land-use development of the neighborhood that embodies the vision and goals presented in Section III. The map depicts preferred land-use categories and is intended to be more conceptual than explicit in terms of land use boundaries. This section describes the land use categories in greater detail.

LAND USE PLAN CATEGORIES

RESIDENTIAL - LOW DENSITY:

This category comprises the areas of Tennessee Town that front on “local” low volume streets: Lincoln, Buchanan, and Clay. These areas are where the highest concentrations of single-family uses exist without a significant mixing of originally built two/multiple-family uses or major frontage along arterial streets. These are areas whose original development was single-family and where a realistic potential exists to sustain this as the predominant character. New development in this area should be compatible with the existing single-family character, which could include such new uses as church-related uses and small-scale daycare.

Primary Uses: Single- Family Dwellings

Zoning Districts: R-2

Density: 5-7 dwelling units/acre (net)

RESIDENTIAL - LOW DENSITY (URBAN/PD):

This category comprises the single-family areas of Tennessee Town that front on higher-volume arterial streets: Washburn, Lane, and Huntoon. This category differs from the *residential – low-density* (urban) category by providing more flexibility on appropriate housing types in a planned development (PD) setting that fits the scale and character of the neighborhood. This category applies in the event of future development of vacant lots in order to give the area flexibility to redevelop more creatively with attached/detached residential units in a unified development. Existing residential uses are appropriate for two-family dwellings given their lot size and frontage along arterial streets.

Primary Uses: Single-Family and Two-Family

Zoning Districts: M-1 and M-2

Density: 7-10 dwelling units/acre (net)

NEIGHBORHOOD MIXED-USE COMMONS:

This land-use category comprises the area of Tennessee Town that lies in the second 1100 block of Buchanan Street, in the center of the neighborhood. The Buchanan Center and adjoining grounds are the focal point of this land-use category. Inter-generational community space and uses include: public greenspace, elderly housing, single-family housing, social service agencies,

faith-based institutions, children's uses, heritage collections, etc. Another characteristic of this category is that all uses would be within a 10-minute walk of neighborhood residents.

Primary Uses: Multi-family dwellings (5+ units)

Zoning Districts: M-2, OI-1, OI-2, and PUD

Density: 15-29 dwelling units/acre (net)

PROFESSIONAL SERVICES/RESIDENTIAL:

This land-use designation comprises the area of Tennessee Town that fronts a primary image corridor (10th Avenue). This also serves as a frontage buffer between Grace-Med and the low-density residential neighborhood on Lane Street. Mixed uses, which could include neighborhood commercial, professional office/services, institutional, and residential, should maintain a respectful character at a neighborhood scale. Adaptive reuse of existing residential buildings is highly encouraged so as not to promote strip commercial development.

Primary Uses: Neighborhood Residential, Professional Offices/Services, and Institutional

Zoning Districts: OI-1, OI-2, C-1, M-1, M-3 and PUD

Density/Intensity: Medium

COMMERCIAL:

This designation comprises the southern half of the "Grace-Med block" and is surrounded by four minor or principal arterials: Washburn, Lane, Huntoon, and 12th. This is a highly visible and prominent location in which high-quality design standards should be taken into consideration for new development.

Primary Uses: Grocery Store, Retail Anchor and Health Clinic

Zoning Districts: C-2, C-4 and PUD

Density/Intensity: High

MEDICAL SERVICES:

This designation comprises the block surrounded by three minor or principal arterials: Washburn, Lane, and 10th. The potential exists that this block could serve future expansion of medical service facilities in the area. The types of uses that characterize this category include: health care facility, health service facility, hospital, health care office/clinic, public health agency, and professional office/services. Given this block's location along Washburn/Lane and 10th Avenue, new development should follow high-quality design guidelines for these corridors. In addition, rather than being developed in a piecemeal fashion, this block should be a unified planned development.

Primary Uses: Medical Facilities and Supporting Ancillary Services

Zoning Districts: MS-1, OI-1, and OI-2

Density/Intensity: High

INSTITUTIONAL:

This designation recognizes existing churches and utilities. Major expansion of existing institutional sites are not anticipated at this time, but will be assessed accordingly.

Primary Uses: Churches and utilities.

Zoning Districts: Primarily R-2 (Single-Family)
Density/Intensity: Medium (limited occurrences)

PARKS, OPEN SPACE, AND RECREATION:

The parks, open space and recreation designation applies to the active and passive open spaces location within the neighborhood. There are passive spaces located at the southwest and northeast corners of 12th and Lane. This open space in this area should act as a neighborhood gateway with passive open space, landscaping, and monument signage. The designation also includes the active recreation space at the northwest corner of Munson and Lincoln.

Future open space development could occur within the northern half of the “Grace-Med block”. This open space should also be passive, visual, and functional for community-wide gatherings. Additional alternatives include retail expansion and the establishment of social service organizations is also appropriate in this location to provide viable neighborhood services. Again, this is a highly visible and prominent location in which high quality design standards should be taken into consideration for new development.

Primary Uses: Parks, Retail/Social Service District

Zoning Districts: Open Space, PUD

Density/Intensity: Low/Medium

* Potential Future School Site



The current zoning at the northwest corner of SW 12th and SW Lincoln Streets supports single family uses in addition to schools. This neighborhood plan supports a school as an appropriate future land use for the property. Faith Temple Church currently owns the property and there are plans to build a school and a gym on the site. If those plans change, the current zoning supports single-family homes as another option for the property.

CHAPTER 5

REVITALIZATION THEMES

REVITALIZATION THEMES

“To get what you never had, we must do what we have never done.”

Anonymous

THEMES

“FILL IN THE GAPS”

A surplus of vacant lots throughout the neighborhood presents a great opportunity –spot infill development. Though having a surplus of vacant lots is not the most desirable feature for a neighborhood to have, vacant lots present the chance to attract new community members, add quality housing stock, and increase homeowner occupancy levels.



Habitat for Humanity House Ribbon Cutting

“COMMUNITY & NEIGHBORHOOD BUILDING”

A strong neighborhood is built of strong ties between neighbors. Tennessee Town needs to cultivate these ties so that residents can help support one another as they work to improve their neighborhood. Many organizations are targeting their efforts to help empower residents by going door to door and helping them acquire the tools they need. As they do throughout many neighborhoods in Topeka, Habitat for Humanity, the City of Topeka, and a variety of non-profit agencies are all working to help improve the quality of life of Tennessee Town’s residents. Community Building must be the lead hitter in the revitalization line-up.



Cornerstone Ribbon Cutting on Clay Street

“TENNESSEE TOWN NORTH FOCUS”

The area north of Munson Avenue is the most critical area of need. This portion of the neighborhood decayed as the southern portion of the neighborhood received targeted funds for revitalization due to the worse conditions in that area at the time of the adoption of the 2001 neighborhood plan. The deterioration of the northern part of the neighborhood is a function of limited funding that would enable the implementation of larger-scale rehabilitation projects. More specifically, the area situated between Munson and 11th Street is the most critical area of need within Tennessee Town. It is where the most serious negative conditions persist. Housing conditions on the 1100 block of Lane St., Washburn Ave., and Clay St. exhibit the worst signs of deterioration. Improving the conditions in these blocks will have a positive impact throughout the entire neighborhood.

“SUPPLY & DEMAND FOR A DYNAMIC POPULATION”

The concerns with housing stock in Tennessee Town have been expressly stated. What has not been discussed enough is how these same “constraints”—small lots and housing footprints—can also be marketed to populations who look for housing with such characteristics. The Baby Boomer generation is reaching retirement age, but these individuals are not looking to move into care facilities by any means. This generation is looking for ways to age in place, stay in their own home, and still be able to access what a city has to offer through public transportation. Or, conversely, younger professionals have grown up with an environmental consciousness and are looking for ways to reduce their impact on the planet. By blending either of these population segments into the existing family-friendly, age-friendly community in Tennessee Town, the housing market can stabilize and improve.

“LET HISTORY BE YOUR FUTURE”

Tennessee Town has a history rich in African American heritage. It stands as a proud, diverse neighborhood lending to its unique ambience and strong social fabric. The neighborhood displays this cultural merit throughout the neighborhood by maintaining its historical roots embodied in a multiplicity of artistic and architectural features. In order to preserve Tennessee Town’s historic fabric, new development should apply traditional neighborhood design standards that respect the neighborhood’s scale and character. If new development does not respect the historic character of the neighborhood, the neighborhood’s unique cultural identity will simply fade away over time.

“FORTIFY THE CENTER”

Protect and strengthen the historic core of the community; churches, Tennessee Town Plaza, and Buchanan Center anchor revitalization efforts. These establishments have served as a foundation of the neighborhood, and their continued role as a central node in the area—connecting people and providing support to residents—is key for the neighborhood to achieve success in the future. Any plans for the neighborhood must take these assets into consideration.

TARGET AREA STRATEGIES

TARGET CONCEPTS AND PRINCIPLES

Neighborhoods make up the fabric of a city, but blocks make up the fabric of a neighborhood. When the fabric is strong, the city or the neighborhood is strong. If the fabric becomes frayed, wears down and tears, the city or neighborhood becomes weak and susceptible to accelerated decay. The most successful strategies in neighborhood revitalization involve the repairing and re-weaving of this fabric. To do this, a neighborhood revitalization strategy must protect key assets or anchors, isolate weaknesses, and re-position them as strengths. The Target Area Concept Map depicts these current features in Tennessee Town as defined below:

ANCHOR

These are rigid points of support that give a neighborhood its identity. They are long-term community investments that draw people to them as destinations thereby lending stability to the area and making them desirous for residential investment (e.g., schools, churches, parks, community centers, etc.).

STRENGTH/POTENTIAL

These areas are the relatively strongest blocks of a neighborhood that exhibit staying power and/or recent investment. These are also underachieving areas that have the potential to become strengths or anchors given an appropriate stimulus.

WEAKNESS

In general, weaknesses are areas that have the highest concentrations of negative conditions such as low homeownership, vacant/boarded houses, poverty, substandard infrastructure, and high crime. The more concentrated these are, the greater social problems occur and the more entrenched they become. Diluting their concentration gives surrounding areas a greater chance to revitalize on their own.

Spatial relationships play a dynamic role in the overall concept. Spread too thin, anchors or areas of strength will fail to influence beyond their natural reach, leaving poorly performing areas little hope of turning around on their own. Conversely, much like a shopping mall where the stores between two anchors will benefit from greater pedestrian traffic, weaker blocks isolated between two closely placed areas of strength will be prone to more investment because they are “attaching” themselves to something more stable and desirable. In a similar fashion, a neighborhood can only be re-woven back together if the new threads (i.e. investment) are attached to something worth attaching themselves to for the long-term. If you try to attach new threads to a frayed piece of fabric, you will ultimately and more quickly fail in its purpose to mend.

If the new investment is “public dollars”, the most effective and fair use of such an investment in a neighborhood is to **maximize the impact and transformation of the *neighborhood***. Spreading out dollars throughout a neighborhood dilutes its effectiveness and impact. Combining the same amount of dollars for infrastructure and housing investments into a targeted 3-5 block area will give that area a much better chance to transform itself and become strength upon which to build. The more areas of strength or fewer areas of weakness for a neighborhood, the better it will be.

The SORT Program targets a few select blocks, the most “in need” blocks, with the theory that intensive investment in this geographically small area will act as a catalyst and create a blooming effect on the area around it. Blocks between major anchors are built up using this investment, and ideally the selected area is near high-traffic areas so that passersby see the investment being made in this area. The following four strategies are consistent with how this has been implemented in the past and explain the intent behind them. The targeted area will have an even greater chance to succeed if it can:

- attach itself to an anchor and/or area of strength (protect assets)
- address a significant need or weakness (transform)
- provide a benefit to the greatest number of people possible (can include image)
- leverage private investment to the greatest extent possible (sustainable)

The idea behind targeting is to focus a critical mass of improvements in a concentrated number of blocks so that it stimulates additional investment by adjacent property owners, increases property values, and leaves behind a visible transformation of the area. If the improvements are not visible enough, then the stabilization of that area is marginalized and investments to the area will not be leveraged. Each Target Area may require a different set of strategies for improvement. Ultimately, public funding is limited for improvement and some of the strategies outlined for these areas will not be made in a sufficiently timed manner for the improvements necessary.

TARGET AREA SELECTION

From minor infrastructure upgrades to major housing rehabilitation projects, it was determined that the needs of the Tennessee Town neighborhood could be met with SORT funds. However, as there is a finite amount of funding allocated to each neighborhood, it was necessary to step back and look objectively at the entire neighborhood to see which blocks were most in need and had the most potential. Five rating factors were used to evaluate each block to see which area was most in need:

- Housing Conditions
- Home Ownership (Tenure)
- Code Violations
- Major Part 1 Crimes
- Infrastructure Conditions

These rating factors were each mapped at the beginning of the planning process with the results averaged per block, and the maps were overlaid to see which blocks consistently scored low (Map 9). This allowed a pattern to emerge for areas that were in need and, based on their proximity to Anchor Areas and Strength/Potential Areas, had the highest potential for responding to public investment (Map 10).

When looking at Tennessee Town and comparing the 4 health maps—housing conditions, owner occupancy, crime, and infrastructure—only a few blocks in west Tennessee Town really stood out. And, those blocks really didn’t have much “need” for major infrastructure projects.

The overall goal is to ensure a quality, impactful finished project within the target areas (see Implementation Section for potential projects). These areas are located in the northern portion of Tennessee Town and will address the 4 criteria normally used to compare target areas to each other:

- Attach to strengths and protect assets
- Address a significant need or weakness
- Benefit a large number of people
- Leverage funding and be sustainable

Using the Target Area Map, a presentation was given at the June 5, 2017 SORT plan review meeting, and committee members were asked to select which target area would produce the best ripple effect through the neighborhood. They felt that the highest priority area should be the northeast area, with SORT funds expanding to the west area and outward from there as funding is available. Building conditions in the Northeast area range from “minor deterioration” to “major deterioration. The west area experiences high pedestrian and vehicular traffic, and is highly visible from Washburn Ave. Blocks within both of these areas could easily respond to housing programs and infrastructure repairs associated with SORT in order to create a new Anchor Area for this entire neighborhood.

Infill housing and housing rehabilitation will occur in the primary and secondary target areas. Property owners in these areas will be the first to be notified of available funding assistance. If housing rehab funding remains after these property owners have had the opportunity to apply, additional property owners in surrounding blocks will be notified until either all housing funding is spent or all property owners have had the opportunity to apply.

PRIMARY TARGET AREA: NORTHEAST

The area consisting of the first 1100 block of SW Lincoln, Buchanan, and Clay has been identified by the neighborhood as the primary target area or area with the most need. The northeast target area encompasses the highest percentage of major deterioration of exterior housing conditions, along with low homeownership, and several blocks exhibiting high levels of intermediate infrastructures conditions. The Northeast area is anchored by two churches including the First Church of Nazarene and Faith Temple Church of God in Christ, as well as the

King's Court basketball/ playground complex. There are also several vacant, buildable lots within the area. These blocks would greatly benefit from the homeowner rehabilitation program and infill development. Likewise, repairs to sidewalk and pavement completed through CIP funding would greatly improve the areas overall infrastructure rating.

Infrastructure Projects

- SW 11th from Lane to Clay
- SW Munson from Clay to the alley between Lincoln and Lane
- SW Lincoln from Munson to 10th
- Repair Lincoln westward ½ block alley between 10th and 11th
- Repair 11th northward 2 lots of alley between Lincoln and 10th
- Sidewalk infill and replacement
- Munson to 11th between Lane and Lincoln
- Water line on 11th Street from Clay to Washburn

Housing

Housing improvements strategies should include a combination of the following:

- Interior and exterior rehabilitation of existing owner-occupied homes
- Exterior rehab of some renter-occupied homes

SECONDARY TARGET AREA: WEST

The area consisting of the first and second 1100 blocks of Washburn and the first 1000 block, along with the first and second 1100 blocks of Lane and the first 1200 block have been identified by the neighborhood as a secondary target area. Due to a lack of funds, these blocks were untouched by the 2000 neighborhood plan and a high percentage of the structures' exteriors have since fallen into disrepair. The homes situated between 11th and 12th Street yields some of the lowest percentages of homeownership along with high percentages of major deterioration of exterior housing conditions. Several strengths and anchors lie adjacent to this area, giving it the potential to have a ripple effect if proper investments are made. This area would greatly benefit from the homeowner rehabilitation program and infill development. Additionally, several streets within the area are in need of pavement repair.

Infrastructure Projects

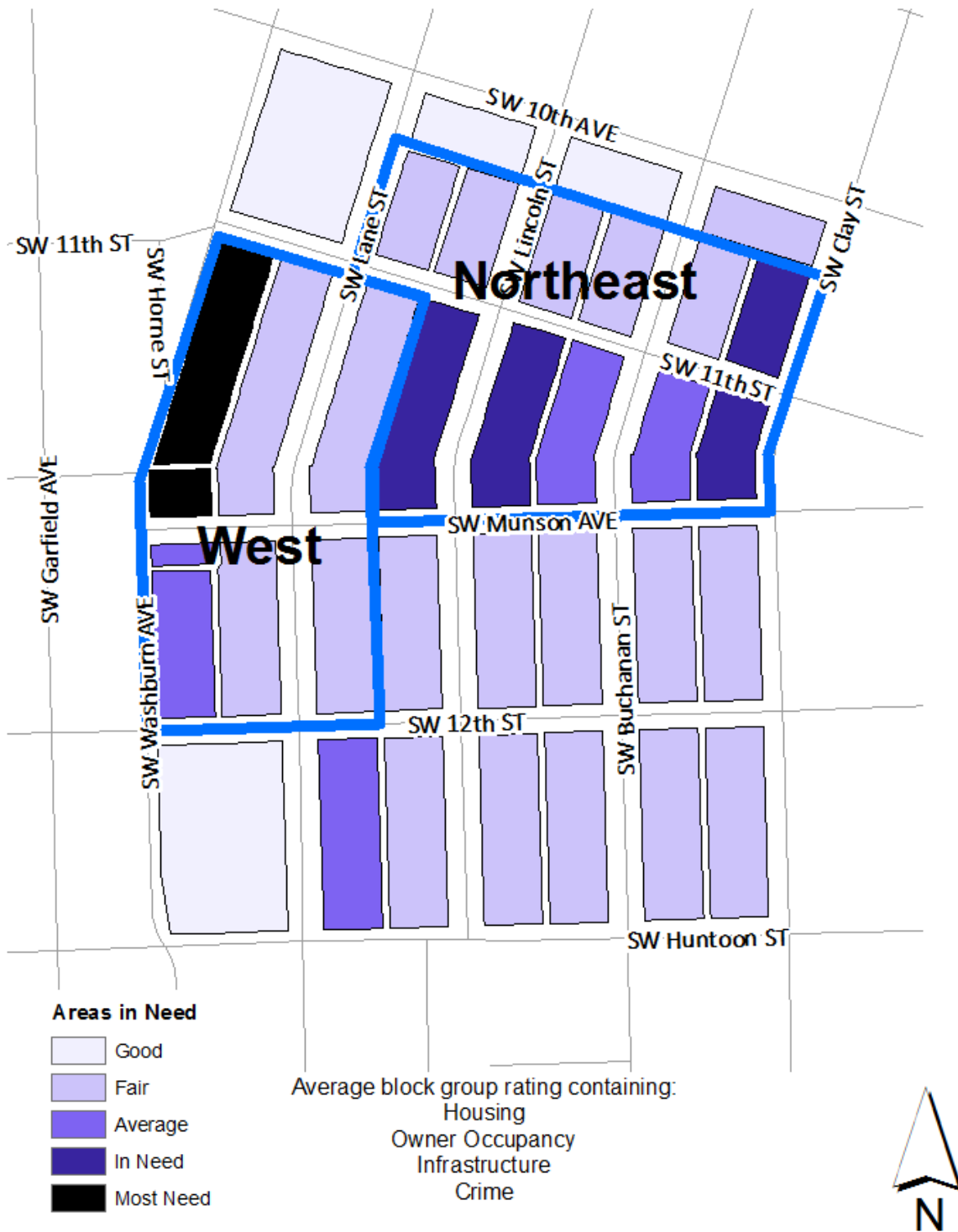
- Sidewalk infill and replacement

Housing

Housing improvements strategies should include a combination of the following:

- Infill housing
- Interior and exterior rehabilitation of existing owner-occupied homes
- Exterior rehab of some renter-occupied homes

Target Area Evaluation Map 9



[illegible]

NEIGHBORHOOD-WIDE STRATEGIES

“Make no little plans. They have no magic to stir men’s blood.”

Daniel Burnham, Chicago City Planner

Several livability strategies can be utilized that add significant value to the “demand-side” of the neighborhood. The quality of housing stock is but one facet of Tennessee Town’s reinvestment strategy. Non-housing strategies related to neighborhood character & image, infrastructure, parks and open space, historic preservation and safety are critical in creating an overall environment of livability emphasizing a traditional neighborhood quality of life. Additional livability strategies can be found in the following sections.

HOUSING

Infill Housing

16% percent of the parcels in Tennessee Town are vacant. A priority of this plan is to support and encourage new housing to be built in Tennessee Town. New infill housing should be focused within the target areas established by this plan. The existing housing stock in Tennessee Town represents a variety of architectural styles from the early 20th Century. New housing should fit the architectural character of the neighborhood (see Character and Image for design guidelines).

Existing housing providers like Habitat for Humanity and Cornerstone are good candidates for partnerships to establish new housing in Tennessee Town. This plan recommends that options beyond current program offerings be explored in order to expand potential opportunities for new housing in the neighborhood.

Non-Profits

Cornerstone of Topeka, Inc. operates a lease purchase program for households who demonstrate an interest and ability in becoming future homeowners. Low/moderate-income families are placed in rehabilitated single-family units and gain necessary credit-worthiness in a couple of years to eventually become homeowners. Cornerstone funds the rehabilitation of the property and manages it until they are ready.

Housing Rehabilitation

When City funds are used, priority investments into housing rehabilitation should be focused in the areas outlined in the Target Area Strategies section recommended in the Plan. Upgrading houses in a randomly dispersed pattern only dilutes the impact upon the neighborhood and will not lead to any spin-off effect in nearby blocks. Where feasible, the following programs and recommendations can be used throughout the neighborhood.

- *Major Rehabilitation*

This program is primarily intended for owner-occupied properties in need of interior and exterior repairs within selected target areas. However, up to thirty percent may be set aside for the rehabilitation of rental properties subject to selection by an RFP process. Funds may also be provided to assist with lead-paint controls and weatherproofing. Eligible families are those at or below 80% of the identified median income.

- *Exterior Rehabilitation*

This is primarily intended for low/moderate-income (LMI) owner and rental-occupied housing units in designated areas who need significant exterior repairs of the existing structure. The assistance, however, may be available to properties that have documented historic significance and are in need of exterior repairs. Funds may be provided to assist with lead-paint controls as well.

City Sponsored Programs

TOTO-II – the City of Topeka in cooperation with Housing and Credit Counselling, Inc. (HCCI) and participating lenders offer the program to new homeowners. Assistance is provided as a 2nd mortgage, deferred loan subsidizing the purchase and rehab costs of a home for families at or below 80% of median income. While the program is available Citywide, it is structured to encourage home purchases in at-risk and intensive care areas. Other rehab incentives offered to income eligible homeowners by the City's Department of Neighborhood Relations include forgivable loans for major rehab, emergency repair and accessibility modifications. Lending institutions participate by managing the maintenance escrow.

Emergency Repairs

Emergency home repair assistance (primarily repairs that are of an immediate health or safety nature) can be provided for owner-occupants throughout the neighborhood, whose incomes are at or below 60% of the median. This assistance is intended for higher cost, major emergency repairs. Minor maintenance and repairs remain the primary responsibility of the homeowner.

Accessibility Modifications

This assistance is available to persons with disabilities throughout the City whose incomes are at or below 80% of the median, whether they are owner-occupants or tenants. This assistance is intended to provide access into and out of the home. The priority is to build exterior ramps, widen doorways, and provide thresh-holds.

Other Potential Housing Programs

There are housing programs in other communities that may be worth a look for Topeka. About Dollar Homes is a HUD initiative that supports housing opportunities for low-income individuals the opportunity to purchase qualified HUD-owned homes. There is also a \$1 home program in Kansas City, Missouri. Finally, the Good Neighbor Next Door is a HUD program that offers home purchase discounts to qualified law enforcement, teachers, firefighters and emergency medical technicians.

Voluntary Demolition

Assistance may be provided for the demolition of substantially deteriorated, vacant structures primarily located within at-risk and intensive care areas. The intent is to remove blighted structures that are beyond feasible repair. For those structures that are privately owned, the City may institute a method of repayment for the demolition services provided, yet would not gain ownership of the property in question.

Lot Expansions

Opportunities to acquire and demolish unoccupied and substandard homes by the City and offer the vacant land to adjoining property owners who participate in the major rehabilitation program should be considered within the target areas. Lot expansions could also be useful, however, within other infill opportunity areas. This would help to remove vacant and blighted homes that reside on small lots and have very little potential of being successfully inhabited for the long-term.

Neighborhood Revitalization Program

The City offers tax rebates for home improvements that increase the value of residential property by 10% and commercial by 20%. Improvements must be consistent with the adopted design guidelines for the neighborhood. The City's Planning Department administers the program.

Conversions to Single-Family Use

Where possible, a Rental Conversion Program should be used to acquire, rehabilitate and convert vacant rental properties into renovated homes, which will then be offered to homeowner occupants. In cases where large single-family structures have been divided into apartment units, the costs to re-convert and rehabilitate those structures may be higher than average. It is recommended that the City voluntarily acquire such properties as part of a major rehab program, convert them to single-family units and then offer the home for purchase by a homeowner much like an infill development.

Institutional Partners

The neighborhood has the benefit of having a number of large institutions located throughout, as well as many partners across the community who want to help the Tennessee Town residents improve their lives. Strategies to partner with these institutions for the benefit of improving the housing stock in the neighborhood include:

- Churches in the neighborhood discuss the importance of home maintenance at weekly church services. This type of peer pressure could prove effective at convincing people to keep up their properties.
- Schools, churches, and organizations across the city require their students or members to complete a set number of community service hours. The neighborhood could reach out to these organizations to help elderly or disabled residents repair their homes.

Neighbor to Neighbor

The “broken windows” theory explains that little things such as a broken window or an unkempt porch at one property can leech out to other properties as people begin to feel that no one cares about what’s going on. The problem will continue to grow block-by-block, street-by-street, until it “tips” and the whole neighborhood is suffering from an epidemic of decline. This “tipping point” can be avoided if attention is paid to the details.

Volunteer

“neighbor to neighbor” programs can address smaller housing maintenance issues – painting, porches, gutters, etc. – that prolong life of existing housing stock and prevent the “broken window” cycle. These simpler yet critical home improvement needs can be easily met by a dedicated group of volunteers. It is recommended that the NIA seek sponsorship to help organize volunteer rehab “parties” each year that will assist 2-3 elderly homeowners. Outside organizations such as the City’s developing volunteer network, and Habitat for Humanity could also partner in this effort.

Tree Trimming

Overgrowth of trees and lawn vegetation lends to an unkempt appearance that detracts from the value of the housing and blocks lighting at night. If nothing else, trimming back trees and vegetation would make considerable difference in appeal and safety. This should be a neighborhood-driven effort and not be led by a partner agency. This will lead to more ownership of the Tennessee Town neighborhood by the residents and increase their self-sufficiency.

Neighborhood Coordination

The NIA members have a good opportunity to take an active role in assisting homeowners and other members of the community maintain their houses. This would require a dedicated commitment of people to organize volunteers and people in need of help but it would be a great grass-roots approach to revitalizing the housing in Tennessee Town.

Lot Expansion

Expansion of existing small lots may accomplish remodeling objectives. Opportunities to demolish blighted vacant homes by the City and offer the vacant land to adjoining property owners should be considered.

Landlords

There is a constant divide between owners and renters. This disconnect is seen on every scale from local to national, with the assumption that more homeowners equals better maintained property values. However, stepping back from that argument, both homeowners and landlords have equal stake in the property and the maintenance thereof. Homeowners have made the investment into owning their property and reaping the benefits of proper maintenance, while landlords have bought property with the expectation of reaping both the rents accrued from the property as well as the inherent value of the property itself. Then there is the added challenge of well-meaning low- to moderate-income landlords, some of them seniors, who raise money through rents to augment lower/fixed incomes who are sometimes unable to answer property

maintenance citations. Common ground must be reached between all of these players and government to ensure that sound, quality housing is available regardless of who owns it.

Licensing and Inspection

A rental property licensing and inspection program could help address the concerns about maintenance and the condition of the rental units and can be modeled after other successful programs in neighboring cities. Key to all of this is having a designated rental manager who lives in the city or county, rather than a landlord living far away who doesn't have an active role in the care of his or her property.

Lawrence, KS first initiated a rental monitoring program for rental units located in single-family neighborhoods. For Topeka, that would encompass all "R" zoned districts. Starting to monitor rental units in this type of neighborhood is perfectly understandable—it's where most of the owner/renter conflicts occur. Their adopted city ordinance was then expanded to include all rental units after an initial testing period. The ordinance itself then explained how often rental units need to be registered and how many years can go between the actual inspections themselves. This level of detailing would need additional study before it could be implemented in Topeka. However, having a program such as this – or utilizing a different model if one fits our city better – ensures that Topeka citizens who either chose to rent or have to rent will be in safe units and can incentivize landlords to make sure that their renters are responsible in regards to the property.

CHARACTER & IMAGE

HOUSING INFILL

New housing can create a positive impact within its given block. With this notion in mind, infill housing is a focus of this plan. For the most part, Tennessee Town is a traditional neighborhood in the sense that houses are lined up uniformly along the blocks and are constructed with front porches and have a consistent massing. Care should be taken to ensure new housing is built in a manner that is consistent with the traditional character of the neighborhood.

BEFORE



AFTER



DESIGN GUIDELINES

The purpose of the following design guidelines are to ensure that new infill housing development blends with the existing character of Tennessee Town. Design guidelines are important to ensure that new houses in a given neighborhood are complimentary to existing houses in size, form, scale, and design. The goal is to make these new homes blend seamlessly into their environs. The natural historic features of surrounding houses should guide the design of new development. New houses should not clash or overwhelm the neighborhood, which can take away from an area's unique identity. Incompatible in-fill housing will undermine the effectiveness of the revitalization strategy making it more important to integrate the new buildings to the neighborhood.

The following pictures are examples of design elements or “the soul of the place” in the Tennessee Town neighborhood:



MASSING AND FORM

Massing generally refers to how a given amount of space is reflected in a building's design. For example, the space could be a rectangular box with no front porch and a flat roof, or two smaller boxes of uneven heights and a full length covered front porch and a front gable roof. The form determines how the building is positioned on a lot. This is typically dictated by lot design and setbacks from property lines.

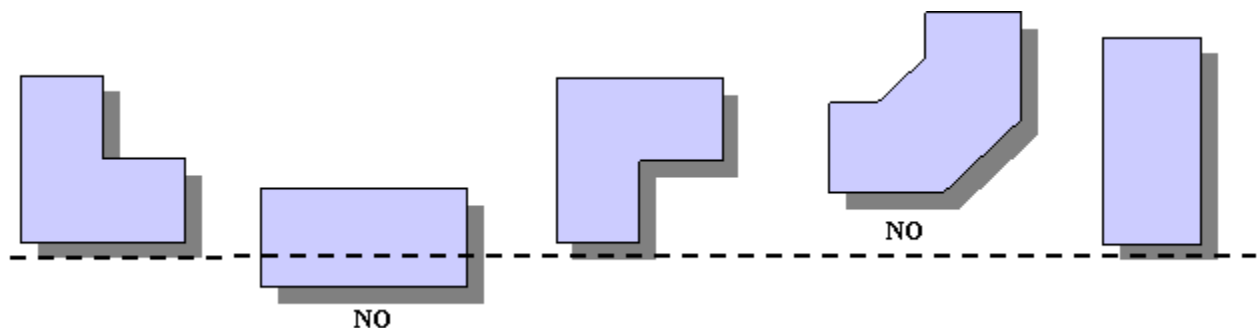
It is recommended that all new in-fill housing be designed in a manner that reflects the architectural character of the neighborhood and traditional neighborhood design elements. In order to retain the area's character, several guidelines should be followed in Tennessee Town related to massing and form:

- 1) Multiple pitched roof lines (7/12),
- 2) Narrower width than depth and building orientation that is consistent with lot configuration,

- 3) A front-facing, proportional, and functional front porch. The finish should match the trim package of house (i.e. if trim on house is painted white, the porch should be painted white)
- 4) A front-facing door
- 5) Wide-based columns supporting front porches
- 6) Proportional window openings/ wall space, this includes width and height of window and door openings. Size and proportion of window space to façade should be kept consistent with neighborhood
- 7) Raised foundations (i.e. elevation of first floor above grade),
- 8) Horizontal siding (e.g. wood or hardi-plank with 4¼-inch exposure).

SITE DESIGN

- 1) Building orientations close to the sidewalk (the street is the focus),
- 2) Infill house should match the average setback on its block to create a unified street frontage and mimic the consistency currently found in Tennessee Town
- 3) New driveways on lots with alley access are discouraged
- 4) Garages should be placed to the rear of the house and should be very clearly subordinate to the principal structure.



The following examples are types of new housing that fit the design guidelines of Tennessee Town. These examples are to be used as a guide and do not necessarily reflect specific types of homes that should be built in the neighborhood.



MARKET THE NEIGHBORHOOD – “WELCOME TO TENNESSEE TOWN”

The keys to successfully marketing a neighborhood’s assets lie with getting the word out about these assets or potential assets so the neighborhood may show them off. Tennessee Town should focus on increasing homeownership to help improve the stability of the neighborhood. The following strategies can help accomplish this.

Homeowner Recognition & Appreciation

There should be an outreach committee formed by the NIA to welcome new residents and get them involved and part of the community from the beginning. Not only will this help engage them in the various community activities but it will also make them feel a sense of pride and ownership about their new community.

Block Captains

The NIA should organize “Block Captains” to serve as a point of contact for NIA information and community activities. Each Captain could be in charge of a few blocks and help involve and engage the residents in community activities. Neighbors could come by to talk about problems, volunteer to help other neighbors, or learn about what the NIA is working on. This would be more informal than the NIA meetings but would provide another option for people to be involved in the Tennessee Town community. The Block Captains would be active, community oriented citizens who want to reach out to other neighbors and help revitalize the Tennessee Town community.

Welcome New Neighbors!

A good way to welcome new residents to Tennessee Town is to develop a welcoming committee. This could consist of the Block Captains or a group of volunteers. Either way, by talking with new people in the neighborhood, it will serve multiple functions: getting to know

your new neighbors and their families encourages a sense of community, helps them learn more about Tennessee Town, and promotes getting involved in neighborhood activities. One of the best benefits to this kind of welcome is that it's casual and informal—you can talk to people outside in the nice weather while the kids play in the yard and make them feel a part of the neighborhood.

BEAUTIFICATION/IMAGE

Tennessee Town really has a prime location as far as drive-by traffic and should use that to its advantage. Its proximity to high-volume roads such as SW Washburn, SW 10th St, and SW Huntoon provide many opportunities and gateways for the neighborhood. Additionally, SW 12th draws in a heavy amount of through traffic as it, too, acts as a minor arterial. Every effort should be made to improve conditions and appearances along these gateway streets.

Gateways

Employ a gateway approach to capitalize on the many entrances to Tennessee Town. As there are several minor arterials that lead through the neighborhood, a few key locations would need to be identified as primary gateways. Then, signage and landscaping could be placed there to draw attention and show that the residents have pride in their neighborhood. Some greenery and annual flowers could add that little extra flair that makes such a difference. Even something so simple as having all the entrance signs match shows that the neighborhood cares about its perception.

Neighborhood Banners and Flags

In addition to the gateway signs, banners and flags should be placed along the street poles and on the residences' front porches. The benefits of banners and flags are two-fold; it shows that the residents are proud of Tennessee Town and happy to call it home and it shows that a community spirit exists within the neighborhood. The NIA should display the Tennessee Town logo on banners and flags. Like with the neighborhood signage, there are a number of different methods of coming up with the look of the banners and flags. These banners and flags can be placed on light poles on the major streets. Residents of Tennessee Town could also display these banners and flags from their homes.

HISTORIC PRESERVATION

Tennessee Town has history in its roots. This should be highlighted and shared, as some families have lived in this neighborhood for generations and know an invaluable amount about the area and its past. To have those kinds of familial ties to an area, showing the "living" legacy of the past, is a part of the Tennessee Town story that should be preserved and told to future generations.

A few of the better-known stories about Tennessee Town include the following:

- Buchanan Center, and



- Topeka Council of Colored Women’s Club (restored by Living the Dream, Inc., and now owned by Faith Temple)



Another tool for calling attention to the history of Tennessee Town is historic preservation.

Topeka’s **Local Landmark Registry** is one tool available for historic preservation. This program was started by the Topeka Landmarks Commission, and it recognizes and protects individual properties as well as districts that have historic architectural or cultural significance. Local Landmark designation is completely voluntary, and is similar in its purpose to the National Register of Historic Places. Local Landmarks Designation, however, incorporates its protections for historic properties through a zoning overlay that offers codified standards for alterations to the property. All structural alterations to historic landmarks require review and approval by the Topeka Landmarks Commission. Historic Landmark designation represents a demonstrated commitment to historic preservation, and the continuation of the property’s place within the greater Tennessee Town neighborhood.

In addition to local landmark registry, the **Register of Historic Kansas Places**, and the **National Register of Historic Places**, are programs that offer financial incentives for many properties that retain historic integrity. Across the country, and elsewhere in the City of Topeka, historic districts have demonstrated their ability to retain, and modestly increase property values through

maintaining the architectural integrity of a significant grouping of historic structures. Economic incentives for individually listed properties and contributing properties within historic districts include federal and state income tax credits for qualified restoration expenditures. The State of Kansas offers a state income tax credit on 25% of the qualified costs toward a restoration project, while the federal income tax credit is 20% of those same qualified costs. The Federal tax credit, however, is offered only to income producing (rental and commercial) properties. Districts require a historic resources survey to establish the volume and character of all property assets within a neighborhood, and approval by a strong majority of the property owners within its boundaries.

A full historical resources survey should be conducted in Tennessee Town to determine the neighborhood's eligibility for historical designation. Some potential historic properties include:

- The Ice House (*shown to the right*)
- Remaining original shotgun style homes
- Penwell-Gabel Midtown Chapel
- Faith Temple COGIC,
- Shiloh Baptist,
- Lane Chapel
- 1177 Lincoln (Charles Sheldon Kindergarten)



The Ice House in Tennessee Town, located in the first 1100 block of SW Buchanan, is one of the neighborhoods most historic structures. Although the structure is currently in disrepair, it holds great potential for adaptive reuse. This building and the former commercial building to the south could be an interesting mixed use project whose re-use could benefit the primary target area.

Original shotgun style homes are also present throughout the neighborhood, including the “orange house” on Washburn Avenue. The neighborhood was platted around this style of housing, as indicated by its small, narrow lot configurations. Shotgun style designs are representative of Tennessee Town's early history, and are a principle reason to conduct the historical inventory survey to determine their contributions to a possible historic designation.

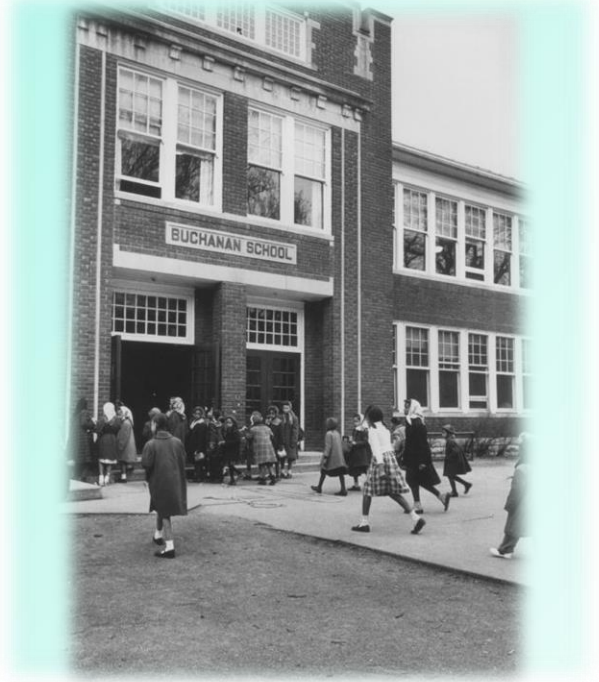
Many of the churches within the neighborhood have stood the test of time since Tennessee Town's early settlement. Not only do these buildings add character and help create a sense of community within Tennessee Town, but they help strengthen the bond between residents, and give many a strong sense of hope and pride. These historical churches connect Tennessee Town

residents to the past. By the same token, they hold the key to preserving its heritage well into future.

AFRICAN-AMERICAN HERITAGE IMPROVEMENTS

Every recognition of Greater Topeka's African-American heritage should include a major emphasis within Tennessee Town. Drawing from investments in the Monroe School's Brown vs. Board of Education National Historic Site by the National Park Service, the restoration of the John Ritchie pro-abolitionist house near Downtown, the restoration of the Free State Capitol Building, and the renovation of the US Post Office that served as the US Courthouse for the Brown v Board of Education legal case, Topeka has several major attractions to tell the larger national civil rights story as played out on a local scale. Tennessee Town NIA has shown interest in becoming a link in that "story" by potentially using the Buchanan Center as part of African-American heritage museum collections and exhibits. Potential relocation and period restoration of a shotgun-style house to the Buchanan Center grounds (ala Ward-Meade Park) could be part of this heritage museum attraction.

To enhance this appeal, restoration of brick streets on Buchanan, a landscaped commons space, period lighting, and signage should be examined. From the former Colored Women's Club on Lincoln Street to the many churches of African-American heritage, Tennessee Town has the potential to benefit economically and socially from its prominent role in African-American and Topeka history.



CIRCULATION AND INFRASTRUCTURE

STREETS

Mill and overlay of streets that are in poor condition will be necessary for the local streets within the neighborhood. Streets and alleys that run through the primary and secondary target area should receive priority. Recognizing that not enough funding to repair all of the roads here, road work in this area will need to be done strategically with the goal of maximizing benefits to the neighborhood. Arterial streets are generally in better condition with SW 12th and SW Huntoon Streets slated for reconstruction as part of the ½ cent county-wide sales tax projects.

- *Huntoon Street – This minor arterial runs east to west, acting as a southern border for the neighborhood. This street carries higher levels of traffic from Clay to Washburn. Huntoon Street is set to receive ½ county-wide sales tax funding for construction from 2019 to 2022.*
- *12th Street - This minor arterial runs east to west, parallel to Huntoon St., cutting through the southern interior portion of the neighborhood. 12th Street will be redone with county-wide ½ cent sales tax funding for construction between 2019 to 2022.*

Pavement Conditions
Map 11



Curbing

Where replacement curbing is required because of deterioration or height, concrete should be used and built in order to retain a consistent curb height, which is more suitable for modern uses. Replacement should begin in the target area and expand outward to the secondary with the sidewalks as funding allows.

Alleys

Paving and repairing alleys is a priority for the neighborhood. A few of the alleys in the neighborhood have never been paved. Several of those that have been paved are now in very poor condition, having drainage issues or needing repair. Alleys should be re-done in and around all affected target areas. This will improve circulation and image.

Historic Infrastructure

The City's Brick Street, Alley and Sidewalk Policy should be followed when work is proposed on historic infrastructure. That policy promotes the preservation of historic infrastructure under certain circumstances.

- Brick streets
The existing brick street in the neighborhood is the two blocks of SW Buchanan Street from SW Munson to SW 10th. This brick street should be maintained as brick and not covered or removed. Consideration should be given to uncovering the bricks under Buchanan south of SW Munson to SW Huntoon Street as part of a future street project.
- Brick sidewalks
Generally speaking, if a brick sidewalk is in a level and maintained condition, it should be preserved. It may be appropriate to replace a brick sidewalk with concrete if it is not level or is not being maintained by the property owner. Most of the brick sidewalks prioritized for improvement in the target area do not meet those conditions and should be replaced with concrete.
- Stone Curbs
There is one section of stone curbs in the neighborhood along the west side of SW Clay Street, north of 11th Street. The City's Brick Street, Alley and Sidewalk Policy also addresses the preservation of stone curbs. That policy should also be followed if work is proposed on that section of Clay Street.

URBAN INFRASTRUCTURE

Planning for People Not Cars

Looking at Tennessee Town from a public health standpoint as well as from an economic standpoint, it is important to ensure that planning for pedestrian improvements occurs alongside planning for roadway infrastructure. Not everyone in Tennessee Town has access to a vehicle. To get to where they need to go, people walk, ride a bike, or take a bus. The following section includes recommendations for improvements in the neighborhood to create a walkable, bikeable neighborhood that supports the goals of the Topeka Bikeways Master Plan and the Topeka Pedestrian Plan

Sidewalks

Improving sidewalks is important for the neighborhood. This basic infrastructure which most people take for granted is essential for neighborhood connectivity, ownership, and a necessity for areas where people may not have their own cars. Old and unsafe concrete sidewalks should be replaced as well. Sidewalks should be redone starting in the primary target area and move outward to the secondary. All sidewalk infill and replacement should match existing sidewalk width.

Additionally, the Topeka Pedestrian Master Plan identified Tennessee Town as a high area of pedestrian demand with priority years 2022-2023. While the plan identified major street sidewalks such as 12th Street, which will be covered by the county-wide ½ sales tax, other sidewalks such as those off of Munson Ave and 11th Street were identified as well. The Pedestrian plan suggests that Tennessee Town needs 400 linear feet of new sidewalk (where no sidewalk exists), 1,300 linear feet of sidewalk needing moderate repair, and 2,500 linear feet of sidewalk in severe disrepair. Funding for projects identified by the Pedestrian plan include CIP, city wide ½ cent sales tax, SORT/Grants.

The map (Map #12) below shows where sidewalks are either in place or proposed. Using infill sidewalk funds for this area would not only increase the pedestrian connectivity, but would also potentially help stabilize this declining area, as shown in the current conditions maps.

Sidewalk Conditions Map 12



Bike and Bus Routes

The City completed its Bikeways Master Plan in 2012 and was selected to be part of KDOT's Transportation Alternatives (TA) Program for Phases I and II of the implementation. City-wide, Phase I was granted \$1,400,000 and Phase II was granted \$223,075. Three of these bike routes traverse through the Tennessee Town neighborhood. These routes are numbers 9, 13, and 22.

In 2015, the Topeka Metro redesigned their routes based on a consultant's study. Many of the changes seem to have taken routes out of the interior of neighborhoods to avoid narrow roads, sharp corners, and other points of conflict inherent to residential areas. The routes are now located along major roads alongside neighborhoods. For Tennessee Town, this means that there are two routes, 7 and 12, running through the neighborhood. In addition, route 10 runs alongside the northern boundary of the neighborhood.

- *Bike Route 9: Washburn Bikeway*
This is an L-shaped route with one-way bike lanes on Washburn and Lane, with cycle track distributor on periphery of Washburn Campus. This route continues on-street on 19th Street to terminus with Route 7.
- *Bike Route 13: Huntoon Bikeway*
This is an east-west commuter route, with road modifications to provide one-way bike lanes on 12th Street and Huntoon. This route has a continuation west to Wanamaker that requires one-way cycle tracks or bike lanes.
- *Bike Route 22: 11th Street Bikeway*
This is an east-west connecting route that connects major community features. This route is almost completely on-street but requires some street modifications, including bicycle boulevard configuration on 11th Street.
- *Bike Route 8: Clay/ 25th Street Bikeway*
This is an L-shaped route connecting major community features. The route is completely on-street infrastructure that connects to four of the city's major trails (only two currently completed).
- *Topeka Metro Route #7: Washburn*
This route connects Tennessee Town to the Quincy Street Station and the Walmart located in the southern part of Topeka via 8th, Washburn Avenue, and Topeka Avenue. This will be the only bus route entering the neighborhood on local streets, with bus stops located at Huntoon Street and 10th Street.

Route #7 bus stops (designated 8.1.17):

Outbound (west side of street).

Washburn at:

10th

11th

12th

Huntoon

Inbound (east side of street)

Lane at:

Huntoon

12th

Munson

11th

- *Topeka Metro Route #10: 10th Avenue*
This route connects Tennessee Town to the Quincy Street Station and the Walmart located on Wanamaker, with the route going down 10th Ave

Route #10 bus stops (designated 8.1.17)

Outbound (north side of street)

10th at:

Clay

Washburn (shelter)

Inbound (south side of street)

10th at:
Clay

Lincoln
Washburn (shelter)

- *Topeka Metro Route #12: Huntoon*

This route connects the Quincy Street Station to Walmart located on Wanamaker, with the route going down 12th street through Tennessee Town and Huntoon along the southern boundary of Tennessee Town.

Route #12 bus stops (designated 8.1.17):

Outbound (north side of street)

12th at:

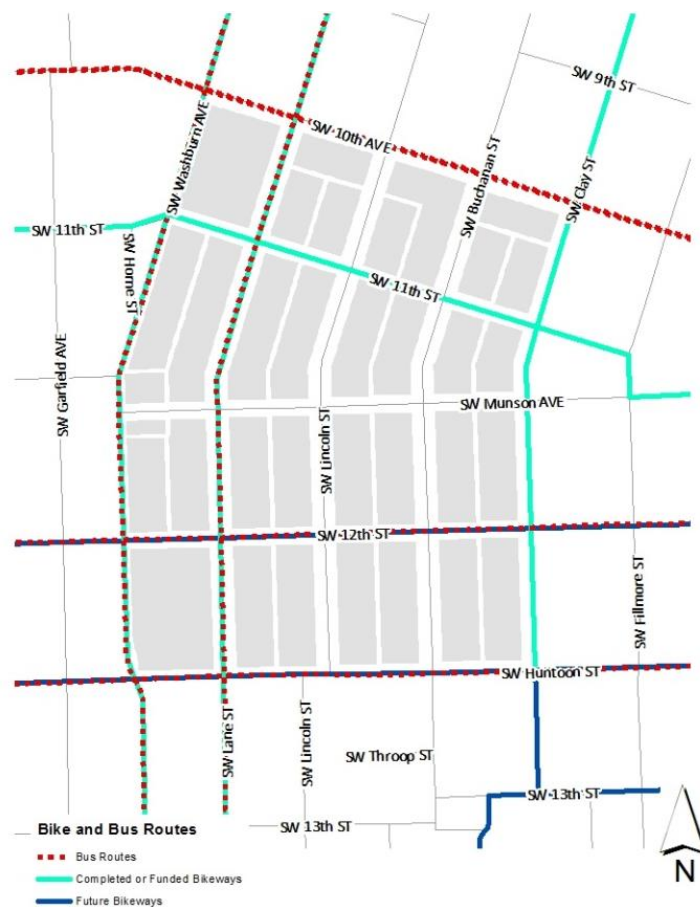
Washburn
Lane
Buchanan (Shelter)
Clay

Inbound (south side of street)

Huntoon at:

Lane
Buchanan
Clay

Bike and Bus Routes
Map 13



Priorities and Recommendations

- Promote Tennessee Town as a bike-friendly neighborhood through coordination with the Bikeways Master Plan implementation, signage, and pavement markings.
- Advocate for continued public transportation, as elderly and low-income residents are less likely to have personal vehicles, and make access convenient, safe, and with bus shelters at more in-demand locations.

COMMUNITY BUILDING AND INITIATIVES

“Every accomplishment starts with the decision to try”
Anonymous

Community building is a key part of a neighborhood revitalization strategy because of its focus is on making the neighborhood a stronger advocate for itself. Empowering the residents and institutions of a neighborhood with the notion they can foster change that impacts the neighborhood in a positive manner is one of the goals of community building.

Some of the principles of community building are:

- ◆ Build on community strengths
- ◆ Support families and children
- ◆ Foster broad community participation
- ◆ Forge partnerships through collaboration
- ◆ Value cultural strengths

The Division of Community Engagement in the Department of Neighborhood Relations is just one of the many City resources that could be of great assistance in these efforts. DNR is devoted to empowering residents through education and neighborhood leadership development. They act as a liaison to connect the City and to its residents, hoping to increase the dialog between city employees and community members. In addition, they help coordinate educational programs, activities, and volunteer opportunities throughout the City.

BOTH RENTERS AND OWNERS AS STAKEHOLDERS

Abraham Lincoln said “A house divided against itself cannot stand.” Historically, owners and renters are divided, and with the high rental rate in Tennessee Town, the renters need to be as active in shaping the community as the homeowners are. While some renters are only in the neighborhood for a little while, some have lived in the same home for years. The community in Tennessee Town needs all of its residents committed to making a positive difference together, in small ways as well as big.

CAPACITY

Successful organizations have the wherewithal to succeed. A neighborhood’s ability to complete a competitive grant application, run successful meetings that are open to all citizens of the neighborhood, and complete projects in a timely manner demonstrates to decision makers and funding organizations that the neighborhood is serious about getting things done. Below are strategies to increase organizational capacity.

- **NON-PROFIT STATUS:** The Tennessee Town NIA has yet to secure non-profit status; however, they currently have a State of KS nonprofit designation. When they have needed the federal status in the past, they have partnered with groups that have it.

Organizing as a 501 (c) (3), however, may open many more doors to additional funding sources. 501 (c) (3) groups are also eligible to receive public and private grants, and, individual doors to the Tennessee Town NIA can claim a federal income tax reduction of up to 50%.

ORGANIZING

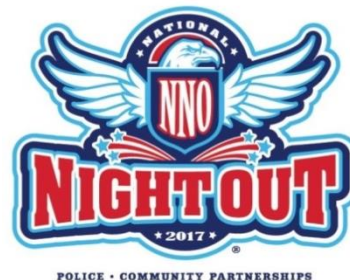


Annual Tennessee Town Basketball Tournament at King's Court

The most important resources of any neighborhood are the people who live there. Organizing is the renewable resource that can power a neighborhood's revitalization. An organized neighborhood can be a strong advocate for itself. A neighborhood that can show it is willing to stand up for itself is a neighborhood that can be a force for change. Bringing more people into the NIA is a key step toward successful revitalization. Listed below are a number of strategies for building organization within the neighborhood.

- **STRENGTH IN NUMBERS:** When opportunities present themselves for the neighborhood to appear before decision makers, the neighborhood must be able to demonstrate a unified voice with a large number of people. The impact of this demonstration is very difficult for decision makers to ignore.
- **SOCIAL ACTIVITIES:** Fun activities that bring neighbors together are an important element of a strong neighborhood. Tennessee Town has already initiated numerous block events including:

1. National Night Out Against Crime (1st Saturday in August), fundraising efforts for NNO (in the spring and summer)
2. Annual Aaron Douglas Art Fair
3. Tennessee Town Basketball Tournament (1st Saturday in August)



4. Annual Holiday Party (December)

Additional events could be hosted or coordinated by a neighborhood Block Captain as a way for the residents to get to know each other and become active in their block and community.. Tennessee Town should continue to foster an environment that encourages social engagement, a place for community member to get to know one another and build ties and strengthen bonds.

- **COLLABORATE TO FORM PARTNERSHIPS:** Building community requires work by all sectors—local residents, community-based organizations, businesses, government, schools, religious institutions, and health and social service agencies—in an atmosphere of trust, cooperation and respect. It will take time and committed work to make this collaboration more than just rhetoric. Tennessee Town has been great about reaching out to local organizations in order to make things happen. The following is a list of organizations that the Tennessee Town NIA has partnered with in the past:

- | | |
|--|--|
| 1. City of Topeka | 15. Lane Chapel Christian Methodist Episcopal Church |
| 2. Shawnee County | 16. Shiloh Baptist Church |
| 3. GraceMed Health Clinic, Inc. | 17. Stormont-Vail HealthCare |
| 4. Community First, Inc. | 18. Penwell-Gabel Midtown Chapel |
| 5. Topeka Housing Authority | 19. Topeka and Shawnee County Public Library |
| 6. Topeka Habitat for Humanity | 20. WCW Property Management |
| 7. Cornerstone of Topeka, Inc. | 21. Arts Connect Topeka: Topeka Mural Project |
| 8. Housing and Credit Counseling, Inc. | 22. Safe Streets Topeka/Shawnee County |
| 9. Living the Dream, Inc. | 23. Topeka/Shawnee County Keep America Beautiful |
| 10. Doorstep, Inc. | 24. Working Men of Christ Ministries |
| 11. Big Brothers/Big Sisters | |
| 12. Asbury-Mt. Olive United Methodist Church | |
| 13. Faith Temple Church of God in Christ | |
| 14. First Church of the Nazarene | |

- **IDENTIFYING ALTERNATIVES TO ADDRESS THE CENTRAL TOPEKA FOOD DESERT THAT INCLUDES TENNESSEE TOWN:** Dillon's leaving the neighborhood has created a food desert in Central Topeka, including Tennessee Town. The NIA is interested in pursuing efforts to bring back to the area a fresh food source within walking distance of its residents that could also meet the NIA's goals regarding small-business development and neighborhood employment. Those efforts might include developing partnerships with public and private entities who could work together to bring this goal to fruition. Ideas include a new grocery store in the Central Topeka area, perhaps smaller but similar in its food choices, and/or partnerships with various entities of food providers like Harvesters.

Other ideas that might help the neighborhood address this issue include developing community gardens or hosting a farmer's market. Community gardens could be established on one or more of the vacant lots in the neighborhood. The gardens would be run by local residents and could also involve children from nearby schools as an education opportunity. Community gardens are a permitted primary use in the City's Zoning Code.

Additionally, perhaps a partnership could be formed with Grace Med or one of the churches to host a farmer's market in their parking lot. This could allow neighborhood residents and those from surrounding neighborhoods a weekly opportunity to purchase fresh vegetables and other products from local farmers during the growing season.

PUBLIC SAFETY

A major goal of this Plan is to: *create a safe, clean, and livable environment for all those in Tennessee Town to live, learn, work, and play.* A crime problem is a multifaceted problem. There is no magic solution that is going to erase a crime problem. However, there are things that people can do to reverse the negative cycle and begin to reclaim their neighborhood.

- **COMMUNITY STORM SHELTER:** This is not necessarily the first thing that comes to mind when one is considering safety, but it is something that is necessary for this neighborhood. The neighborhood's five churches have areas to go in case of severe weather. Additionally, an integral part of the new gym/ school planned for SW 12th and Lincoln Streets by Community First, Inc., is a storm shelter.
- **CLEAN-UPS:** The NIA should continue its neighborhood/ alley clean-up program and start an annual "trim-up" campaign. These clean-ups by the NIA are vital to avoiding environmental code problems as well as deterring crime by showing that residents care about the appearance of their neighborhood. Another program could be a "most improved" yard clean up or neighborhood landscape contests. The neighborhood should also encourage youth to help with neighborhood clean-ups, particularly of the nature areas. These activities are vital to connecting youth with their neighborhood and assisting with environmental education.
- **YOUTH:** Youth are critical for the ongoing revitalization of the neighborhood. As these children grow up and are forced with choices about where to live, they are going to be more inclined to stay in the neighborhood if they had good experiences growing up in a place that provided a positive environment. If Tennessee Town is "kid friendly", it will have the two-fold benefit of attracting /retaining families in the short-term and becoming assets to the community in the long-term.
- **EDUCATION:** By increasing the awareness of various community programs and groups, more people would be aware of different ways they can be involved in their community.

Picnics block parties, community events, church events, children's sport events, and neighborhood festivals all provide opportunities for people to get out, socialize, and feel connected with their fellow neighbors. Additionally, there are many young adult groups that ask their members to perform community service. Honor societies, KEY Club, boy and girl scouts, and 4-H all stress to their members the importance of being involved in their community. These groups could be contacted to help elderly residents or to work on specific community projects.

- **COMBAT THE IMAGE OF CRIME AND DRUGS:** Tennessee Town has been and is still confronted with the perception of criminals and crime. A high concentration of poverty and high rental rates account for some of this, but regardless of the reason, the negative reports overshadow accomplishments that have been achieved in Tennessee Town. Marketing Tennessee Town as a good place to live involves countering these negative perceptions once again.
- **NEIGHBORHOOD PATROLS:** While the neighborhood hasn't created a formal neighborhood watch program, neighbors are vigilant about crime and potential crime. That vigilance provided a basis for addressing crime a few years ago and it made a significant difference in reducing the number of Part 1 crimes. This could be continued through a neighborhood patrol program such as a Stroll Patrol. Stroll Patrols put people out walking the neighborhood. Neighborhood activity by residents discourages criminal activity.
- **COMMUNITY POLICING:** This vital program must be continued by the Topeka Police Department to maintain the gains made in recent years on ridding the neighborhood of serious drug activities. The individual contacts made by police officers and relationships made with the community are essential to the cooperation needed to ensure residents' safety. This program can be extended by actively reaching out and engaging members of the community in promoting safe habits—for example, people should walk on the sidewalks and bicyclists should ride on the streets.
- **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN (CPTED):** Safe Streets and the Police Department can help the neighborhood determine which property layouts in the neighborhood encourage crime. There are ways to design property and neighborhood layouts to help prevent criminal activity. For instance, the "5 & 2 rule" states that trees should be trimmed to at least 5 feet high and bushes should be trimmed to be no higher than 2 feet. Support adoption of Unified Development Code requiring CPTED principles be enforced for new development.
- **USE CPTED TO REINFORCE OWNERSHIP AND INCREASE SAFETY**
Safe Streets and the Police Department can help the neighborhood determine which property configurations discourage criminal activity. These methods follow four basic principles: access control, surveillance, territorial reinforcement, and maintenance.

NATURAL SURVEILLANCE:

The design and placement of physical features in such a way as to maximize visibility

ACCESS CONTROL:

This involves designing streets, sidewalks, building entrances, and neighborhood gateways to clearly indicate transitions from the public environment to semi-private and private areas.

SURVEILLANCE:

A design principle that maximizes the visibility of people, parking areas, vehicles, and site activities. Strategies involve the strategic placement of windows, doors, walkways, parking lots, and vehicular routes.

TERRITORIAL REINFORCEMENT:

Sidewalks, landscaping, and porches help distinguish between public and private areas. It uses physical attributes to express pride and ownership and limits or large spaces that have no specific purpose.

MAINTENANCE:

This addresses management and maintenance of space. Proper upkeep (mowing grass, trimming trees and landscaping, picking up trash, repairing broken windows and light fixtures, and painting over graffiti). It helps signal that a location or facility is well cared for and therefore would be inhospitable to a criminal and also signals that an owner, manager, or neighbor is watching out for the property and could spot illegal behavior.

- **LIGHTING:**

While lighting by no means guarantees improved safety, it can be a strong step towards making an area uncomfortable for criminal activity. This fulfills CPTED guidelines as well as provides a sense of safety to someone driving through the neighborhood. Work to ensure existing street lights are free of tree branches that can block light. The City's Forestry Department can help evaluate if trimming is needed. Mid-block lighting may also assist with illuminating dark streets and is an idea promoted by the NIA. There is a public process to follow before making decisions to install new street lighting. This process is implemented through the City's Public Works Department.

PARKS AND OPEN SPACE

“A good place to live, work, and play.” That has become a common theme for people who are looking to find a good neighborhood as it reflects the desired quality of life that today’s society wants. This is directly influenced by the neighborhood’s environment, its scenic beauty, and the variety of recreational opportunities available to area residents. Collectively, these resources not only contribute to the physical, mental, and emotional well-being of the neighborhood, but also greatly influence the perception of this neighborhood throughout the entire city. It should be noted, however, that ongoing maintenance costs can be more expensive than the acquisition of parkland itself. Maintenance funding becomes a limiting factor when expanding park facilities in an area and should be kept in mind when planning new facilities or the expansion of existing parks.

ADOPT-A-PARK

Adopt-a-park programs are good ways neighborhoods, school groups, churches, businesses, etc. can assist local governments with the ongoing maintenance of park facilities. The local government gets the benefit of volunteer labor and the sponsoring group gets the benefit of “ownership” of a community resource. The neighborhood should work with the Parks and Recreation Department and other neighborhood groups to form adopt-a-park programs.

COMMUNITY GARDENS

Community Gardens are now permitted as a primary use on vacant land throughout the city. Tennessee Town should look into collaboration with property owners of vacant land throughout the neighborhood to be put to use as a community garden. Gardens improve the sense of ownership of the neighborhood, provide access to fresh fruits and vegetables, and create an atmosphere of more awareness of what is going on—the “eyes on the street” concept. These gardens can build community spirit—something that is needed in Tennessee Town—as well as provide an outdoor activity for residents.

EXISTING PARKS AND OPEN SPACE

AARON DOUGLAS PARK

Located at the corner of 12th and Lane, the public Aaron Douglas Park is located at the heart of Tennessee Town. This neighborhood greenspace, which is owned and maintained by Shawnee County, serves as the venue of the annual Aaron Douglas Art Fair in September. Additionally, the park showcases the Aaron Douglas Mural, a work of art that celebrates the vision of the Topeka-born muralist, illustrator and scholar—as well as the contributions of African American artists with ties to Kansas.

LANE GARDEN

Located at 1196 SW Lane Street, Lane Gardens is a small open space currently owned by the City of Topeka that the neighborhood is hoping will one day offer more amenities. With its location directly across the street from Aaron Douglas Park, Lane is a pocket park for Tennessee Town

residents. The lot, though small, could potentially hold natural gardens along with milestone or wayside signage. There is also potential to expand the park onto the vacant lot to the north, which is owned by the NIA.

In order to move forward with these ideas, however, ownership must transfer away from the city and the NIA to Shawnee County. If Shawnee County acquires the property for park purposes, Shawnee County should improve it based on a “mini” plan for the park including a long-term plan for maintenance. In addition, any plans or funding to improve the park should be approved by Shawnee County first. SORT funding for parks should be contingent on County participation.

KING’S COURT

King’s Court is a basketball and playground complex located at the Corner of Lincoln and Munson. The site is owned and maintained as a public park by Community First, Inc. and Faith Temple Church of God in Christ, which is located across the street. This community asset is one of major success stories that stemmed from the first Tennessee Town Neighborhood Plan. Since its introduction in 2006, this pocket park has been a huge hit for local youth and has annually hosted the Tennessee Town Basketball Tournament, which celebrated its 11th staging in 2017.



FUTURE OPEN SPACE

The neighborhood has expressed thoughts about having additional park space in the neighborhood beyond what is currently in use. One potential idea would be to use the open space north of the Buchanan Center as open space for the neighborhood. That space is centrally located and accessible to the neighborhood.

CHAPTER 6 IMPLEMENTATION

Implementation

"Today's progress was yesterday's plan."

-Anonymous

After completing the planning process, action and implementation are essential. After identifying goals and target areas, the next logical step is taking action to achieve those goals. The implementation section of a plan identifies specific steps to be taken and by whom, and places a timeline on completing these steps. This allows for progress of the community's vision to be tracked and evaluated. This section should be used by all stakeholders to guide their decision-making in implementing the priorities of the Plan.

KEY ACTION PRIORITIES

The meeting with the Neighborhood Improvement Association and Steering Committee brought up ideas for implementing specific strategies and actions in this plan. The community took vote during the final meeting to come to an overall consensus on priority projects.

Potential Infrastructure Projects

Mill and overlay:

SW 11th

SW Munson

SW Lincoln

Reconstruct 12th and Huntoon

Pave and repair alleys throughout neighborhood

Sidewalk infill and repair

New waterline under 11th street

Park improvements

Housing

Infill Housing Project

Infill housing has been identified as a priority for the neighborhood. In an effort to create new infill housing in the neighborhood, the City reached out to Stormont Vail about property they own on SW Lane Street. There was interest on their part in putting together a deal that would allow Cornerstone and Habitat for Humanity to build new housing on those properties. \$75,000 of the SORT housing money has been earmarked to leverage funds from Cornerstone to build a duplex and Habitat to build two homes.

Tables

The tables below show the cost and timing of infrastructure improvements for the proposed target areas and other infrastructure recommendations of the plan. By combining several major actions within a concentrated area of a neighborhood, a greater cumulative impact can be realized than if they were dispersed throughout the larger planning area. In this manner, it is intended that multiple target areas can be worked on in various stages of completion. Once the first area is “finished”, the majority of the public investment can then be shifted to the second area, etc.

Important Note: The priorities and costs estimates for infrastructure and housing rehabilitation projects in the neighborhood are provided for informational purposes only and should not be relied upon for future costs or as actual bids for future projects. Increases in material costs, overhead and labor can change greatly in a short period of time. Funding is subject to availability as provided by federal grants and the governing body, and allocations change annually. The housing costs in the following tables represent subsidies from City Consolidated Plan funding (CDBG/HOME) and are intended to leverage private dollars. Costs for infrastructure reflect City of Topeka capital costs from sources typically found within the City’s Capital Improvement Program (CIP), unless otherwise indicated.

Target Area (Primary)				
Streets (mill & overlay, curbs, base patch) + design, construction services and contingency	Source	1-3 Years	3-5 years	5+ years
SW 11th (Lane to Clay)*	GO Bonds	\$191,100		
SW Munson (Clay to alley between Lincoln & Lane)*	GO Bonds	\$311,350		
SW Lincoln (Munson to 10th)	GO Bonds	\$176,800		
(Streets Total)		\$679,250		
<i>*Includes storm water improvements by the Utilities Department</i>				
Alleys + design and contingency				
Lincoln Westward 1/2 block (between 10th & 11th)	GO Bonds	\$65,000		
11th northward 2 lots (between Lincoln & 10th)	GO Bonds	\$32,500		
Munson to 11th (between Lane & Lincoln) --sewer line recently replaced--	GO Bonds	\$210,600		
(Alleys Total)		\$308,100		
Sidewalks + design and contingency				
Sidewalk Infill and replacement	GO Bonds	\$134,940		
(Sidewalks Total)		\$134,940		
Other Projects				
Park Improvements (County owned and maintained)	GO Bonds/ County	\$10,000		
11th Street Water Line (Clay to Washburn)	GO Bonds	\$212,500		
Miscellaneous (Traffic Control, Sod, ADA ramps)	GO Bonds	\$25,000		
(Other Total)		\$247,500		
All Infrastructure Projects		\$1,369,790		
Housing				
Rehab	CDBG, Home	\$255,000		
Infill	CDBG, Home	\$75,000		
(Housing Total)		\$330,000		
All Infrastructure and Housing Projects Total		\$1,699,790		

Neighborhood Wide Projects				
Streets (mill & overlay, curbs, base patch)	Source	1-3 Years	3-5 Years	Unfunded
SW Lincoln (Huntoon to Munson)				\$184,600
SW Buchanan (Huntoon to Munson) + water line				\$328,350
11th (Lane to Washburn)			\$61,100	
Munson (Lane to Washburn) + water line			\$165,300	
Street (reconstruction)				
12th Street (Gage to Kansas)	1/2 cent sales tax		\$13,180,000	
Huntoon (Gage to Kansas)	1/2 cent sales tax		\$13,180,000	
Alleys				
Lincoln Eastward 1/2 block (between 10th and 11th)				\$65,000
Huntoon to 12th (between Buchanan & Clay) + sewer				\$362,805
12th northward 1/2 block (between Buchanan & Clay) + sewer				\$270,020
Projects Total			\$26,360,000	\$1,210,775

Recommended SORT Projects
Map 14



APPENDIX

APPENDIX A: NEIGHBORHOOD HEALTH DATA

TENNESSEE TOWN

Vital Signs	Block Group (Pop. 2010)	2000	2003	2007	2011	2014
1) % Persons Below Poverty	4:1 (824)	21%	33%	33%	22%	18%
	5:3 (949)	37%	28%	28%	23%	20%
2) Public Safety (Part 1 Crimes per 100 People)	4:1	(Intensive Care)	46	42	47	28
	5:3	(Intensive Care)	21	26	18	15
3) Average Residential Property Values	4:1	\$30,730	\$29,160	\$44,070	\$54,590	\$50,688
	5:3	\$20,540	\$37,065	\$52,010	\$65,780	\$59,121
4) Single Family Home Ownership	4:1	39%	43%	36%	47%	34%
	5:3	39%	43%	39%	52%	43%
5) Boarded Houses/Unsafe Structures	4:1	4	3	1	1	1
	5:3	3	4	2	0	1
6) Neighborhood Health Composite (Rating)	4:1	1.8	1.4	1.8	2.0	2.4
	5:3	1.4	1.8	2.0	2.8	2.6

- 1) Block Groups identified in Table 1 above represent 2000 & 2010 Census boundaries. Multiple Census Block Group data from the 2000 Neighborhood Health Map (1990 Block Groups) are averaged in the Table to maintain simplicity. Refer to the Appendix of the Neighborhood Element for a complete breakdown of Block Groups by NIA.
- 2) Vital Signs are recorded by Census Block Group and do not necessarily conform to recognized neighborhood boundaries.

APPENDIX B: NIA HISTORY

Tennessee Town: Where We've Been, Where We're At, and Where We're Headed By the Tennessee Town NIA

Where We've Been

Tennessee Town was founded in 1879 by freed slaves who migrated from Tennessee to Topeka, KS. From those strong roots it grew into a stable home for the descendants of those settlers. Homes were built, small businesses were created and churches were born, many of which still stand to this day. Throughout the first half of the 20th century Tennessee Town provided a safe haven for African-Americans living in a segregated city and society.

As residential population patterns changed after World War II, Tennessee Town, like many other Central, Old North and East Topeka neighborhoods, saw Topeka's focus shift from its foundational neighborhoods to those newly created on or near its periphery. The city's changed focus meant that the challenges facing neighborhoods near the city's core were born and allowed to grow. Those challenges included aging housing and infrastructure, the proliferation of vacant houses and lots, increased crime and safety concerns, decreases in small business activity, a decreased commitment for public education (as the population left so did many of the tax dollars that would have been gained), and a growing feeling that the low- to moderate-income people who stayed were being left behind by the city. Those challenges happened at the same time that the LMI population of Topeka was increasing.

By the 1970s those challenges were brought to critical mass for a number of the nation's cities. Topeka was no exception. Tennessee Town drifted from its former status as a thriving working-class neighborhood to an area on the brink. As the challenges facing it multiplied, an opportunity presented itself through a newly created federal program. The Community Development Block Grant, administered through the US Department of Housing and Urban Development (HUD), was born in 1974 and started providing assistance to LMI populations and neighborhoods. The City of Topeka, partly in response to the CDBG and partly as a way to formally recognize the most challenged areas of the city, created Neighborhood Improvement Associations (NIAs).

Tennessee Town was one of the first NIA's created in Topeka, in December 1976. It was formed when neighborhood residents came together to save and make better a historic neighborhood. NIA's are based on census tracts de-fined by the federal government that indicate that at least 51 percent of their residents are at or below 80 per-cent of Area Family Income (as defined by the federal government). Tennessee Town's traditional borders were used to define it as an NIA: SW 10th on the north, SW Washburn on the west, SW Huntoon on the south, and SW Clay on the east.

Some of the NIA's early efforts included K-State architecture students coming to do a housing inventory in 1980 complete with designs. The NIA also was instrumental in accessing federal

funds to enable the renovation of the historic Buchanan School, which became the Buchanan Center and has housed nonprofits throughout its existence. It now houses Housing and Credit Counseling, Inc. and Cornerstone of Topeka, Inc. The NIA also worked with the City to access funds to enable the creation of the Lane Garden, the NIA's only recognized greenspace, located at the intersection of SW 12th and Lane Streets. In 1983 the NIA was a supporting partner when the Topeka Housing Authority acquired land and constructed the Tennessee Town Plaza Apartments which occupy the block bounded by SW Munson on the north, SW Lincoln on the west, SW 12th on the south, and SW Buchanan on the east. Those apartments, as part of the 2009 American Recovery and Reinvestment Act, were expanded along SW Lincoln. The Tennessee Town Plaza Apartments have been for some time one of THA's most successful complexes.

In 1998 the Tennessee Town NIA began in earnest its efforts to face its challenges head on. Those efforts began with aging housing stock. Housing has always been a NIA priority throughout its 40 years, and many projects dot the neighborhood landscape. The NIA answered several RFPs for new housing in the early part of this millennium which led to the complete turnaround of what the City Planning Department in the NIA's 2001 Neighborhood Plan called the NIA's most challenged block: the first 1200 block of SW Lincoln. New alleys sometimes have accompanied the new housing. One of the NIA's housing projects during this time involved working with the City to acquire 3 houses slated for demolition by Holy Name Church and moving them onto foundations built in Tennessee Town. Those 3 houses still stand in the first 1200 block of SW Lincoln.

The NIA was a supporting partner when Asbury-Mt. Olive United Methodist Church created its 11-unit apartment complex just north of the church, in the second 1100 block of SW Buchanan.

The NIA, in partnership with the City and the Topeka TurnAround Team, accessed funds to install the decorative lighting that illuminates SW Washburn and Lane Streets. in the neighborhood.

The NIA helped to access funds to construct and improve the Kings' Court basketball and playground complex, located at the northwest corner of SW Lincoln and Munson Streets. A recent Neighborhood Empowerment Grant award written by the NIA enabled it to replace the playground equipment matting to provide a safer environment for the children playing there. Each August the Tennessee Town Basketball Tournament, with the NIA as a supporting partner, is successfully hosted by Community First, Inc. at Kings' Court. Asbury-Mt. Olive United Methodist Church, with the NIA as a supporting partner, annually and successfully stages in August the NIA's National Night Out Against Crime event.

And throughout this period the NIA has maintained a strong relationship with the Topeka Police Department through its community policing program. That relationship has led to Tennessee Town consistently being one of the safest NIAs in the City.

Where We're At

Providing quality affordable housing continues to be the biggest challenge and greatest opportunity for Tennessee Town. That has meant the NIA continues to pursue new construction, rehabilitation (both consistent with the architectural character of the neighborhood) and targeted demolitions for those houses beyond repair.

As the neighborhood has started to address the challenges it faces, the NIA's five churches (Asbury- Mt. Olive United Methodist Church, Faith Temple Church of God In Christ, Shiloh Baptist Church, First Church of the Nazarene, and Lane Chapel Christian Methodist Episcopal Church) have partnered with the NIA on a number of projects including the basketball tournament, National Night Out, Shiloh's recent donation of vacant lots south of its parking lot in a deal brokered by the church, the City, the NIA and Topeka Habitat, to enable the construction of a Habitat home, Faith Temple's establishment of the International Academy for children (of which the NIA has been a supporting partner), and Faith Temple and the First Church of The Nazarene's community involvement through hosting community forums after the closure of the Dillon's Store #58, at 1400 SW Huntoon.

Nonprofit partners and Tennessee Town stakeholders like Cornerstone of Topeka, Inc. and Housing and Credit Counseling, Inc., both housed in the historic Buchanan Center, have proven and continue to be invaluable resources for the construction of new housing and the rehabilitation of existing housing. A few years ago Cornerstone of Topeka completed a new house on SW Clay for a family transitioning from homelessness. HCCI, through its Topeka Opportunity to Own (TOTO) program, has rehabilitated housing for LMI individuals and families. And Topeka Habitat for Humanity continues to be an important ally as well as it identifies LMI individuals and families to live in newly constructed homes in Tennessee Town, most recently at a new home on SW Buchanan.

Other nonprofit partners, like Doorstep, Inc.; and GraceMed Health Clinic, have continued or established new relationships with Topeka's LMI population. Doorstep has been a vital resource for Topeka's LMI individuals and families for decades, while GraceMed recently acquired the former Huntoon Dillon's to establish a clinic in central Topeka.

Earlier in 2017 Topeka's governing body designated the NIA as a 2017-2019 SORT neighborhood. The SORT (Stages of Resources Targeting) program directs HUD and city funds to two NIAs every two years. Those funds can be directed to new and rehabilitated housing, infrastructure, parks, and the issues related to those opportunities.

The NIA continues to pursue the expansion of and improvements to Lane Garden, the neighborhood's first and oldest greenspace, located at SW 12th and Lane Streets. It is working with the City and Shawnee County to establish ownership of Lane Garden and has already acquired the lot directly north of Lane Garden to expand it. The SORT grant then gives the NIA an opportunity to install new amenities at the expanded Lane Garden.

Tennessee Town also has committed to the display of public art in the neighborhood, first through the Aaron Douglas Mural at SW 12th and Lane Streets and most recently through the historical mural by Jamie Colon on the south side of WCW Property Management, at SW Huntoon and Lane Streets.

Where We're Headed

The future includes the NIA continuing to be a leader for the neighborhood on myriad issues. The neighborhood established years ago and continues to support keeping its working-class nature as it understands and embraces the proposition that LMI individuals and families make great neighbors.

And the neighborhood established long ago its commitment to remaining a residential neighborhood with quality, sound housing and infrastructure. The NIA will be able to pursue that goal most notably through its designation as a SORT neighborhood, which brings to the table its programming and funds and potentially more public and private funds through leveraging, and maintaining and creating partnerships to bring its plans to fruition.

Those funds and partnerships will prove to be crucial as the NIA continues to meet the challenges it faces.

Tennessee Town has gone from being on the brink in the 1990s, when it was designated as an “intensive care” neighborhood -- a neighborhood with the most challenges -- per the Topeka Planning Department’s health rankings to being on the verge of becoming the city’s first “healthy” NIA. It has taken much hard work, including establishing and maintaining partnerships with many of the city’s players active in LMI issues, to bring about that change. The NIA remains committed to keep working hard to become healthy, both according to the planning department’s definition and the neighborhood’s definition, which is a safe, thriving residential neighborhood for LMI individuals and families.

APPENDIX C: KICKOFF MEETING SUMMARY

At the NIA's SORT kickoff meeting in April 2017 these items were mentioned as things attendees liked about

Tennessee Town:

- Keep commercial businesses separate from housing
- Amenities for Lane Garden and Annex
- Library and churches are good aspect of neighborhood
- Historic site near green space
- Housing rehab
- Ice House Rehab
- Historic Rehab
- Historic Preservation
- Walkable neighborhood
- Low crime rate
- Trees
- Walkability
- Crime lowered since Dillon's left
- Maintain family atmosphere
- Close location to schools, medical facilities, and library
- Central location
- Promote central location
- Preserve family atmosphere
- Historically significant housing area
- Historic value is unique
- One of the oldest neighborhoods in the area
- Shotgun House Museum (1400 block of Munson)
- Buchanan School
- Turn a historic house into "museum" to tell history of neighborhood
- Gathering center for past and present residents
- Socio-economic nature of neighborhood
- Working class residents

At the NIA's SORT kickoff meeting in April 2017 these items were mentioned as things attendees would like to change regarding Tennessee Town:

- More green space
- "Green up" Grace Med parking lot – TT Gateway
- Green space on eastern side of neighborhood
- Brick streets
- Lighting

- Dirt alleys
- Sidewalks/ other infrastructure
- Landscaping
- Bike share program (bike racks)
- Involve the art community
- More murals
- Neighborhood Lighting
- Dirt Alleys
- New Sidewalks/ Fill in the gaps
- Dark mid-blocks - better lighting
- More trees
- Bike parking
- More events within the neighborhood
- More art that tells Tennessee Town Story
- Neighborhood Signage/Banners on light poles
- Do more at Buchanan Center or Living the Dream
- At the same meeting, these items were mentioned regarding where Tennessee Town should be in 15 years:
- Community green space
- Convert vacant lots
- Community gathering space
- Political building/center
- Lane Garden – Community Garden
- Deal with vacant lots creatively
- Low growing grass – clover or buffalo grass
- Utilize green space
- Increased homeownership
- Be attractive to homeowners
- More attractive neighborhood with increased homeownership and more families
- Cycle track along 12th and Huntoon
- Preserve walkability
- Safe green space where people can mingle
- More young families
- Community garden with school and neighborhood benefits
- Mural
- Microbusinesses in peripheral
- Have more employees from med district live/walk to work
- More small businesses
- Live and work in neighborhood
- Polling place

APPENDIX D: HOUSING AND INFRASTRUCTURE SURVEYS

CRITERIA USED TO EVALUATE HOUSING STRUCTURAL DEFECTS

MINOR DEFECTS – deficiencies corrected during the course of regular maintenance.

- Missing shrubbery or bare spots on lawn, trash and garbage accumulation
- Deteriorated or lacking window screens.
- Weathered paint, minor painting needed.
- Wear on or light damage to steps, window and door sills, frames and porches.
- Weathering of mortar and small amounts of loose, missing material between bricks.
- Cracked window panes, loose putty.
- Handrails deteriorated or missing.
- Missing splash blocks at foot of down spouts.
- Lacking porch lights.

INTERMEDIATE DEFECTS – deficiencies serious enough to require more extensive repair than required by regular maintenance.

- Gutters or drain spouts rotten or parts missing.
- Sagging, cracked, rotted or missing roofing, overhang or lattice work.
- Foundation or bearing walls cracked or sagging or with loose, missing material.
- Erosion of landscape due to improper drainage, abandoned vehicle, cracked or uneven sidewalks.
- Deteriorated fencing with loose or missing material.
- Rotted, cracked or sagging porches, columns, door frames and stairways.
- Cracked or missing material from chimney.
- Broken or missing window panes and/or rotted window sills.
- Peeling or cracked paint, complete paint job needed.
- Damaged or missing air vents in foundation.

MAJOR DEFECTS – condition of structural components which can be corrected only by major repairs.

- Holes, open cracks, rotted or missing material in foundations, walls, roofing, porches, columns, etc.
- Sagging or leaning of any portion of house indicating insufficient load bearing capacity: foundation, walls, porches, chimneys.
- Defective conditions caused by storms, fires, floods or land settlements.
- Inadequate or poor quality material used in permanent construction.
- Inadequate conversion for use involved.
- Major deteriorated or dilapidated out building or garage.
- Evidence of a lack of, or inadequate indoor plumbing such as no roof vents.

CATEGORY

DEFINITION

BUILDINGS/PROPERTIES

	Minor Defects	Intermediate Defects	Major Defects
Sound (3 points)	>5	1	0
Fair (2 points)	0	2	0
	1	2	0
	2	2	0
Deteriorating (1 point)	Any	Any	>5
	3	2	0
	Any	3	0
	Any	>2	0
Dilapidated (0 points)	Any	Any	5+

BLOCKS

SOUND

Average 3.0 – 2.3 points per block

MINOR DETERIORATION

Average 2.29 – 2.0 points per block

INTERMEDIATE DETERIORATION

Average 1.99 – 1.7 points per block

SIGNIFICANT DETERIORATION

Average less than 1.7 points per block

INFRASTRUCTURE RATING SYSTEM

CRITERIA USED FOR EVALUATION:

SIDEWALKS:

3= No defects in sidewalk

2= Minor defects- partially overgrown with weeds and grass or broken, cracked (< 25% disrepair/substandard)

1= Intermediate defects- Completely missing segments within that block area, broken and cracked segments, completely overgrown with weeds and grass (> 25% disrepair)

0= Major defects- No sidewalks

CURBS AND GUTTERS

3= No defects in curbs and gutters

2= Minor defects- Covered up by weeds (< 25 % disrepair/substandard); not draining (standing debris)

1= Intermediate defects- Broken, cracked, missing segments of curbing (> 25 % disrepair)

0= Major defects- None existent; drainage ditches

STREETS:

3= No defects- concrete or asphalt, even, draining

2= Minor defects- uneven concrete/asphalt and/or significant pot holes, cracks, broken pavement (<25% disrepair/substandard)

1= Intermediate defects- uneven concrete/asphalt and/or significant pot holes, cracks, broken pavement (> 25% disrepair/substandard)

0= Major- gravel or dirt; road incomplete or dead-ends; street one-lane and does not allow cars to pass; or any combination of these.

BLOCK AVERAGES

No defects- 2.25 - 3

Minor repairs/maintenance issues- 1.5 – 2.25

Intermediate repairs- 0.75 – 1.5

Major repairs/total construction or replacement- < 0.75



CITY OF TOPEKA

TOPEKA PLANNING COMMISSION

CASE MINUTES

Monday, October 16, 2017

6:00PM – Municipal Building, 214 SE 8th Street, 2nd floor Council Chambers

Members present: Wiley Kannarr (Chair), Brian Armstrong, Ariane Messina, Dennis Haugh, Rosa Cavazos, Katrina Ringler, Carole Jordan, Matt Werner, Marc Fried (9)

Members Absent:

Staff Present: Bill Fiander, Planning Director; Mike Hall, Planner III; Annie Driver, Planner II; John Neunuebel, Planner II; Kris Wagers, Administrative Officer; Mary Feighny, Legal; Dan Warner, Planner III; Tim Esparza, Planner I

CPA17/02 by City of Topeka amending the text and map of the City of Topeka's Comprehensive Plan updating the **Tennessee Town Neighborhood Plan**. The area affected by the amendment is bounded by SW 10th Street to the north, SW Clay Street to the east, SW Huntoon Street to the south, and SW Washburn to the west.

Mr. Fiander pointed out that a draft of the Tennessee Town Neighborhood Plan had been reviewed at the September 2017 Planning Commission meeting. He then noted that two handouts had been provided at this evening's meeting.

Dan Warner introduced Tim Esparza, the planner working with the neighborhood plan.

Mr. Esparza gave information about the background and process of the Tennessee Town Neighborhood Plan draft and the SORT grant they were awarded. This grant allows \$1.4m in infrastructure improvements and \$300k for housing rehabilitation within the Tennessee Town neighborhood. The plan includes recommendations for how these funds will be spent; a detailed guide for resources and project implementation, both funded and unfunded.

Mr. Esparza concluded by stating that staff recommends approval of the Tennessee Town Neighborhood Plan.

Mr. Kannarr declared the **public hearing open**

Michael Bell, President of the Tennessee Town NIA, came forward to speak in support of the plan. He thanked Mr. Esparza and Planning staff for their work on the plan, stating that they encouraged discussion and "thinking big". He also thanked others in Tennessee Town for their assistance with the plan.

Mr. Bell explained that on 9/26/17 the NIA voted to recommend approval for the updated plan and stated that having reviewed the addendum (handout), he approves of the changes.

Mr. Kannarr thanked Mr. Bell and all of the NIA and community members for their hard work on the plan update.

DRAFT

Ruby Carson of 1031 SW Buchanan came forward to speak in support of the plan. Ms. Carson stated her home is within the targeted area for rehab and it's very much needed. Ms. Carson stated that she was raised in Tennessee Town, moved away from Topeka for a time, then returned and purchased a home in Tennessee Town. She believes it's important to invest in the rehabilitation of the area.

With no others coming forward to speak, declared the **public hearing closed**.

Mr. Armstrong thanked Mr. Bell and all for their work on the plan and expressed support.

Ms. Jordan complimented all for their work on the plan, noting that Tennessee Town is an important part of Topeka's history and is an important corridor between the Topeka & Shawnee County Public Library and Washburn University.

Mr. Fiander reported on some of the improvements that came about from the first Tennessee Town Neighborhood Plan and SORT grant, noting that the first target area was considered seriously distressed. The investment and improvement encouraged additional private investment in the blocks surrounding the target area.

Ms. Jordan made a **motion** to recommend to the Governing Body approval of the Tennessee Town Neighborhood Plan; **second** by Ms. Ringler. **APPROVAL** (9-0-0)