



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

Governing Body Agenda

October 6, 2020
6:00 PM

Mayor: Michelle De La Isla

Councilmembers

Karen A. Hiller	District No. 1	Hannah Naeger	District No. 6
Christina Valdivia-Alcala	District No. 2	Neil Dobler	District No. 7
Sylvia E. Ortiz	District No. 3	Spencer Duncan	District No. 8
Tony Emerson	District No. 4	Michael Lesser	District No. 9
Mike Padilla	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 seven (7) 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. ROLL CALL:

2. MAYORAL PROCLAMATIONS:

"Fire Prevention Week"

"Hispanic Heritage Month"

3. APPOINTMENTS:

A. Board Appointment - Americans with Disabilities Act Advisory Council

ADVISORY COUNCIL APPOINTMENT of Marilyn Lind to the City of Topeka Americans with Disabilities Act (ADA) Advisory Council for a term ending September 30, 2022. *(Council District No. 7)*

B. Board Appointment - Topeka Planning Commission

BOARD APPOINTMENT recommending the reappointment of Wiley Kannarr to the Topeka Planning Commission for a term ending September 30, 2023. *(Council District No. 8)*

C. Board Appointment - Topeka Planning Commission

BOARD APPOINTMENT recommending the reappointment of Marc Fried to the Topeka Planning Commission for a term ending September 30, 2023. *(Council District No. 9)*

4. CONSENT AGENDA:

A. MINUTES of the regular meeting of September 15, 2020

B. APPLICATIONS:

5. ACTION ITEMS:

A. Disposal of Surplus Property - 101 N.E. Jefferson

APPROVAL of the sale of City of Topeka surplus property located at 101 N.E. Jefferson to Amherst Holdings, LLC in the amount of \$2,000.

Voting Requirement: At least six (6) votes of the Governing Body is required.

(Approval would authorize the sale of surplus property to Amherst Holdings, LLC so that its tenant at 100 N.E. Jefferson can expand their building.)

B. Ordinance - Utilities Stormwater Program Revisions

ORDINANCE introduced by City Manager Brent Trout, concerning stormwater regulations, amending various sections in Chapters 13.25, 13.35, 17.10, 17.30 and 18.235 of the Topeka Municipal Code, repealing original sections and creating Chapter 13.40.

Voting Requirement: At least five (5) votes of the City Council is required. The Mayor does not vote.

(Code amendments would authorize the Utilities Director to adopt a Stormwater Best Management Practice (BMP) Design Policy Handbook, Design Criteria and Drafting Standards.)

6. NON-ACTION ITEMS:

A. Discussion - 2021 Special Alcohol Grant Recommendations

DISCUSSION of funding recommendations by the Alcohol and Drug Abuse Advisory Council in the amount of \$620,000 for the 2021 Special Alcohol Fund.

B. Discussion - Six Zero North Annexation

DISCUSSION regarding the annexation ordinance for property located at the southwest corner of NW 25th Street and NW Button Road (Six Zero North Subdivision) within unincorporated Shawnee County, Kansas and adjacent to the City of Topeka corporate limits Shawnee County, Kansas.

(Annexation of a 74-acre tract to accommodate an industrial development with multiple small office/warehouse type industries. The tract will be assigned to Council District No. 2.)

C. Discussion - Zoo Governance

DISCUSSION on the governance of operations at the Topeka Zoo.

7. PUBLIC COMMENT:

In-person public comment will now be allowed at Governing Body meetings. Individuals must notify the City Clerk's office by 5:00 p.m. on the day of the meeting. Due to the public safety mandates surrounding the COVID-19 pandemic only 45 people, including staff members, will be allowed to gather in the City Council Chambers at one time. Please be advised after a person participates in public comment it may be necessary for them exit the meeting in order to allow others to enter the Council Chambers to provide their public comment. Written public comment may be submitted by email or in writing to the City Clerk for attachment to the minutes. -- Email: cclerk@topeka.org -- Address: 215 SE 7th Street, Room 166, Topeka, Kansas, 66603

8. ANNOUNCEMENTS:

9. EXECUTIVE SESSION:

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

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

10. ADJOURNMENT:



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
October 6, 2020

DATE: October 6, 2020
CONTACT PERSON: Trey Heikes, Executive Assistant to the Mayor DOCUMENT #:
SECOND PARTY/SUBJECT: PROJECT #:
CATEGORY/SUBCATEGORY 006 Communication / 005 Other
CIP PROJECT: No
ACTION OF COUNCIL: JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

"Fire Prevention Week"
"Hispanic Heritage Month"

VOTING REQUIREMENTS:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

Description

Fire Prevention Week- Proclamation 2020
Hispanic Heritage Month - September 15, 2020

PROCLAMATION

By the Mayor

WHEREAS, fire is a serious public safety concern both locally and nationally, and while our homes are the locations where people are at greatest risk from fire, these fire emergencies can happen anywhere; and

WHEREAS, Fires in the City of Topeka have killed 11 people in the last 5 years and the Topeka Fire Department has responded over 786 structure fires in the last 5 years; and

WHEREAS, The Topeka Fire Department with the support of the American Red Cross installs free smoke alarms and inspects hundreds of commercial structures annually in order to keep our citizens safe; and

WHEREAS, City of Topeka fire fighters are dedicated to reducing the occurrence of fires and injuries through prevention, protection, community risk reduction projects and education; and

WHEREAS, the 2020 Fire Prevention Week theme, “Serve Up Fire Safety in the Kitchen”; and

NOW, THEREFORE, I, Michelle De La Isla, Mayor of the city of Topeka, Kansas, do hereby proclaim the week of October 4-10, 2020, as

Fire Prevention Week

and urge all citizens of Topeka to support the many public safety efforts of the City of Topeka Fire Department to make our community safe.

IN WITNESS WHEREOF, I, Michelle De La Isla, Mayor of the City of Topeka, Kansas, do hereby affix my official signature and the Official Seal of the City of Topeka, Kansas, on this 6th day of October, 2020.

Michelle De La Isla, Mayor

PROCLAMATION

By the Mayor

WHEREAS, September 15th – October 15th celebrates Hispanic Heritage Month and the 16th of September celebrates Mexican Independence Day, on this date in 1810; and

WHEREAS, The City of Topeka is greatly enriched by the large number of persons of Hispanic descent who have made Topeka their home; and

WHEREAS, Topeka residents treasure the colorful Hispanic American culture and traditions that have become a part of Topeka's heritage; and

WHEREAS, The City of Topeka affirms the principals of equality and inclusion for persons of Hispanic descent as set in the laws of the State of Kansas and ordinances of Topeka; and

NOW, THEREFORE, I, Michelle De La Isla, Mayor of the City of Topeka, Kansas, do proclaim September 15 – October 15, 2020, as

Hispanic Heritage Month

And call on public officials, educators, librarians, and all Topekans to observe this month with appropriate ceremonies, activities, and programs.

IN WITNESS WHEREOF, I, Michelle De La Isla, Mayor of the City of Topeka, Kansas, do hereby affix my official signature and the Official Seal of the City of Topeka, Kansas, on this Day of October 6, 2020.

Michelle De La Isla, Mayor



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DATE: October 6, 2020
CONTACT PERSON: Mayor Michelle De La Isla DOCUMENT #:
SECOND PARTY/SUBJECT: Americans with Disabilities Act Advisory Council PROJECT #:
CATEGORY/SUBCATEGORY 006 Communication / 005 Other
CIP PROJECT: No
ACTION OF COUNCIL: JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

ADVISORY COUNCIL APPOINTMENT of Marilyn Lind to the City of Topeka Americans with Disabilities Act (ADA) Advisory Council for a term ending September 30, 2022. (Council District No. 7)

VOTING REQUIREMENTS:

At least five (5) votes of the City Council is required. Mayor does not vote.

POLICY ISSUE:

The ADA council seeks to enhance the community by the contributions of persons with disabilities; to make a positive difference in their relationship with the community by working toward providing full access to facilities, programs, services and activities.

STAFF RECOMMENDATION:

Councilmember Dobler nominates and Mayor De La Isla recommends the reappointment of Marilyn Lind to the City of Topeka ADA Advisory Council for a two-year term ending September 30, 2022. This position requires that the appointee be an individual with a disability of one of the major six life functions. Ms. Lind meets these requirements.

BACKGROUND:

The mission of the Topeka ADA Advisory Council is to support the civil rights of and full integration into Topeka community life for all people with disabilities. The ADA Council will be comprised of 10 members. At least six of the members must be individuals with disabilities, representing the six major life functions as much as possible. Members will serve a two-year term and shall not be eligible to serve more than four consecutive terms pursuant to Topeka Municipal Code Section 2.80.010.

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable.

ATTACHMENTS:

Description

M. Lind - ADA Advisory Council Application - 2020

Profile

Marilyn

First Name

Lind

Last Name

ms.delta1976@yahoo.com

Email Address

4720 SW 30th St

Street Address

Suite or Apt

Topeka

City

KS

State

66614

Postal Code

Are you a resident of the City of Topeka?☒ Yes ☐ No**What district do you live in? ***☒ District 7Check for your district here -> <https://www.topeka.org/citycouncil>

Home: (785) 272-0474

Primary Phone

Mobile: (785) 220-0117

Alternate Phone

Which Boards would you like to apply for?

Americans with Disabilities Act Advisory Council: Submitted

St. Francis Medical Center

Employer

Volunteer

Job Title

Are you a registered voter?☒ Yes ☐ No**Are you currently a full or part-time employee of the City of Topeka?**☐ Yes ☒ No**If yes, please advise in which department you work:****Are you or any immediate family member related to any city governmental official or employee?**☐ Yes ☒ No

If yes, please advise who and how you are related:

Are you or have you been a party to any civil litigation involving the City of Topeka?

☐ Yes ☒ No

If yes, please explain:

Are you delinquent in payment of any taxes, fees, fines or special assessments owed to the State of Kansas, Shawnee County or the City of Topeka?

☐ Yes ☒ No

If yes, please explain:

See application

Please state why you are interested in serving on this board or commission:

See application I have always been an advocate for people who have a disability. I have been a member of this council for a while. As a person who is visually impaired I've always been a advocate for all people with disabilities. I was a teacher working with students with severe multiple disabilities Kni. I'm also the chair person for the Topeka Association for the blind and visually impaired.

Interests & Experiences

Please describe your education, experience and expertise including any honors or awards, civic, cultural, charitable or professional organization memberships that relate to the position you are seeking.

I have a degree in elementary Ed and special education K through 12 working with students who you would call trainable or developmentally disabled. I receive my bachelors degree from Emporia State University. I also have a certification from Kansas University working with students with severe multiple disabilities. I was on the Governor's Advisory Council for the blind and visually impaired. I have been on the board of directors for the Kansas Association for the Blind and the Visually Impaired with volunteering at Saint Francis Hospital for a long time I have received volunteer recognition certificates for that also volunteering at ManorCare nursing home

Upload a Resume

Please attach any additional information you believe may be helpful in considering your application.

Voluntary Self Identification

Completion of your race/ethnicity and gender on your application is voluntary and will not affect your opportunity to be appointed to a City of Topeka Board or Commission.

Ethnicity *

☒ Caucasian/Non-Hispanic

Gender *

☒ Female

Acknowledgements and Verification

Purpose of information being submitted.

☒ I Agree

The information I am submitting is true and correct.

☒ I Agree

Electronic Signature

☒ I Agree

Notification to applicants for City Board/Commissions

Please be advised that your application and any documents that you attach are public records and, as such, are available to the public, upon request, pursuant to the Kansas Open Records Act.

If you are appointed to the position, your application and resume will be included in the governing body meeting agenda which is posted online.

<http://topeka.novusagenda.com/agendapublic/>

Profile

First NameLast Name

Email Address

Street AddressSuite or Apt

CityStatePostal Code

Are you a resident of the City of Topeka?

☐ Yes ☐ No

What district do you live in?

Primary PhoneAlternate Phone

Which Boards would you like to apply for?

EmployerJob Title

Are you a registered voter?

☐ Yes ☐ No

Are you currently a full or part-time employee of the City of Topeka?

☐ Yes ☐ No

If yes, please advise in which department you work

Are you or any immediate family member related to any city governmental official or employee?

☐ Yes ☐ No

If yes, please advise who and how you are related:

Are you or have you been a party to any civil litigation involving the City of Topeka?

☐ Yes ☐ No

If yes, please explain:

Are you delinquent in payment of any taxes, fees, fines or special assessments owed to the State of Kansas, Shawnee County or the City of Topeka?

☐ Yes ☐ No

If yes, please explain:

Interests & Experiences

Please state why you are interested in serving on this board or commission:

Please describe your education, experience and expertise including any honors or awards,

civic, cultural, charitable or professional organization memberships that relate to the position you are seeking.

Upload a Resume

Please attach any additional information you believe may be helpful in considering your application.

Question applies to multiple boards.

List any professional licenses you hold in Kansas and advise if they are current. (We reserve the right to request a copy of your license prior to approval of your appointment.)

Voluntary Self Identification

Ethnicity

Gender

Acknowledgements and Verification

Purpose of information being submitted.

☐ I Agree

The information I am submitting is true and correct.

☐ I Agree

Electronic Signature

☐ I Agree



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CATEGORY/SUBCATEGORY 006 Communication / 005 Other
CIP PROJECT: No
ACTION OF COUNCIL: JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

BOARD APPOINTMENT recommending the reappointment of Wiley Kannarr to the Topeka Planning Commission for a term ending September 30, 2023. *(Council District No. 8)*

VOTING REQUIREMENTS:

At least five (5) votes of the City Council is required. Mayor does not vote.

POLICY ISSUE:

As a primary function, the Topeka planning commission shall have the responsibility for the adoption and recommendation to the city council of the comprehensive metropolitan plan to guide the orderly growth and harmonious development of the Topeka metropolitan area. The comprehensive metropolitan plan shall consist of, but not be limited to, the elements described in TMC 18.05.020. The Topeka planning commission shall recommend appropriate legislative, administrative or budgetary actions necessary for the governing body to implement the comprehensive metropolitan plan on or before May 1st of each year.

STAFF RECOMMENDATION:

Councilman Duncan nominates and Mayor De La Isla recommends the reappointment of Wiley Kannarr for a term that will end September 30, 2023. Mr. Kannarr meets the residency requirement.

BACKGROUND:

This is a nine member board, created by the City. Council members nominate and the Mayor appoints. The governing ordinance, 18442, specifically states that at least six, but not more than seven shall reside within the corporate boundaries of the city. At least two, but not more than three shall reside outside the city boundaries, but within the city's 3-Mile Extraterritorial Jurisdiction. At least six shall be appointed from the private sector; at least three from the private sector shall be currently licensed or engaged or have substantial past experience in

the following fields: licensed professional engineer; licensed landscape architect; licensed architect; certified planner; registered land surveyor; licensed contractor; developer or other experienced professional working in a field related to planning or land development.

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable.

ATTACHMENTS:

Description

W. Kannarr - TPC Application - 2020

Profile

Wiley

First Name

Kannarr

Last Name

skannarr@cox.net

Email Address

2603 SW Golf View Drive

Street Address

Suite or Apt

Topeka

City

KS

State

66614

Postal Code

Are you a resident of the City of Topeka?☒ Yes ☐ No**What district do you live in? ***☒ District 8Check for your district here -> <https://www.topeka.org/citycouncil>

Home: (785) 271-1485

Primary Phone

Mobile: (785) 231-3086

Alternate Phone

Which Boards would you like to apply for?

Topeka Planning Commission: Submitted

Retired

Employer

Retired

Job Title

Are you a registered voter?☒ Yes ☐ No**Are you currently a full or part-time employee of the City of Topeka?**☐ Yes ☒ No**If yes, please advise in which department you work:****Are you or any immediate family member related to any city governmental official or employee?**☐ Yes ☒ No

If yes, please advise who and how you are related:

Are you or have you been a party to any civil litigation involving the City of Topeka?

☐ Yes ☒ No

If yes, please explain:

Are you delinquent in payment of any taxes, fees, fines or special assessments owed to the State of Kansas, Shawnee County or the City of Topeka?

☐ Yes ☒ No

If yes, please explain:

Please state why you are interested in serving on this board or commission:

I spent my career in public service and wish to continue to do so. I believe that the skills I developed would be useful to the purpose of the Topeka Planning Commission.

Interests & Experiences

Please describe your education, experience and expertise including any honors or awards, civic, cultural, charitable or professional organization memberships that relate to the position you are seeking.

Among the many duties I performed during the 15 years I served as an attorney at the Office of the Kansas Securities Commissioner, I developed particular expertise relating to capital formation. I reviewed hundreds of applications for securities registrations and exemptions. Each application was particular to the business venture proposed and had to be reviewed by detailed guidelines for compliance with those guidelines as well as for inconsistencies or gaps in the material. These reviews were done with a view to both the protection of investors and the assistance of applicants. I believe that these skills will translate well to the review of projects proposed for the development of the City of Topeka.

[Resume.docx](#)

Upload a Resume

Please attach any additional information you believe may be helpful in considering your application.

Question applies to multiple boards

List any professional licenses you hold in Kansas and advise if they are current. (We reserve the right to request a copy of your license prior to approval of your appointment.)

Member of Kansas Bar since September 1994.

Voluntary Self Identification

Completion of your race/ethnicity and gender on your application is voluntary and will not affect your opportunity to be appointed to a City of Topeka Board or Commission.

Ethnicity *

☒ Caucasian/Non-Hispanic

Gender *

☒ Male

Acknowledgements and Verification

Purpose of information being submitted.

☒ I Agree

The information I am submitting is true and correct.

☒ I Agree

Electronic Signature

☒ I Agree

Notification to applicants for City Board/Commissions

Please be advised that your application and any documents that you attach are public records and, as such, are available to the public, upon request, pursuant to the Kansas Open Records Act.

If you are appointed to the position, your application and resume will be included in the governing body meeting agenda which is posted online.

<http://topeka.novusagenda.com/agendapublic/>

Wiley B. Kannarr

2603 SW Golf View Drive, Topeka, Kansas 66614 ▪ Phone: 785-271-1485 ▪ E-mail: skannarr@cox.net

EMPLOYMENT

CORPORATE FINANCE COUNSEL
Office of the Kansas Securities Commissioner

JANUARY-JUNE 2012
Topeka, Kansas

Reviewed securities registration and exemption applications for compliance with the Kansas Uniform Securities Act. Negotiated rescissions and clean up of errant securities offerings. Consulted with the Director of Corporate Finance regarding all corporate finance legal issues.

DIRECTOR LEGAL SERVICES
Office of the Kansas Securities Commissioner

JUNE -DECEMBER 2011
Topeka, Kansas

Oversaw and coordinated the legal staff of the office. Conferred with the other agency directors regarding the progress of their respective cases currently being handled by the legal staff and cases under investigation. Reported to the Commissioner and Executive Director regarding all casework.

ASSOCIATE GENERAL COUNSEL
Office of the Kansas Securities Commissioner

1999 – 2011
Topeka, Kansas

Securities Registration - Reviewed securities registration and exemption applications for compliance with the Kansas Uniform Securities Act. Negotiated rescissions and clean up of errant securities offerings.

Interpretive Opinions and No-Action Letters - Issued interpretations of the Kansas Securities Act and statements of enforcement intent regarding specific circumstances to which the Act may apply.

Casework - Evaluated investigative summaries, recommended agency action, and handled the resulting administrative, civil or criminal actions to completion.

ASSOCIATE COUNSEL
Office of the Kansas Securities Commissioner

1997 - 1999
Topeka, Kansas

SOLO PRACTICE ATTORNEY
Wiley B. Kannarr, Attorney At Law

1995 – 1996
Topeka, Kansas

APPOINTMENTS

North American Securities Administrators' Association (NASAA)

CORPORATE FINANCE COORDINATED INTERPRETATIONS PROJECT GROUP, MEMBER

- Coordinated multistate responses to interpretive opinion and no action requests.

CORPORATE FINANCE SMALL BUSINESS/LIMITED OFFERINGS PROJECT GROUP, MEMBER

- Monitored changes to federal securities law governing limited offerings.

CORPORATE FINANCE SMALL BUSINESS/CAPITAL FORMATION PROJECT GROUP, MEMBER

- Created an entrepreneur education program relating to small business capital formation and assisted NASAA members in revising and updating statutes to reflect changes in national stock exchanges.

MUTUAL BENEFITS SPECIAL PROJECT GROUP, Chairperson, April 2004 - December 2004

- Coordinated communication and discovery efforts between NASAA members, the Securities and Exchange Commission, and the court appointed receiver for the Mutual Benefits Corporation.

VIATICAL PROJECT GROUP, Member, January 2001 - August 2003

VIATICAL PROJECT GROUP, Chairperson, September 2003 - December 2004

- Drafted *Guidelines Regarding Viatical Investments* which were adopted by NASAA on October 1, 2003. Assisted NASAA members in their adoption and implementation of the guidelines.

EDUCATION

JURIS DOCTOR

University of Kansas School of Law

YEARS ATTENDED 1992 - 1994

Lawrence, Kansas

- Defender Project Participant and Student Director
- Research Assistant to Professor David Gottlieb
- Member of Phi Alpha Delta Law Fraternity

BACHELOR OF ARTS, POLITICAL SCIENCE

University of Kansas

YEARS ATTENDED 1986 – 1990

Lawrence, Kansas

LICENSES

- Admitted to the Kansas Bar, September 1994
- Appointed an a Special Assistant Attorney General, November 1998 – June 2012



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DATE:	October 6, 2020	
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SECOND PARTY/SUBJECT:	Topeka Planning Commission	PROJECT #:
CATEGORY/SUBCATEGORY	006 Communication / 005 Other	
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

BOARD APPOINTMENT recommending the reappointment of Marc Fried to the Topeka Planning Commission for a term ending September 30, 2023. *(Council District No. 9)*

VOTING REQUIREMENTS:

At least five (5) votes of the City Council is required. Mayor does not vote.

POLICY ISSUE:

As a primary function, the Topeka planning commission shall have the responsibility for the adoption and recommendation to the city council of the comprehensive metropolitan plan to guide the orderly growth and harmonious development of the Topeka metropolitan area. The comprehensive metropolitan plan shall consist of, but not be limited to, the elements described in TMC 18.05.020. The Topeka planning commission shall recommend appropriate legislative, administrative or budgetary actions necessary for the governing body to implement the comprehensive metropolitan plan on or before May 1st of each year.

STAFF RECOMMENDATION:

Councilman Dobler nominates and Mayor De La Isla recommends the reappointment of Marc Fried for a term that will end September 30, 2023. Mr. Fried meets the residency requirement.

BACKGROUND:

This is a nine member board, created by the City. Council members nominate and the Mayor appoints. The governing ordinance, 18442, specifically states that at least six, but not more than seven shall reside within the corporate boundaries of the city. At least two, but not more than three shall reside outside the city boundaries, but within the city's 3-Mile Extraterritorial Jurisdiction. At least six shall be appointed from the private sector; at least three from the private sector shall be currently licensed or engaged or have substantial past experience in

the following fields: licensed professional engineer; licensed landscape architect; licensed architect; certified planner; registered land surveyor; licensed contractor; developer or other experienced professional working in a field related to planning or land development.

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable.

ATTACHMENTS:

Description

M. Fried - TPC Application - 2020

Profile

Marc

First Name

Fried

Last Name

marcfried02@gmail.com

Email Address

5925 SW Clarion Lane

Street Address

Suite or Apt

Topeka

City

KS

State

66610

Postal Code

Are you a resident of the City of Topeka?☒ Yes ☐ No**What district do you live in? ***☒ District 7Check for your district here -> <https://www.topeka.org/citycouncil>

Mobile: (314) 302-3269

Primary Phone

Mobile:

Alternate Phone

Which Boards would you like to apply for?

Topeka Planning Commission: Submitted

Washburn University

Employer

University Counsel

Job Title

Are you a registered voter?☒ Yes ☐ No**Are you currently a full or part-time employee of the City of Topeka?**☐ Yes ☒ No**If yes, please advise in which department you work:****Are you or any immediate family member related to any city governmental official or employee?**☐ Yes ☒ No

If yes, please advise who and how you are related:

Are you or have you been a party to any civil litigation involving the City of Topeka?

☐ Yes ☒ No

If yes, please explain:

Are you delinquent in payment of any taxes, fees, fines or special assessments owed to the State of Kansas, Shawnee County or the City of Topeka?

☐ Yes ☒ No

If yes, please explain:

Please state why you are interested in serving on this board or commission:

I have served for 3 years on the Commission and have enjoyed the experience and would like to continue serving for another 3 years. In a previous job, I served as a county counselor and advised that county's planning and zoning commission. I found that part of the job the most interesting and rewarding. I also was involved in some planning and zoning matters as a private attorney representing developers. As a fairly new resident of Topeka, I would like to get more involved and figured my legal experience and experience with planning and zoning matters would be a benefit for serving on this commission.

Interests & Experiences

Please describe your education, experience and expertise including any honors or awards, civic, cultural, charitable or professional organization memberships that relate to the position you are seeking.

I served as the County Counselor for Jefferson County, Missouri, the 5th largest county in Missouri and the county with the largest population not inside municipalities, so our planning and zoning commission was quite busy. As a private attorney with Armstrong Teasdale, I represented both municipalities and private developers in commercial or mixed-use developments that utilized governmental tax benefits, i.e. TIFs, Transportation development districts, etc. I also have experience working on municipal boards. As a resident of Kirkwood, MO, I served as Vice-chair and then Chair of the Greentree Festival, the Annual Kirkwood festival held each fall. I also served as the citizen representative on the Parks Department Master Plan implementation committee, which involved interviewing and selecting contractors for the various phases of the project, interviewing and selecting a project manager and also approving design changes proposed by the contractor.

[City_of_Topeka_resume.pdf](#)

Upload a Resume

Please attach any additional information you believe may be helpful in considering your application.

Question applies to multiple boards

List any professional licenses you hold in Kansas and advise if they are current. (We reserve the right to request a copy of your license prior to approval of your appointment.)

Kansas Bar License current

Voluntary Self Identification

Completion of your race/ethnicity and gender on your application is voluntary and will not affect your opportunity to be appointed to a City of Topeka Board or Commission.

Ethnicity *

☒ Caucasian/Non-Hispanic

Gender *

☒ Male

Acknowledgements and Verification

Purpose of information being submitted.

☒ I Agree

The information I am submitting is true and correct.

☒ I Agree

Electronic Signature

☒ I Agree

Notification to applicants for City Board/Commissions

Please be advised that your application and any documents that you attach are public records and, as such, are available to the public, upon request, pursuant to the Kansas Open Records Act.

If you are appointed to the position, your application and resume will be included in the governing body meeting agenda which is posted online.

<http://topeka.novusagenda.com/agendapublic/>

Profile

Marc

First Name

Fried

Last Name

marc_fried@sbcglobal.net

Email Address

5925 SW Clarion Lane

Street Address

Suite or Apt

Topeka

City

KS

State

66610

Postal Code

Are you a resident of the City of Topeka?☒ Yes ☐ No

District 7

What district do you live in?

Check for your district here -> <https://www.topeka.org/citycouncil>

Home: (785) 350-2079

Primary Phone

Mobile: (314) 302-3269

Alternate Phone

Which Boards would you like to apply for?

Topeka Planning Commission

Washburn University

Employer

University Counsel

Job Title

Are you a registered voter?☒ Yes ☐ No**Are you currently a full or part-time employee of the City of Topeka?**☐ Yes ☒ No

If yes, please advise in which department you work:

Are you or any immediate family member related to any city governmental official or employee?

☐ Yes ☒ No

If yes, please advise who and how you are related:

Are you or have you been a party to any civil litigation involving the City of Topeka?

☐ Yes ☒ No

If yes, please explain:

Are you delinquent in payment of any taxes, fees, fines or special assessments owed to the State of Kansas, Shawnee County or the City of Topeka?

☐ Yes ☒ No

If yes, please explain:

Please state why you are interested in serving on this board or commission:

In a previous job, I served as a county counselor and advised that county's planning and zoning commission. I found that part of the job the most interesting and rewarding. I also was involved in some planning and zoning matters as a private attorney representing developers. As a fairly new resident of Topeka, I would like to get more involved and figured my legal experience and experience with planning and zoning matters would be a benefit for serving on this commission.

Interests & Experiences

Please describe your education, experience and expertise including any honors or awards, civic, cultural, charitable or professional organization memberships that relate to the position you are seeking.

I served as the County Counselor for Jefferson County, Missouri, the 5th largest county in Missouri and the county with the largest population not inside municipalities, so our planning and zoning commission was quite busy. As a private attorney with Armstrong Teasdale, I represented both municipalities and private developers in commercial or mixed-use developments that utilized governmental tax benefits, i.e. TIFs, Transportation development districts, etc. I also have experience working on municipal boards. As a resident of Kirkwood, MO, I served as Vice-chair and then Chair of the Greentree Festival, the Annual Kirkwood festival held each fall. I also served as the citizen representative on the Parks Department Master Plan implementation committee, which involved interviewing and selecting contractors for the various phases of the project, interviewing and selecting a project manager and also approving design changes proposed by the contractor.

[City_of_Topeka_resume.pdf](#)
Upload a Resume

Please attach any additional information you believe may be helpful in considering your application.

Question applies to multiple boards.

List any professional licenses you hold in Kansas and advise if they are current. (We reserve the right to request a copy of your license prior to approval of your appointment.)

Kansas Bar License current

Voluntary Self Identification

Ethnicity

Gender

Acknowledgements and Verification

Purpose of information being submitted.

☒ I Agree

The information I am submitting is true and correct.

☒ I Agree

Electronic Signature

☒ I Agree

Notification to applicants for City Board/Commissions

Please be advised that your application and any documents that you attach are public records and, as such, are available to the public, upon request, pursuant to the Kansas Open Records Act.

If you are appointed to the position, your application and resume will be included in the governing body meeting agenda which is posted online.

<http://topeka.novusagenda.com/agendapublic/>

MARC B. FRIED

5925 SW Clarion Lane
Topeka, Kansas 66610-1227

(314) 302-3269
marc_fried@sbcglobal.net

SUMMARY

An experienced attorney who serves currently as the chief legal counsel for Washburn University, and served as the chief legal counsel for the largest Community College District in Missouri, the fifth largest county in Missouri and counsel for numerous local governments. Experience and knowledge in reviewing, negotiating and drafting complex agreements, dealing with compliance issues for local governments and higher education and providing advice to various Boards and elected and appointed officers. Licensed to practice in Kansas and Missouri.

LEGAL EXPERIENCE

Washburn University

University Counsel, 2014 – Present

- Provide legal advice to the President of the University, the Board of Regents and the Vice-Presidents and Directors of the University.
- Serve on President's Executive Staff.
- Draft and review contracts and memoranda of understanding including agreements relating to leases, licensing agreements, and affiliation agreements with health services providers.
- Negotiated agreements with the City of Topeka, USD 501 and the KBI on real estate and other matters.
- Drafted new or revised policies and then conducted trainings on the policy changes for non-discrimination/Title IX, Concealed Weapons, Faculty Handbook and Intellectual Property, among others.
- Represented University in matters before Equal Employment Opportunity Commission, Kansas Human Rights Commission and the Public Employees Relations Board.

St. Louis Community College

General Counsel/Assistant General Counsel, 2009 – 2014

- Provided legal advice to Board of Trustees, Chancellor, Vice-Chancellors and Presidents for all four campuses of Community College District.
- Drafted and reviewed contracts and memoranda of understanding including agreements relating to leases, licensing agreements, and cooperation agreements with other governmental entities.
- Served on task force to assist in the development and implementation of restructuring plan for Human Resources department.
- Placed in charge of College's Risk Management division including supervision of College's Environment, Health and Safety Specialist
- Provided advice and training on employment issues, Title IX and Title VII sexual harassment and problems associated with use of Social Media.
- Represented College in investigations by the Office for Civil Rights, the Equal Employment Opportunity Commission and the Missouri Commission on Human Rights.

Armstrong Teasdale LLP

Associate, 2007-2009

- Advised boards and employees of and drafted resolutions and documents for local political subdivisions
- Negotiated and drafted agreements between developers and municipalities and agreements between political subdivisions.
- Managed client projects relating to real estate developments utilizing economic incentives including Tax Increment Financing, Community Improvement, Transportation Development and Neighborhood Improvement Taxing Districts.
- Reviewed contracts for St. Louis Community College, and provided general representation for two municipalities.

County of Jefferson, Missouri

County Counselor, 2003 – 2007

- Advised and represented County Commissioners and other elected officials on various matters, including litigation matters in State and Federal Court.
- Reviewed contracts for County and the elected officials.
- Negotiated settlements in matters involving zoning and building code disputes.
- Worked on revision of County building and zoning codes into a single unified development order, approved February, 2008.
- Managed projects with outside counsel for economic development projects, including financing projects for county buildings and establishment of special taxing districts.
- Lead attorney in bench trial involving 5 parties and numerous expert witnesses. [Favorable trial verdict affirmed by State Supreme Court, citing testimony introduced through my witnesses. *Essex Contracting, Inc. v. County of Jefferson , et al.*, 277 S.W.3d 647 (Mo. Banc 2009)]
- Supervised staff of seven persons.

Prosecuting Attorney's Office, Jefferson County, Missouri

First Assistant, 1996 – 2003

- Directed Sex Offense and Child Victim unit, including reviewing all reports and making all charging decisions, handling preliminary hearings and jury trials, provided legal counsel to Eastern Missouri Child Advocacy Center, including negotiating several guilty pleas to life sentences on incest cases.
- Worked on establishment and management of system fast-tracking domestic violence cases in the circuit court, improving successful prosecution rate from 10% to 90%.
- Served on team that established Drug Court for Jefferson County Circuit Court, which has reduced the level of repeat offenders committing drug offenses.

EDUCATION

Washington University School of Law

Juris Doctor

- Award for Achievement in Advocacy: International Academy of Trial Attorneys

University of Kansas

Bachelor of Science in Accounting and Business Administration,

PROFESSION-RELATED ACTIVITIES

City of Creve Coeur, Missouri

Municipal Judge, 2010 – present

City of Kirkwood, Missouri

Municipal Judge, 2004 - 2006

SPECIAL TRAINING

Civil Mediation Training

Center for the Study of Dispute Resolution

University of Missouri School of Law

January, 2010

COMMUNITY INVOLVEMENT

Leadership Washburn; Facilitator, 2016-2017; Participant, 2014-2015.

Capital City Chorus; 2015 – present; Program Director, 2017 – present.

Heartland SERTOMA Club; 2016 – present.

Kirkwood Lions Club; 1999 – 2014; President, 2004-2005; Secretary, 2009 - 2011.

City of Kirkwood Parks Department; Implementation Committee, 2005 – 2011

Leadership St. Louis, Member of 30th class; 2005 – 2006

City of Kirkwood Greentree Festival Committee; 2002 – 2004; Chairperson, 2004

Mid America Lacrosse Officials Association; Referee, Boy's High School Lacrosse, 2007 – 2009

Kirkwood Youth Hockey Association; Board of Directors, 2001 – 2003

REFERENCES UPON REQUEST



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
October 6, 2020

DATE: October 6, 2020
CONTACT PERSON: Ed Collazo, Executive Department
DOCUMENT #:
SECOND PARTY/SUBJECT: Amherst Holdings, LLC
PROJECT #:
CATEGORY/SUBCATEGORY 019 Reports / 009 Real Estate
CIP PROJECT: No
ACTION OF COUNCIL:
JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

APPROVAL of the sale of City of Topeka surplus property located at 101 N.E. Jefferson to Amherst Holdings, LLC in the amount of \$2,000.

Voting Requirement: At least six (6) votes of the Governing Body is required.

(Approval would authorize the sale of surplus property to Amherst Holdings, LLC so that its tenant at 100 N.E. Jefferson can expand their building.)

VOTING REQUIREMENTS:

At least six (6) votes of the Governing Body is required.

POLICY ISSUE:

Whether to authorize the sale of surplus property to Amherst Holdings, LLC so that its tenant at 100 N.E. Jefferson can expand their building.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to approve the disposal of property located at 101 N.E. Jefferson in the amount of \$2,000.

BACKGROUND:

Amherst Holdings, LLC has requested that the City sell a 6-stall parking lot so that Amherst's tenant, United Refrigeration, can extend its building.

TMC 3.30.310 and 3.30.330 authorize the Governing Body to dispose of surplus real property that is no longer needed by selling to an adjoining property owner.

BUDGETARY IMPACT:

The Shawnee County Appraiser valued the property at \$1,000 in 2019, and \$7,000 in 2020. Amherst is offering \$2000.

SOURCE OF FUNDING:

Amherst Holdings, LLC

ATTACHMENTS:**Description**

Request to Sale Property - August 28, 2020

Real Estate Report

Real Estate Agreement



CITY OF TOPEKA

Edward M. Collazo
Independent Police Auditor
215 SE 7th St
Topeka, KS 66603

Email: ecollazo@topeka.org
Tel: 785-368-3730
Fax: 785-368-3909
www.topeka.org

August 28, 2020

RE: sale of property owned by the City of Topeka: 101 NE Jefferson St. Topeka KS 66607

Dear Governing Body:

The owner of the real property contiguous to the proposed real property to be sold, 101 NE Jefferson St, has expressed interest in the purchase of the above referenced property. His intent is to expand the current building located at 100 NE Jefferson St.

The proposed property is currently allotted as a surplus parking lot. There are 6 parking stalls which appear to not be in use.

According to the Shawnee County Appraiser, the lot, which is zoned I-1 (light industrial), is valued at \$7000. Last year it was valued at \$1000. From speaking to the Shawnee County Appraiser regarding the change in value, I was advised that they have not appraised exempt properties in a few years and are now making an effort to maintain those appraisals up to date.

The attached agreement for purchase is for \$2000.

It is my recommendation that after compliance with TMC 3.30.330, the property be sold pursuant to TMC 3.30.340(d)(1).

Respectfully submitted,

Edward M Collazo

REAL ESTATE REPORT

Dear Department Directors:

Attached, please find a real estate report for property for 101NE Jefferson St., owned by the City.

Pursuant to TMC 3.30.330, I am notifying your department of the availability of said property and the proposal to sell same. Please respond by June 30, 2020 if your department has use for this property. A lack of response will indicate you are in agreement with the surplus property determination.

- A. **Common Address:** **101 NE Jefferson St.**

- B. **Legal description:** KEYWAY SUB , BLOCK A , Lot 3 , PT LT 3, BLK A, POB SW COR LT 3, NE LY 120(S) TO ROW ACADEMY ST, SELY 8 2(S), SWLY 55(S), NWLY 110(S) ALG 1 ST TO POB SECTION 32 TOWNSHIP 11 RANGE 16

- C. **Current Zoning:** I-1 (light industrial)

- D. **Current Use:** Surplus parking (6 stalls)

- E. **Appraised Value:** \$7000 (Shawnee County Appraiser, up from \$1000 last year)

- F. **Proposed Method of Disposal:** Private negotiated sale (TMC 3.30.340(d))

Parcel Id

1093202003002000

Property Address

101 NE JEFFERSON ST, Topeka, KS 66607

Owner

CITY OF TOPEKA (SURPLUS PK LT)

Mailing Address

215 SE 7TH ST STE 166 TOPEKA, KS 66603-3914



Value Summary

2019 Appraisal

2019 Appraised Value

\$1,000

2020 Appraisal

2020 Appraised Value

\$7,000

2019 Mill Levy

159.259

2020 Value by Class

Class	Land Value	Imp. Value	Value By Class
Exempt	\$7,000	\$0	\$7,000

Property Description

Condensed legal description: Do not use for legal purposes.

KEYWAY SUB , BLOCK A , Lot 3 , PT LT 3, BLK A, POB SW COR LT 3, NE LY 120(S) TO ROW ACADEMY ST, SELY 8 2(S), SWLY 55(S), NWLY 110(S) ALG 1 ST TO POB SECTION 32 TOWNSHIP 11 RANGE 16

Instrument Number

Instrument #

N/A

Recorded Date

N/A

Block

A

Lot

3

Section

32

Township

11

Range

16

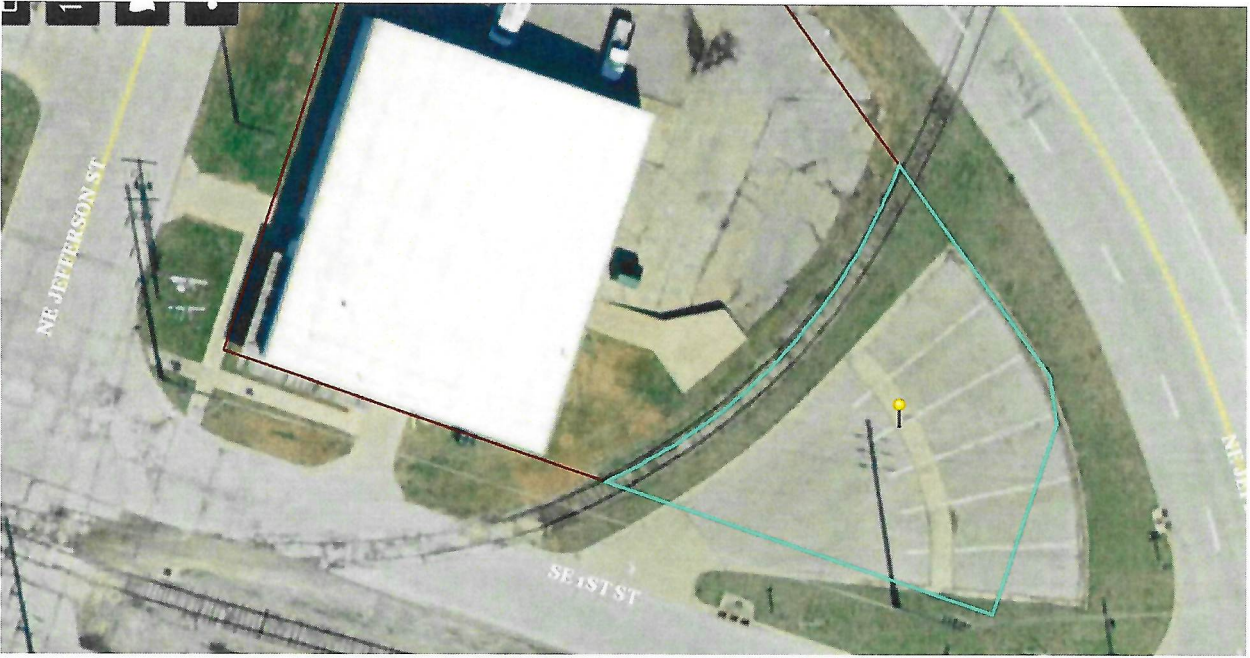
Comment

N/A

Square Feet

6,997

Information Last Updated 06/06/2020



City of Topeka Contract No. _____
REAL ESTATE PURCHASE AGREEMENT

THIS REAL ESTATE PURCHASE AGREEMENT ("Agreement") is made and entered into as of the 26th day of August, 2020 by and between the City of Topeka, a municipal corporation, (hereinafter "Seller") and Amherst Holdings, LLC., (hereinafter "Buyer").

1. Sale of Property. Subject to the terms and conditions herein set forth, Seller hereby agrees to sell and convey to Buyer by general warranty deed, and Buyer hereby agrees to purchase, certain real estate legally described as:

Lot 3, Block A, Keyway Subdivision, in the City of Topeka, Shawnee County, Kansas
Commonly known as 101 NE Jefferson St., Topeka KS 66607

2. Purchase Price. The purchase price for the Real Estate shall be the sum of two thousand dollars and no cents (\$2,000) (hereinafter "Purchase Price").

3. Closing. The closing shall be held at Kansas Secured Title, Inc. on or before sixty (60) days from the date of approval by the Governing Body (assuming the Governing Body approves the sale) unless the parties mutually agree, in writing, to extend the time.

4. Title and Conveyance. Buyer may at its sole option and expense obtain title insurance for the Real Estate. If in Buyer's opinion, the Commitment demonstrates that Seller's title to the Real Estate is not marketable, Buyer shall notify Seller in writing, specifying its objections. Seller shall use its best efforts, within a reasonable time (not to exceed ten (10) days), after receipt of such objections from Buyer, in which to correct such title objections. In the event the title objections are not corrected by Seller to the satisfaction of Buyer within the aforesaid period of time, Buyer may terminate this Agreement upon written notice to Seller or elect to close notwithstanding such title objections.

5. Inspection. Buyer agrees to accept the property in its "as is" condition without warranty of any kind. During the period from the execution of this Agreement to closing, City agrees to make the subject property available for inspection by Buyer and its agents. The foregoing inspections shall be made during normal business hours after reasonable advance notice. City shall not unreasonably withhold consent for inspections.

6. Governing Body Approval. The parties agree that this Agreement is contingent upon approval by the Governing Body. If the Governing Body does not approve the Agreement, the Seller shall not be obligated to complete the sale.

7. Closing and Possession. The parties agree that time is of the essence of this Agreement. Buyer shall pay all costs related to closing. Possession shall be delivered to Buyer at closing.

8. Default. If Buyer fails to close the purchase of the Real Estate before October 1, 2020, Seller may, at its sole option, either terminate this Agreement or exercise any rights and remedies available to it at law or in equity, including but not limited to, specific performance. If Seller fails to close the purchase of the Real Estate, Buyer may, at its sole option, either terminate this Agreement and/or exercise any

rights and remedies available to it, at law or in equity, including but not limited to specific performance.

9. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

10. Authority to Execute. By signing this Agreement, Buyer's representative represents that he is duly authorized by the organization to execute this agreement on behalf of Buyer and that Buyer agrees to be bound by the provisions of this Agreement.

11. Construction of Agreement. This Agreement is intended to be interpreted and construed under and by virtue of the laws of the State of Kansas.

IN WITNESS WHEREOF, this Agreement has been executed as of the date first above written.

Seller

THE CITY OF TOPEKA, a municipal Corporation

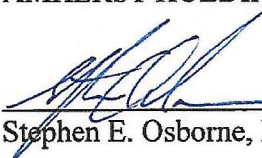
Brent Trout, City Manager

ATTEST:

Brenda Younger, City Clerk

Buyer

AMHERST HOLDINGS, LLC



Stephen E. Osborne, Member

8/10/2020



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
October 6, 2020

DATE:	October 6, 2020	
CONTACT PERSON:	Braxton Copley, Utilities Deputy Director	DOCUMENT #:
SECOND PARTY/SUBJECT:	Utilities Stormwater Program Revisions	PROJECT #:
CATEGORY/SUBCATEGORY	013 Ordinances - Codified / 146 Utilities	
CIP PROJECT:	No	
ACTION OF COUNCIL:	Discussion 09-15-20.	JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

ORDINANCE introduced by City Manager Brent Trout, concerning stormwater regulations, amending various sections in Chapters 13.25, 13.35, 17.10, 17.30 and 18.235 of the Topeka Municipal Code, repealing original sections and creating Chapter 13.40.

Voting Requirement: At least five (5) votes of the City Council is required. The Mayor does not vote.

(Code amendments would authorize the Utilities Director to adopt a Stormwater Best Management Practice (BMP) Design Policy Handbook, Design Criteria and Drafting Standards.)

VOTING REQUIREMENTS:

At least five (5) votes of the City Council is required. The Mayor does not vote.

POLICY ISSUE:

The purpose of the proposed stormwater management code revisions, relating to TMC 13.25, 13.35, 13.40, 17.10, 17.30 and 18.235, are to comply with Topeka's Municipal Stormwater Permit and Environmental Protection Agency (EPA) audit findings.

STAFF RECOMMENDATION:

Staff recommends the City Council move to adopt the ordinance.

BACKGROUND:

The City engaged Wood Environment and Infrastructure Solutions to perform a review of our municipal separate storm sewer system MS4 in light of best practices followed by other stormwater utilities. During the course of this

MS4 review, the City was successful in obtaining a grant from the Kansas Department of Agriculture (KDA) to do a two dimension model of the City's stormwater runoff. Based on Wood's review of the MS4 program, and the results of the modeling, we are recommending several revisions to the stormwater code. Revisions include the following:

TMC 13.25 Stormwater Utility/Stormwater fee discount – The revisions simplify the method for determining the amount of discount for water quantity, adds a potential discount for water quality, but leaves the total discount capped at 40%.

TMC 13.35 Stormwater Management/Stormwater quality – The requirement clarifies that water quality Best Management Practice (BMP) designs will require the use of a level of service based methodology. Additionally, the revisions clearly address the need for control of both stormwater quantity and quality. Also, the revisions authorize the Director to implement a handbook for stormwater BMP design. The handbook is targeted for the design community and provides guidance for designers in preparing stormwater management plans. The revisions also require the owner/developer to provide an as-built plan for the completed BMPs, as well as provide for a final inspection by City staff.

TMC 13.40 Stormwater BMP Maintenance (NEW) – This new chapter reaffirms the existing code requirement that property owners are responsible for the long term maintenance of BMPs on their property. Additionally, it requires owners to periodically inspect their BMPs and to submit an inspection report to the City once every two years. Once every six years the inspection report must be performed by an engineer or landscape architect. If the owner fails to submit a report, he or she will not be eligible for a stormwater fee discount. To assist the owners with the inspection, this section authorizes the Director to implement a Property Owners Guide to Stormwater BMP Maintenance. The BMP maintenance guide is a visually based guide written for a property owner, to explain the basics of BMP operation and maintenance and includes inspection forms.

TMC 17.10 Buffer Areas/Stream Buffers – The revisions to this section replace the existing stream buffer widths based on stream type, with a science based buffer that establishes buffer width on stream size, slope, soil type and physical conditions. We will follow up the revisions by adding the new stream buffer to the City's GIS system for use by the development community. The development of the stream buffer model was a product of the KDA grant funded modeling done by Wood.

TMC 17.30 Floodplain Management – The revisions to this section include requiring that any development in the AH ponding areas, identified as part of the levee certification, will require corresponding cut to maintain the overall storage volume. Additionally, development in the floodway fringe of greater than 5,000 SF will require modeling to determine no rise, as well as compensatory cut to offset any fill.

TMC 18.235 Landscape Requirements – The revisions to this code section clarify that certain BMPs are eligible for credit towards the landscape points, required under the zoning regulations. 'Green' BMPs that promote native vegetation, and provide evapotranspiration and soil stability, are eligible for higher credit than other BMPs that reduce impervious area or provide for infiltration or detention.

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not applicable.

ATTACHMENTS:

Description

Proposed Ordinance

Inspection Cost Worksheet

TMC 13.25 FAQ

TMC 13.35 FAQ

TMC 13.40 FAQ

TMC 17.10 FAQ

TMC 17.30 FAQ

TMC 18.235 FAQ

Stormwater Program Revisions Presentation

1 (Published in the Topeka Metro News _____)

2
3 ORDINANCE NO. _____

4
5 AN ORDINANCE introduced by City Manager Brent Trout, concerning stormwater
6 regulations, amending various sections in Chapters 13.25, 13.35,
7 17.10, 17.30 and 18.235 of the Topeka Municipal Code, repealing
8 original sections and creating Chapter 13.40.
9

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

11 Section 1. That section 13.25.090, Dwelling unit and impervious surface
12 calculation – Appeal, of The Code of the City of Topeka, Kansas, is hereby amended to
13 read as follows:

14 **Dwelling unit and impervious surface calculation – Appeal.**

15 (a) Any person disagreeing with the calculation of the stormwater drainage
16 fee, as provided in this article, or seeking a stormwater drainage fee adjustment based
17 upon stormwater management practices, may appeal such fee determination to the
18 Director within 30 days from the date of the last bill containing stormwater drainage fee
19 charges. Any appeal shall be filed in writing and shall include a survey prepared by a
20 land surveyor showing dwelling units, total property area, impervious area or
21 nonresidential developed area, as appropriate, and a depiction of the stormwater
22 management practices, as appropriate. The filing of an appeal with complete
23 information shall stay the payment of the stormwater drainage fee. Any person seeking
24 a stormwater drainage fee adjustment based upon stormwater management practices
25 shall be current in the payment of the stormwater drainage fee. The Director may
26 request additional information from the appealing party.

27 (b) Stormwater drainage fee adjustments for stormwater management
28 practices may be considered for: reductions in stormwater release rates and provision
29 of additional storage volume; reductions in runoff volume (including discharging to a

non-City drainage system); and properly designed, constructed and maintained existing detention facilities. The maximum fee adjustment is 30 percent for internally drained areas or sites completely retaining the 100 year storage volume and where runoff is reduced to zero is 40 percent. The maximum fee adjustment is 30 percent for drainagesites completely draining to a non-City system is 40 percent. The maximum fee adjustment for existing detention facilities meeting applicable City design standards and subject to proper maintenance and operation as determined by the City is 15 percent. The maximum fee adjustment for detention, discharge/volume improvements and operation and maintenance is 25 percent if the release rate is limited to the two-year predeveloped flow and 15 percent for 100-year storage volume. The maximum fee adjustment is 30 percent for sites limiting post-developed peak discharges to at or below pre-developed peak discharges for the 2-year, 5-year, 10-year, 25-year, 50-year and 100-year storm events; with each event receiving 5 percent reduction. The maximum fee adjustment is 10 percent for sites meeting the water quality level of service requirements per the City of Topeka Post-Construction Stormwater Quality Policy. An additional 10 percent reduction can be obtained for sites exceeding the water quality level of service requirements by 5 percent or more. All fee adjustments are subject to proper maintenance and operation of the stormwater facilities as determined by the City. Each site is limited to a fee adjustment of no more than 40 percent total. Based upon the information provided by the utility and the appealing party, the Director shall make a final calculation of the stormwater drainage fee. The Director shall notify the parties, in writing, of the Director's decision.

Section 2. That the Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 13.35.005, which said section reads as follows:

54 **Design Policy Handbook and Design Criteria and Drafting Standards.**

55 (a) The Director is hereby authorized to adopt a City of Topeka Stormwater
56 BMP Design Policy Handbook and City of Topeka Stormwater Design Criteria and
57 Drafting Standards. Further, the Director may revise or amend the handbook and
58 standards from time to time.

59 (b) TMC Chapter 13.35 refers to City of Topeka Stormwater BMP Design
60 Policy Handbook (handbook) and the City of Topeka Design Criteria and Drafting
61 Standards (standards). The referenced handbook and standards shall be considered
62 an integral part of TMC Chapter 13.35 without separate adoption. Where provisions of
63 this chapter conflict with the handbook or standards, TMC Chapter 13.35 shall control.
64 Permissive and advisory provisions in the handbook and standards shall not be
65 construed as mandatory.

66 (c) Within the referenced handbook, the Director may allow administrative
67 variations to requirements stated in the handbook provided such variations do not result
68 in a reduction or elimination of stormwater performance criteria or a variation of
69 applicability or performance standard waiver criteria.

70 Section 3. That section 13.35.010, Applicability, of The Code of the City of
71 Topeka, Kansas, is hereby amended to read as follows:

72 **Applicability and performance standards.**

73 (a) Except as provided in TMC 13.35.020(d), unless an exception is granted
74 pursuant to TMC 13.30.080(d), ~~this chapter shall apply to the following~~ activities shall be
75 designed and constructed in conformance with this chapter and with the performance
76 standard(s) applicable to the project as established in this section:.

77 (1) Adherence to the stormwater quality performance standard shall be

78 required for. All requests for approval of subdivision plats and site plans
79 pertaining to land development activities that are~~are~~will:

80 (i) disturb an area greater than or equal to one acre of land,
81 including projects that ~~cause a land disturbance~~will disturb less than one
82 acre that are part of a larger common plan of development or sale; or

83 (2)(i) ~~Land disturbance activities that are~~disturb less than one acre
84 of land but ~~located in~~will discharge stormwater runoff to an impacted
85 ~~watershed as determined by the Director based upon an engineering~~
86 ~~study~~waterbody.

87 (2) Adherence to the stormwater quantity performance standard shall
88 be required for all requests for approval of subdivision plats and site plans
89 pertaining to land development activities that will result in a total of 10,000 square
90 feet or more of impervious surface on the property, inclusive of any impervious
91 surfaces currently located, and to remain, on the property.

92 (b) Requests for approval of subdivision plats and site plans that do not meet
93 TMC 13.35.020(a) and (b) immediately above, but will result in concentrated flows, or
94 will include buffer areas required by TMC 17.10, or propose to change stormwater
95 drainage patterns or discharge points from their pre-project conditions shall comply with
96 TMC 13.35.050 and TMC 13.35.070 and may be subject to additional stormwater
97 requirements as deemed necessary by the Director to prevent pollution, erosion, and
98 flooding.

99 (c) Subdivision plats or site plans approved prior to January 1, 2021 shall be
100 subject to orders, regulations, ordinances, rules, expiration dates, or other properly
101 adopted requirements in effect at the time the original plat or plan was approved.

Section 3. That section 13.35.020, Waiver – Exemptions - Mitigations, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Waiver – Exemptions – Mitigations.

(a) The Utilities Director may grant a waiver for one or more stormwater management requirements ~~if the standard can be met in any of the following ways for~~ projects that meet any of the following conditions:

(1) ~~Discharging the~~ The project will discharge stormwater runoff to an ~~existing~~ stormwater management facility located offsite, whether public or private, that is ~~an off-site facility~~ designed, adequately sized, constructed and maintained to ~~provide a level of stormwater control that is equal to or greater than that which would be afforded by on-site practices and there is an entity responsible for long-term operation and maintenance of the stormwater practice, provided the developer produces a written agreement permitting the discharge of stormwater runoff and long-term operation and maintenance to the existing stormwater management facility~~ achieve or exceed the required performance standard(s), inclusive of the stormwater runoff being discharged to the facility by the project. To receive this waiver, all of the following requirements shall be met:

(i) Stormwater runoff from the project shall not cause pollution, erosion, and flooding at any location between the project and the offsite facility, and shall not enter a stream, lake, or wetland prior to treatment by the offsite facility.

(ii) The offsite facility must be fully functional and operating in accordance with this chapter prior to construction of the project. If the offsite facility or any conveyances located downstream of the project must

126 be improved to meet these requirements, the applicant shall provide
127 design plans detailing the necessary improvements and their achievement
128 of the required standard(s). Improvements to offsite facilities shall adhere
129 to, without exception, this chapter, TMC 13.30, and the City of Topeka
130 Stormwater BMP Design Policy Handbook. The applicant is solely
131 responsible for coordination of all necessary improvements with the
132 owner(s) of the facility(s) and for ensuring said improvements are made in
133 accordance with these requirements.

134 (iii) The applicant shall obtain a legally-binding written
135 agreement signed by the owner(s) of the offsite facility acknowledging and
136 authorizing the discharge of stormwater runoff from the project to the
137 offsite facility(s) and clearly establishing the party responsible for the long-
138 term operation and maintenance of the facility in keeping with TMC 13.40.
139 This agreement shall be recorded by the applicant with the Shawnee
140 County Register of Deeds.

141 (2) An ~~E~~ngineering ~~studies~~study determines that installing a
142 stormwater management facility in order to meet the stormwater management
143 standards will cause adverse impact to water quality, or cause a negative impact
144 to a downstream channel or property.

145 (3) The stormwater quantity performance standard may be waived ~~F~~for
146 a redevelopment, if an engineering ~~studies~~study demonstrates there is no net
147 increase in stormwater runoff peak flow and volume from current conditions for
148 the stormwater quality design storm events established in the City of Topeka
149 Stormwater BMP Design Policy Handbook.

(b) In order to receive a waiver, the Director may require the applicant to provide an engineering study which substantiates the criteria required to receive said waiver. The study shall be prepared by a professional civil engineer licensed in the State of Kansas and shall be performed in keeping with the City of Topeka Stormwater BMP Design Policy Handbook. For waivers provided under TMC 13.35.020(a)(1), provision of the approved as-built plan for the offsite stormwater management facility may be sufficient for this purpose.

(c) A waiver from compliance with one or both performance standards shall not be construed as a waiver or exemption from all other requirements in this chapter.

(bd) Acceptable mitigation measures may be required in order to prevent deterioration of existing culverts, bridges, dams, and other structures, degradation of biological functions or habitat, accelerated stream bank or stream bed erosion or siltation, and increased threat of flood damage to public health, life, and property. Such mitigation measures may include, but are not limited to:

(1) The purchase and donation of privately owned lands, or the granting of an easement to be dedicated for preservation or reforestation.

(2) The creation of a stormwater management facility or other drainage improvement on previously developed properties, public or private, that currently lack stormwater management facilities.

(3) Granting an easement or dedicating land to the City to be used for the construction of an off-site stormwater management facility. Such easement shall be granted prior to issuance of any building permit.

~~(c) A request for waiver shall not be granted without an engineering study shown in drainage plans submitted for new development or redevelopment that creates~~

~~additional impervious surfaces establishing the adequacy of downstream or shared off-site stormwater management facilities which offer equivalent or greater protection than the standard(s) for which a waiver is requested~~

~~(de) Site plans for construction or reconstruction of single-family and two-family dwellings on individual lots are exempt from this chapter unless they are located in an area which drains to an impacted waterway as deemed by the Utilities Director based on an engineering study.if any of the following conditions apply:~~

~~(1) are located in a residential subdivision that was platted prior to August 29, 2011; or~~

~~(2) are located in a residential subdivision served by a stormwater management facility that is/was designed, adequately sized, constructed and maintained to achieve or exceed the required performance standard(s) for the subdivision in its fully-developed condition; or~~

~~(3) are designed to safely direct stormwater runoff generated by building rooftops to a vegetated channel or vegetated area before discharge to a street, gutter, waterbody, or the municipal stormwater system. The design must ensure stormwater runoff will not cause vegetation damage, soil erosion, and flooding on, or downstream of, the property.~~

~~(f) Developments or redevelopments for which a subdivision plat or site plan is not required shall be exempted from the requirements of this chapter.~~

~~(g) An exemption from this chapter shall not be construed as a release from onsite drainage improvements that may be necessary to avoid onsite or offsite flooding or erosion or are required in accordance with building and construction codes, nor from providing adequate erosion prevention and sediment control measures to protect~~

198 adjoining property owners, local waterways, and public right of way.

199 Section 3. That section 13.35.030, Performance criteria for stormwater
200 management, of The Code of the City of Topeka, Kansas, is hereby renumbered as
201 13.35.040 and amended to read as follows:

202 **Performance criteria~~General requirements~~ for stormwater management.**

203 All ~~subdivision plats and site plans~~projects shall meet the following requirements
204 for stormwater management:

205 ~~(a) Designs shall establish stormwater management practices to control peak~~
206 ~~flow rates of discharge according to the storm drainage design criteria. These practices~~
207 ~~should utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff~~
208 ~~from driveways, sidewalks, rooftops, parking lots, storage areas, and landscaped areas~~
209 ~~to the maximum extent practical to provide treatment for both water quality and quantity.~~

210 ~~(ba) All s~~Stormwater runoff generated from new developments shall not
211 discharge directly into a jurisdictional wetland or local water body without ~~adequate~~
212 ~~treatment~~stormwater quality treatment as specified in the ~~Post Construction Stormwater~~
213 ~~Quality Policy~~City of Topeka Stormwater BMP Design Policy Handbook. Where such
214 discharges are proposed, they

215 (b) Designs shall meet all applicable local, State and Federal requirements,
216 permits, plans and programs. The owner is responsible for complying with all local State
217 and Federal permits that are applicable to the site.

218 (c) BMPsProjects shall be designed to promote the natural infiltration of
219 stormwater to the maximum extent possible through the use of ~~structural and~~
220 ~~nonstructural methods~~sone or more low impact development practices described in the
221 City of Topeks Stormwater BMP Design Policy Handbook.

~~(d) For new development and redevelopment, structural stormwater treatment practices shall meet the following performance standards:~~

~~(1) Stormwater runoff shall be treated for water quality prior to discharge from the development site.~~

~~(2) Designed according to the City of Topeka Design Criteria and Drafting Standards.~~

~~(3) Reduce the discharge of the total maximum daily load (TMDL) regulated pollutants to an associated stream and/or lake as identified in the Post Construction Stormwater Quality Policy set forth by the Utilities Director.~~

~~(4) Reduce the discharge of principal pollutants of concern as identified in the Post Construction Stormwater Quality Policy set forth by the Utilities Director.~~

(d) Permanent protection from soil erosion shall be provided wherever stormwater runoff discharges to a pervious surface, a vegetated stormwater management practice, a buffer area, at the inlets and outlets of stormwater management facilities and the storm drainage system, and at where runoff discharges from the project. Vegetated stabilization alternatives are preferred where appropriate.

Section 3. That section 13.35.040, Requirements for stormwater management plan approval, of The Code of the City of Topeka, Kansas, is hereby renumbered as 13.35.060 and amended to read as follows:

Requirements for stormwater management plan approval.

(a) Final Stormwater Management Plan. No application for subdivision plats or site plans to which this chapter applies shall be approved ~~unless the application includes~~ without the Director's prior approval of a final stormwater management plan

246 ~~detailing in concept how runoff and associated water quality impacts resulting from~~
247 ~~development will be controlled or managed~~which details design compliance with this
248 chapter.

249 (b) Stormwater Management Concept. The director may also require the
250 applicant to submit and secure the director's approval of a stormwater management
251 ~~concept plan shall include the following information~~ to evaluate the environmental
252 characteristics of the project site, the potential impacts of all proposed development of
253 the site, both present and future, on the water resources, and the effectiveness and
254 acceptability of the measures proposed for managing stormwater generated at the
255 project site: This may include a requirement for

256 (1) ~~A map (or maps) indicating the location of existing and proposed~~
257 ~~buildings, roads, parking areas, utilities, structural stormwater management and~~
258 ~~sediment control facilities. The map(s) will also clearly show proposed land use~~
259 ~~with tabulation of the percentage of surface area to be adapted to various uses,~~
260 ~~drainage patterns, locations of utilities, roads and easements, and the limits of~~
261 ~~clearing and grading. A written description of the site plan and justification of~~
262 ~~proposed changes in natural conditions may also be required.~~

263 (2) ~~A plan designed by qualified personnel showing that the proposed~~
264 ~~stormwater management measures are capable of controlling runoff from the site~~
265 ~~in compliance with this chapter and the specifications of the storm drainage~~
266 ~~design criteria.~~

267 (3) ~~A written or graphic inventory of the natural resources at the site~~
268 ~~and surrounding area as it exists prior to the commencement of the project and a~~
269 ~~description of the watershed and its relation to the project site. This description~~

shall address soil conditions, forest cover, topography, wetlands, native vegetative areas on the site, and environmentally sensitive features that provide particular opportunities or constraints for development.

(4) A written description of the individual(s) responsible for maintenance of the proposed plan.

(5) A written description of the maintenance that shall be performed by the responsible party.

(6) The Utilities Director may also require a concept plan to address the maximum development potential of a site under existing zoning, regardless of whether the applicant presently intends to develop the site to its maximum potential.

(c) ~~Final Stormwater Management Plan Requirements.~~ Concept and final stormwater management plans shall be prepared, submitted, and approved in conformance with the City of Topeka Stormwater BMP Design Policy Handbook. ~~After review of the stormwater management concept plan, and modifications to that plan as deemed necessary by the Utilities Director, a final stormwater management plan shall be submitted for approval. The final stormwater management plan, in addition to the information from the concept plan, shall include the following:~~

(1) ~~Contact Information. The name, address, and telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the property or properties affected.~~

(2) ~~Topographic Base Map. A one inch equals 200 feet topographic base map of the site which extends a minimum of 100 feet beyond the limits of the proposed development and indicates existing surface water drainage~~

including streams, ponds, culverts, ditches, and wetlands; current land use including all existing structures; locations of utilities, roads, and easements; and significant natural and manmade features not otherwise shown.

(3) — Calculations. Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in the storm drainage design criteria. Such calculations shall include (i) description of the design storm frequency, intensity and duration, (ii) time of concentration, (iii) soil curve numbers or runoff coefficients, (iv) peak runoff rates and total runoff volumes for each watershed area, (v) infiltration rates, where applicable, (vi) culvert capacities, (vii) flow velocities, (viii) data on the increase in rate and volume of runoff for the design storms referenced in the storm drainage design criteria, and (ix) documentation of sources for all computation methods and field test results.

(4) — Soils Information. If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on the need to determine the suitability and distribution of soil types present at the location of the control measure.

(5) — Maintenance and Repair. The design and planning of all stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued function, as well as the individual(s) responsible for such maintenance. The applicant shall identify the parts or components of a stormwater management facility that need to be maintained and

the equipment, skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included.

(6) — Landscaping. The applicant shall present a detailed plan for management of vegetation at the site after construction is finished, including responsibility for the maintenance of vegetation at the site and the practices employed to ensure that adequate vegetative cover is preserved. These provisions shall be prepared by qualified personnel.

(7) — Easements. The applicant shall provide access to the City for all stormwater treatment facilities or easements at the site for the purpose of inspection and repair by securing all the necessary easements needed on a permanent basis. These easements will be shown on the recorded plat or granted by separate instrument and shall run with the land.

(d) Portions of the stormwater management plan that require hydrologic and hydraulic analysis or design shall be prepared by a professional engineer licensed to practice in the State of Kansas and proficient in the design of stormwater management facilities and storm drainage systems.

(8e) Erosion and Sediment Control Plans for Construction of Stormwater Management Measures. The applicant shall prepare an erosion and sediment control plan or submit a SWPPP for all construction activities related to implementing any on-site stormwater management practices.

(9) — Other Environmental Permits. The applicant shall ensure that all other applicable environmental permits have been acquired for the site prior to approval of the final stormwater design plan.

~~(10) Requirement for Stabilization. Banks of all streams, channels, ditches and other earthen stormwater conveyances shall be left in a stabilized condition upon completion of the new development or redevelopment. No actively eroding, bare or unstable vertical banks shall remain after completion of construction.~~

~~(11) All stormwater facilities and systems, including those designed and constructed for water quality treatment, downstream channel stabilization, and peak discharge control, shall be designed, constructed and maintained in accordance with the criteria, standards, and specifications presented in this chapter, or other professionally accepted manual for stormwater quality management. The standards for water quality treatment, downstream channel stabilization and peak discharge analysis and control shall be achieved through the use of one or more stormwater quality management facilities that are designed and constructed in accordance with the design criteria, guidance, and specifications provided in a professionally accepted manual for stormwater quality or other acceptable professional methods. Methods, designs or technologies for stormwater quality management facilities that are not provided in any stormwater quality manual may be submitted for approval if it is proven that such methods, designs or technologies will meet or exceed the stormwater treatment standards set forth in this chapter.~~

Section 4. That section 13.35.050, Construction inspection, of The Code of the City of Topeka, Kansas, is hereby renumbered as 13.35.080 and amended to read as follows:

Requirements during Construction inspection.

366 (a) Construction of the project shall not deviate from the approved stormwater
367 management plan without the prior written approval from the director. The applicant is
368 responsible for adherence to this requirement by all persons acting on his/her behalf
369 during construction and until issuance of the certificate of occupancy.

370 (ab) The Utilities Director shall have the right to perform inspections ~~during the~~
371 ~~construction of the stormwater management system~~ facilities during project construction
372 to assess construction conformity to the approved stormwater management plan and
373 observe the condition of the facilities throughout construction of the project. The
374 Planning and Development director in his sole discretion, may withhold or revoke
375 issuance of a certificate of occupancy, or may issue a temporary certificate of
376 occupancy, pending satisfactory completion of corrective action(s) for failure to comply
377 with any of the provisions of this section.

378 ~~(b) As-Built Plans. All applicants shall submit actual “as-built” plans for any~~
379 ~~stormwater management practices located on site after final construction is completed.~~
380 ~~The plan shall identify the final design specifications for all stormwater management~~
381 ~~facilities and shall be certified by qualified personnel.~~

382 (c) During clearing, grading, and construction of a project, the following
383 requirements shall apply to green infrastructure stormwater management facilities:

384 (1) Areas where green infrastructure stormwater management facilities
385 will be, or are, located shall be protected from encroachment by heavy
386 equipment, vehicles, and construction materials storage at all times to avoid soil
387 compaction.

388 (i) Said areas shall be cordoned-off with a highly visible barrier,
389 such as orange construction fencing, and shall not be encroached upon or

otherwise disturbed unless they are being established, constructed, restored, or enhanced as provided for in an approved stormwater management plan. Protection measures shall be installed prior to, or if more practical during, clearing and grubbing of the land development.

(ii) Said areas shall be clearly identified on the stormwater management plan, on the SWPPP or erosion and sediment control plan, and on all construction drawings, and marked with the statement "Green Infrastructure Facility. Do not disturb." Temporary protection measures to be used during construction shall be shown on the stormwater management plan.

(2) The use of green infrastructure stormwater management facilities as sediment traps or for any other erosion and sediment control purpose before, during, or after construction, is expressly prohibited. Nor shall construction sediment from any area of the land development be allowed to discharge into, or through, areas where said facilities will be located.

(3) Erosion and sediment control measures installed to protect green infrastructure stormwater management facilities shall not be removed until construction in the stormwater contributing drainage area to the practice is fully completed and after one-hundred percent (100%) of the pervious surfaces in said area are fully vegetated or otherwise permanently stabilized to prevent soil erosion.

(4) Where encroachment, sedimentation, pollution, or other adverse condition is known or suspected as a result of clearing, grading, or construction, the director may require soil infiltration testing, soil amendment, or other

corrective action(s) to confirm or restore infiltration rates in the green infrastructure stormwater management facility to meet design requirements.

(d) Areas proposed for stormwater management facilities that are not green infrastructure may be used as sediment traps or for other soil erosion and sediment control purposes during construction if such use is approved in the SWPPP or erosion and sediment control plan. When such use is approved:

(1) the temporary use of the facility for soil erosion and sediment control shall be clearly noted in the stormwater management plan with detailed information on the sequence and method(s) to be employed to convert the facility from its temporary use to the permanent, post-construction condition indicated by the approved stormwater management plan; and,

(2) the facility shall not be modified to its permanent, post-construction condition as a permanent detention facility until land disturbance activities in the contributing drainage area are fully completed and seventy percent (70%) of the pervious surfaces in said area are fully vegetated or otherwise permanently stabilized to prevent soil erosion.

(e) Individual and collective stormwater drainage systems, stormwater management facilities shall not, at any time, be used for storage of construction or demolition-related chemicals, waste or garbage, either temporarily or permanently.

(f) Once a stormwater management facility is constructed, the applicant is responsible for operating and maintaining it in fully-functional condition pursuant to TMC 13.40 until transfer of ownership.

Section 5. That section 13.35.060, Maintenance and repair of stormwater facilities, of The Code of the City of Topeka, Kansas, is hereby renumbered as

13.35.050 and amended to read as follows:

**Maintenance and repair of stormwater~~General requirements for stormwater~~
management facilities.**

(a) The stormwater quality and quantity performance standards shall be achieved through the selection and design of one or more stormwater management facilities that are designed and constructed in accordance with the criteria, methods, specifications, and technologies presented in this chapter and the City of Topeka Stormwater BMP Design Policy Handbook. Other criteria, methods, specifications or technologies for stormwater management facilities may be submitted for approval if it is proven that they will meet or exceed the stormwater performance standards set forth in this chapter and the City of Topeka Stormwater BMP Design Policy Handbook.

(b) Stormwater management facilities for privately-owned land developments shall not be located in public rights-of-way or on public property without approval by the director.

(c) Stormwater management facilities, whether public or private, shall not be located within the critical zone (500 feet of centerline) of a flood control levee.

~~(ad) Stormwater Management Easement. Prior to the approval of subdivision or site plan applications pertaining to land development activities described in TMC 13.35.010(a), t~~
(a) The owner of the site shall provide project shall secure all the necessary easements on a permanent basis, including a stormwater management easement for every stormwater management facility included in the project design. The stormwater management easement shall provide for access to the facility at reasonable times for periodic inspection by the City, or its contractor or agent, and shall require the property owner to ensure that the facility is maintained in proper working condition to meet

design standards and any other provisions established by this chapter. ~~The stormwater management~~All easements shall be shown on the recorded plat or granted by separate, recorded instrument and shall run with the land until they are lawfully released.

~~(b) — Inspection of Stormwater Facilities. The Utilities Director shall have the ability to conduct inspections of the stormwater facilities. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater treatment practices.~~

~~(c) — Failure to Maintain Practices. If a responsible party fails or refuses to meet the requirements set forth in the stormwater management plan, the City, after reasonable notice, may pursue enforcement of the plan or the provisions of this chapter.~~

(e) Stormwater management facilities shall not be designed to include, or imply support for, the prohibited conditions for stormwater management facilities established in TMC 13.40.040.

(f) The director may require reselection, relocation, or redesign of stormwater management facilities and detention facilities proposed to comply with this chapter if the director deems them unfeasible for the hydrologic or hydraulic setting or impractical for property owner operation and maintenance.

(g) Onsite tests to determine soil infiltration, permeability, or capacity for purposes of designing infiltration-based stormwater management practices shall be performed by a soil scientist, geologist, or geotechnical engineer licensed to practice as a professional in the State of Kansas.

Section 6. That the Code of the City of Topeka, Kansas, is hereby amended

by adding a section, to be numbered 13.35.030, which said section reads as follows:

Additional or increased performance standards.

(a) The director may require adherence to additional or increased performance standards for stormwater management at any project that will:

(1) discharge stormwater runoff to an impacted waterbody; or

(2) discharge stormwater runoff to a downstream stormwater drainage system that may not be able to safely control or could be damaged by the stormwater runoff from the project; or

(3) be located in, or will discharge stormwater runoff to, an area or stream having an engineering study which indicates a greater need for control of stormwater runoff in order to alleviate or avoid waterway pollution, erosion, flood, or drainage problems.

(4) be located in, or discharge stormwater runoff to, an area or waterbody where erosion, flooding, or stormwater drainage problems are known to exist, whether said problems are documented or not, and where the director has reason to believe the project, once constructed, may further exacerbate such problems.

(5) discharge stormwater runoff to a waterbody that is identified by the State of Kansas as Outstanding National Resource Waters (ONRW).

(6) be located on an existing brownfield or on a property known to have existing pollutants in the soil or on the ground that, if discharged from the property in stormwater runoff or groundwater, may cause harm to the general public or the environment.

(7) have a higher potential for pollutants to be exposed to rainfall or

510 stormwater runoff, once construction is completed.

511 Section 7. That the Code of the City of Topeka, Kansas, is hereby amended
512 by adding a section, to be numbered 13.35.070, which said section reads as follows:

513 **Amendment of an approved stormwater management plan.**

514 (a) An approved final stormwater management plan shall not be amended
515 without prior written notification and written approval of the alteration by the Director. A
516 written plan amendment shall be required. In the event of substantial amendments, the
517 Director may require submittal of a revised stormwater management plan.

518 (b) If the proposed specifications of the project change after approval of the
519 final stormwater management plan, the applicant shall notify the director immediately.
520 The director may require cessation of all, or a portion of, construction, and/or
521 resubmittal and approval of a revised stormwater management plan, or appropriate
522 portions thereof. Such proposed conditions include, but are not limited to, the intended
523 land use, impervious surfaces layout and surface areas, extents of clearing and grading,
524 and the selection, location, or design of stormwater management facilities.

525 (c) Approval of a stormwater management plan shall not prevent the director
526 from thereafter requiring the correction of errors or revisions to the plan due to
527 unforeseen geologic, hydrologic, hydraulic, or construction-related conditions
528 encountered after plan approval.

529 (d) When revision of an approved stormwater management plan is required,
530 the director may also require the cessation of all, or a portion of, land disturbance or
531 construction activities pending his/her approval of a revised plan.

532 Section 8. That the Code of the City of Topeka, Kansas, is hereby amended
533 by adding a section, to be numbered 13.35.090, which said section reads as follows:

Requirements at construction termination.

(a) Upon completion of construction, stormwater management facilities and onsite drainage system shall be clean, free of sediment, trash, and debris, undamaged, and operating at fully functional design capacity as indicated in the approved stormwater management plan.

(b) Requirement for stabilization. Banks of all streams, channels, ditches and other earthen stormwater conveyances shall be left in a stabilized condition upon completion of the new development or redevelopment. No actively eroding, bare or unstable vertical banks shall remain after completion of construction.

(c) Stormwater BMP Record Drawing. All applicants shall submit a stormwater BMP record drawing for any stormwater management facilities located on site after final construction is completed. The drawing shall fully and accurately show the constructed condition of all the stormwater management facilities at the project, including but not limited to, facility location, type, grading, capacity, dimensional and material specifications of required major components and appurtenances, geotechnical conditions, vegetation types and location, flow direction, and relevant easement boundaries. Verification of design parameters, such as infiltration rate, may also be required as appropriate for the facility type.

(1) The drawing shall be prepared by a professional engineer, landscape architect, or registered land surveyor licensed or registered to practice in the State of Kansas, in accordance with requirements established in the City of Topeka Stormwater BMP Design Policy Handbook.

(2) The drawing shall be prepared after all stormwater management facilities used during construction as temporary sediment traps or for other soil

erosion and sediment control purposes are modified to, and functioning in, their permanent, post-construction condition in keeping with the approved stormwater management plan.

(3) The drawing shall be signed by the owner and recorded by the Shawnee County Register of Deeds as a covenant running with the land.

(4) The drawing may be reviewed by the director to evaluate conformance of the construction stormwater management facilities with their approved designs as shown in the approved stormwater management plan. If any constructed facility is determined to deviate from approved design, the director may require:

(i) corrective actions to bring the deviant facility into conformance with the design shown in the approved final stormwater management plan; and/or

(ii) engineering study to demonstrate that the constructed condition of the deviant facility meets or exceeds the requirements of this chapter and the City of Topeka Stormwater BMP Design Policy Handbook; and/or

(iii) preparation and approval of an amended stormwater management plan, as-built plan, or operation and maintenance plan or portions of these plans as necessary to ensure all project documentation are consistent with the actual conditions of the constructed project and its stormwater management facilities; and/or

(iv) re-recording of the revised drawing or easements as necessary to ensure all legal instruments are consistent and accurate with the actual

581 conditions of the constructed project and its stormwater management
582 facilities.

583 (5) Modification or release of the recorded covenant that
584 encompasses a stormwater management facility may be allowed if the facility
585 encompassed by the covenant:

586 (i) will be, or has been, removed or relocated due to lawful
587 redevelopment of a portion, or all, of the property; or

588 (ii) will be, or has been, lawfully altered or relocated such that the
589 drawing no longer reflects the actual type, condition, or location of
590 facility(s) located on the property; or

591 (iii) will be, or are, no longer needed due to lawful construction of
592 one or more alternate stormwater facilities, either on or off the property,
593 that will, or do, manage the stormwater runoff handled by the facility
594 encompassed under the covenant.

595 (d) Final inspection. After approval of the stormwater BMP record drawing,
596 the director may perform a final inspection of the constructed stormwater management
597 facilities and drainage system to assess conformity of the drawing to the actual
598 condition of stormwater management facilities and onsite drainage system, and to
599 evaluate compliance with TMC 13.35.100(a) and (b). The director may, alone or in
600 addition to other enforcement actions authorized by TMC 13.15, request the Planning
601 Director, in his sole discretion, to withhold issuance of a certificate of occupancy, to
602 grant a temporary certificate of occupancy or revoke an existing certificate of
603 occupancy pending satisfactory completion of corrective action(s) for failure to comply
604 with any of the provisions of this section.

605 Section 9. That the Code of the City of Topeka, Kansas, is hereby amended
606 by adding Chapter 13.40, titled "MAINTENANCE OF STORMWATER MANAGEMENT
607 FACILITIES."

608 Section 10. That the Code of the City of Topeka, Kansas, is hereby amended
609 by adding a section, to be numbered 13.40.010, which said section reads as follows:

610 **Purpose and intent.**

611 The purpose of this chapter is to:

612 (a) Prevent the introduction of pollutants into the municipal stormwater system
613 which will interfere with the operation of the system;

614 (b) Prevent the introduction of pollutants into the municipal stormwater system
615 which will pass through the system, inadequately treated, into receiving waters;

616 (c) Prevent erosion and flooding of public and private properties caused by
617 uncontrolled stormwater runoff;

618 (d) Enable the utilities department to ensure compliance with any stormwater
619 applicable permits, and meet water quality requirements and other stormwater
620 discharge criteria which are required by state and federal law; and

621 (e) Provide for the establishment of penalties for violation of this chapter.

622 Section 11. That the Code of the City of Topeka, Kansas, is hereby amended
623 by adding a section, to be numbered 13.40.020, which said section reads as follows:

624 **Referenced standards.**

625 (a) The City of Topeka Property Owner's Guide to Stormwater BMP
626 Maintenance referenced in TMC 13.40 shall be considered an integral part of this
627 chapter without separate adoption. Where provisions of this chapter conflict with the
628 handbook, the chapter shall control. Permissive and advisory provisions in the

629 handbook shall not be construed as mandatory.

630 (b) Within the referenced handbook, the director may allow administrative
631 variations to requirements and guidance stated provided such variations do not result in
632 a reduction or elimination of stormwater performance criteria for any stormwater
633 management facility.

634 Section 12. That the Code of the City of Topeka, Kansas, is hereby amended
635 by adding a section, to be numbered 13.40.030, which said section reads as follows:

636 **Applicability.**

637 This chapter shall apply to all Property Owners who have one or more
638 stormwater management facilities on their property that were designed and constructed
639 or installed as a result of City of Topeka stormwater requirements.

640 Section 13. That the Code of the City of Topeka, Kansas, is hereby amended
641 by adding a section, to be numbered 13.40.040, which said section reads as follows:

642 **Prohibitions.**

643 The following uses, activities, encroachments, and conditions are prohibited in
644 stormwater management facilities.

645 (a) Willful alteration or relocation of a facility from its approved design or
646 constructed condition or location as indicated by the stormwater BMP record drawing
647 which is recorded as a covenant on the property, or, in the absence of said drawing, by
648 the approved stormwater management plan, drainage report, or plat for the property,
649 when such alteration or relocation occurs without prior written approval by the director.

650 (b) Spraying, filling, and dumping of any material or waste, including the land
651 application of bio-solids or animal waste, unless such activity is a result of an
652 emergency.

653 (c) Storage for commercial or industrial land uses, including but not limited to
654 storage of vehicles, equipment, materials, pesticides, herbicides, fertilizers, or
655 household or commercially-generated wastes.

656 (d) Disposal of sewage, on-site sewage disposal and treatment systems
657 (septic systems), whether underground or raised, or subsurface discharges from a
658 wastewater treatment plant.

659 (e) Use as a waste storage area, whether temporary or permanent, or a
660 landfill of any type, including, but not limited to, demolition, permitted and closed-in
661 place landfills, and household garbage pits.

662 (f) Abandoned, closed or active junkyards or other similar waste fields.

663 (g) Vehicle trafficways, driveways or temporary parking, unless the
664 stormwater management facility has been designed for the dual purposes of stormwater
665 management and vehicle parking (e.g., permeable pavement).

666 (h) Storage, whether temporary or permanent, of motorized vehicles or
667 equipment awaiting or undergoing repair, or of such vehicles or equipment that are
668 unmaintained or infrequently used.

669 (i) Farms, feedlots, confined animal feed operations, animal pastures,
670 concentrated animal lots, dog parks or outdoor animal play/relief areas for animal care
671 facilities, kennels, and commercial/business developments or facilities that provide
672 short-term or long-term care of animals.

673 (j) Gardens installed solely for the cultivation of plants, fruits, or vegetables
674 that do not meet the design requirements for a bioretention area (rain garden),
675 orchards, crops or greenhouses, whether associated with a farm, commercial business
676 or residence.

(k) Installation of impervious surfaces, except when such surfaces are included in the approved design, or are necessary for a stream crossing or other condition having the approval of the director.

(l) Other land uses or activities deemed by the director to have the potential to:

(1) generate pollutant loadings that may be harmful to the health of the vegetation or soil in the practice or to the health of onsite or downstream water body(s); or

(2) modify the function of the facility as designed and constructed for the management of stormwater to prevent pollution; downstream channel erosion; and/or flooding, unless said modification is authorized in writing by the Director.

Section 14. That the Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 13.40.050, which said section reads as follows:

Property Owner responsibilities.

(a) The Property Owner has the obligation to, at all times, operate and maintain all stormwater management facilities located on their property in their fully functional condition as designed and constructed. Property Owner responsibilities include, but may not be limited to, the following:

(1) protecting facilities from damage, alterations, and unwarranted encroachments; and

(2) preventing the prohibited conditions identified in TMC 13.40.040; and

(3) maintaining unimpeded access to each facility from a public

roadway for purposes of inspection and maintenance by the Property Owner and his or her agent or contractor and for inspection by the City. A stormwater management easement and an entry access easement may be recorded for this purpose; and

(4) inspecting and maintaining facilities in accordance with the requirements of this chapter and the City of Topeka Property Owner's Guide to Stormwater BMP Maintenance.

(b) For stormwater management facilities designed and constructed after January 1, 2021, the locations, types, designs, and construction of facilities on the property will be shown in property's stormwater BMP record drawing, which is recorded by the Shawnee County Register of Deeds as a covenant running with the land. For facilities designed and constructed prior to January 1, 2021, the location and design or construction of the facilities may be shown in the construction record drawing, drainage report, stormwater management plan, and/or recorded plat. In the event this information cannot be obtained, the intended design and function of the facility shall be ascertained by the director.

(c) The Property Owner shall periodically inspect all stormwater management facilities located on his or her property to identify maintenance needs, determine if the facility protective measures remain effective, check for prohibited conditions, facility damage, unwarranted encroachments and signs of poor function, and begin preparations for necessary routine maintenance and/or repair activities. Inspections shall be performed as follows.

(1) Routine inspections. All stormwater management facilities shall be regularly inspected to evaluate facility function and determine needs for facility

maintenance. Regular inspections must be performed often, such as monthly or when property landscape maintenance is performed and after storm or snow events. Guidance for routine inspection and maintenance of facilities is provided in the City of Topeka Property Owner's Guide to Stormwater BMP Maintenance. Documentation of routine inspections is not required.

(2) Two-year inspections. Comprehensive inspection of all stormwater management facilities shall be performed and documented once every two years, in accordance with the requirements established in the City of Topeka Property Owner's Guide to Stormwater BMP Maintenance. Property Owners shall retain documentation of two-year inspections for no less than six years.

(3) Professional inspection. Once in every six year period, the biennial inspection shall be conducted and documented by either a professional engineer or landscape architect licensed to practice in the State of Kansas.

(d) Property Owners may authorize others to perform maintenance and inspection activities for their stormwater management facilities, however the Property Owner(s) remain responsible for ensuring required activities are performed as necessary to meet the requirements of this chapter.

Section 15. That the Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 13.40.060, which said section reads as follows:

Inspection by the city.

Inspection of stormwater management facilities. Property Owners shall allow the director, or his/her duly authorized contractor or agent, to access to the facility at reasonable times for periodic inspection to determine if the facility is inspected and maintained in conformance with this chapter. The director's inspections may include but

are not limited to: review of inspection documentation; review of maintenance and repair records; in-field testing of soil, materials, or water in the facility; collection of samples of soil, materials, and/or water in the facility; and evaluation of the condition of the facility in comparison to the approved stormwater management plan and/or as-built plan.

Section 16. That section 17.10.020, Definitions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Definitions.

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

“Active channel” means the area of the stream channel that is subject to frequent flows and that includes the portion of the channel below where the floodplain flattens.

“Best management practices (BMPs)” means conservation practices or management measures which control flooding, erosion and soil loss, and reduce water quality degradation caused by nutrients, animal wastes, toxins, sediment, and runoff.

“Buffer” means a vegetated area, including trees, shrubs, and herbaceous vegetation, which exists or is established to protect a stream system, lake, or reservoir.

“Development” means:

- (1) The improvement of property for any purpose involving building; or
- (2) The division or subdivision of a tract or parcel of land into two or more parcels; or
- (3) The combining of any two or more lots, tracts, or parcels of property for any purpose; or
- (4) The preparation of land for any of the above purposes; or

(5) The clearing of trees and vegetation and/or excavation or earthwork on a tract or parcel of land.

“GIS-Based Stream Buffer Shapefiles for the City of Topeka” means a shapefile developed using hydraulic modeling results and site-specific characteristics to determine the magnitude of stream setback limits using a process that evaluates the overall risk along the stream, direction of flow, and minimum bank offset. The science-based stream buffer highlights areas where bank failure is more likely to occur and where additional setback measures are needed to protect the integrity of the stream channel. This file shall be used to determine the stream buffer width for the Outer Area.

“Levee” means a manmade structure to control, divert, and contain stormwater runoff and flood flows.

“Native Vegetation” means vegetation comprised of plant species that are indigenous to the area in question.

“Nonpoint source pollution” means pollution which is generated by various land use activities rather than from an identifiable or discrete source and is conveyed to waterways through natural processes such as rainfall, storm runoff, or ground water seepage rather than direct discharge.

~~“One-hundred-year floodplain” means the area of land adjacent to a stream that is subject to inundation during a storm event that has a recurrence interval of 100 years.~~

“Pollution” means any contamination or alteration of the physical, chemical, or biological properties of any waters that will render the waters harmful or detrimental to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, livestock, wild animals, birds, fish or other aquatic life.

“Streams” means perennial and intermittent watercourses identified through site

inspection, drainage study, or United States Geological Survey (USGS) maps and further defined and categorized as follows:

(1) "Type I streams" are defined as perennial streams shown as solid blue lines on a United States Geological Survey seven and one-half-minute series topographical map. ~~The total required buffer width is 100 feet on each side perpendicular to the waterway measured from the outer wet edge of the channel during base flows.~~

(2) "Type II streams" are defined as intermittent streams shown as a dashed blue lines on a United States Geological Survey seven and one-half-minute series topographical map. ~~The total required buffer width is 50 feet on each side perpendicular to the waterway measured from the centerline of the channel.~~

(3) "Type III streams" are defined as waterways or dry channels that have a contributing drainage area of ~~50~~40 acres or greater. ~~The total required buffer width is 30 feet on each side perpendicular to the waterway measured from centerline of waterway.~~

"Water pollution hazard" means a land use or activity that causes a relatively high risk of potential water pollution.

"Waterways" means natural or manmade lakes, channels, rivers, streams, and creeks, which store and/or convey stormwater runoff.

"Wetlands" means those areas not influenced by tidal fluctuations which are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Section 17. That section 17.10.040, Plan requirements, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Plan requirements.

(a) A buffer plan approved by the Director of the ~~Public Works Department~~Utilities or designee is required for all development within the buffer zone as defined herein.

(b) The buffer plan shall contain an informative, conceptual, and schematic representation of the proposed development activity by means of maps, graphs, charts, or other written or drawn documents so as to enable an informed decision regarding the proposed development activity.

(c) The buffer plan shall contain the following specific information:

(1) A location or vicinity map to include maximum two-foot contour intervals and scale of no greater than one inch equals 100 feet.

(2) Field delineated streams, springs, seeps, bodies of water, wetlands, forested and open areas, and waterway buffer zones.

~~(3) Limits of the ultimate 100-year floodplain as shown in the most accurate information available as determined by the City's Public Works Department. FEMA maps and stormwater basin studies will be used to determine accuracy.~~
All buffer areas shall be in a Stream Buffer Easement.

(d) A buffer plan shall be submitted in conjunction with the required grading plan for any development, and the buffer ~~should~~zone identifying both the streamside area and outer area shall be clearly delineated on the final grading plan.

(e) Boundary markers ~~will~~shall be installed by the applicant prior to commencing clearing and grading operations. Markers ~~will~~shall be placed at the outside edge of the buffer zone prior to the start of any activity adjacent to the buffer zone. Markers shall be clearly visible and shall be spaced at a maximum of 100 feet. The markers shall be joined by marking tape or fencing.

845 Section 18. That section 17.10.050, Design standards for buffers, of The Code
846 of the City of Topeka, Kansas, is hereby amended to read as follows:

847 **Design standards for buffers.**

848 (a) A buffer for a stream system shall consist of a strip of land extending
849 along both sides of a stream and its adjacent wetlands, ~~floodplains,~~ or slopes. The
850 ~~buffer width shall be adjusted to include contiguous sensitive areas, such as steep~~
851 ~~slopes or erodible soils, where development or disturbance may adversely affect water~~
852 ~~quality, streams, wetlands, or other water bodies.~~

853 (b) The streamside area portion of the buffer shall begin at the edge of the waterway
854 for type I and at the centerline of the channel for type II and type III ~~waterways~~streams.
855 The edge of the waterway is the outer wet edge of the channel during base flow or
856 where the edge of vegetation occurs. The buffer shall be composed of two distinct
857 areas: streamside area and outer area. The outer area widths are defined by the GIS
858 Based Stream Buffer Shapefile for the City of Topeka. The GIS Based Stream Buffer
859 Shapefile is located on the City's Utilities Exploration Map. As an alternative to using
860 the GIS Based Stream Buffer Shapefile for the Outer Area extent, an analysis may be
861 done using the procedure outlined in Section 5605.5- Stream Assessment of the
862 Kansas City Metropolitan Chapter of the American Public Works Association's Standard
863 Specifications and Design Criteria (APWA) Section 5600 *Storm Drainage Systems and*
864 *Facilities* to justify use of a different Outer Area extent. A rating of 12 or below when
865 using the Channel Condition Scoring Matrix is considered acceptable. A rating between
866 12 and 18 may be acceptable if engineering justification is provided to verify adequate
867 protection of the channel. A rating greater than 18 does not support a change from the

GIS Based Stream Buffer. The streamside area widths are defined in the following table. Each area has allowable uses and vegetative targets as follows:

WATERWAY BUFFERS

	<u>STREAMSIDE AREA</u>			<u>OUTER AREA</u>		
	<u>TYPE I</u>	<u>TYPE II</u>	<u>TYPE III</u>	<u>TYPE I</u>	<u>TYPE II</u>	<u>TYPE III</u>
<u>Width</u>	<u>50 feet</u>	<u>25 feet</u>	<u>15 feet</u>	<u>Determined by the GIS-Based Stream Buffer Shapefiles for the City of Topeka.</u>		
<u>Vegetation</u>	<u>Native vegetation.</u>			<u>Native vegetation or managed lawn (type II or III).</u>		
<u>Uses</u>	<u>Steambank stabilization, flood control, utility corridors.</u>			<u>Biking/hiking paths, flood control, detention/retention structure, utility corridors, stormwater BMPs, residential yards, landscape areas.</u>		
	<u>Unpaved foot paths, road crossings.</u>					
<u>Function</u>	<u>Protect the physical and ecological integrity of the stream ecosystem.</u>			<u>Protect key components of the stream and filter and slow velocity of water runoff.</u>		

(c) ~~The specific width for all buffers (i.e., the base width) is relative to the type of waterway being protected with the~~subject to an expansion ~~requirement to expand the buffer depending on~~wetlands or critical areas.:

~~(1) One hundred year floodplain;~~

~~(2) Wetlands or critical areas.~~

~~Type I waterway buffer widths shall be modified if there are steep slopes adjacent to the waterway that drain into the system. Specific adjustments are as follows:~~

Percent Slope	Width—Adjustment to Buffer
--------------------------	---------------------------------------

Percent Slope	Width—Adjustment to Buffer
0 to 14%	No change
15% to 25%	Add 25 feet
Greater than 25%	Add 50 feet

(d) *Water Pollution Hazards.* The following land uses and/or activities are designated as potential water pollution hazards and must be set back from any stream or water body by the distance indicated below:

- (1) Storage and use of hazardous substances: 300 feet;
- (2) Above- or below-ground petroleum storage facilities: 300 feet;
- (3) Drainfields from on-site sewage disposal and treatment system: 200 feet;
- (4) Raised septic systems: 500 feet;
- (5) Solid waste landfills or junkyards: 600 feet;
- (6) Confined animal feedlot operations: 500 feet.

~~(e) The buffer shall be composed of two distinct areas: streamside area and outer area. Each area has allowable uses and vegetative targets as follows:~~

WATERWAY BUFFERS

	STREAMSIDE AREA			OUTER AREA		
	TYPE I	TYPE II	TYPE III	TYPE I	TYPE II	TYPE III
Width	50 feet	25 feet	15 feet	50 feet	25 feet	15 feet
Vegetation	Native vegetation.			Native vegetation or managed lawn (type II or III).		
Uses	Flood control, utility corridors.			Biking/hiking paths, flood control,		

	STREAMSIDE AREA			OUTER AREA		
	TYPE I	TYPE II	TYPE III	TYPE I	TYPE II	TYPE III
	Foot paths, road crossings.			detention/retention structure, utility corridors, stormwater BMPs, residential yards, landscape areas.		
Function	Protect the physical and ecological integrity of the stream ecosystem.			Protect key components of the stream and filter and slow velocity of water runoff.		

Section 19. That section 17.10.060, Buffer establishment, management, and maintenance, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Buffer establishment, management, and maintenance.

(a) The buffer, including wetlands and floodplains, shall be managed to enhance and maximize the unique value of these resources. Management includes specific limitations on alteration of the natural conditions of these resources. The following practices and activities are prohibited within the buffer, except with written approval by the Director of the ~~Public Works Department~~ Utilities or designee.

(1) Clearing of existing vegetation; provided, however, this prohibition shall not prevent a property owner from trimming or cutting overgrown vegetation, removing dead vegetation or replacing vegetation.

(2) Grading, stripping, or other soil-disturbing practices.

(3) Filling or dumping.

(4) Draining the buffer area by ditching, underdrains, or other systems.

(5) Use, storage, or application of pesticides, except for the spot spraying

of noxious weeds or nonnative species consistent with recommendations of the Shawnee County Soil Conservation District.

(6) Housing, grazing, or other maintenance of livestock.

(7) Storage or operation of motorized vehicles, except for maintenance and emergency use.

(b) The following structures, practices, and activities are permitted in the buffer, with specific design or maintenance features, subject to the review of the Director of ~~the Department of Public Works of the City~~ Utilities or designee.

(1) ~~Roads~~, Pedestrian bridges, foot paths, and utilities.

(2) Stream restoration projects, facilities and activities are permitted within the ~~forest~~ buffer.

(3) Water quality monitoring and stream gauging reading are permitted within the buffer.

(4) Individual trees within the buffer may be removed with prior approval from the ~~Water Pollution Control Division~~ Director of Utilities.

(c) Fences constructed within the buffer zone must be of an open, split rail or wood plank type design. Metal fencing may be added but only as an attachment to an acceptable wood fence design. Added metal fencing may not exceed the height of the wood fence. Screening material of any kind is prohibited. ~~No fencing of any kind may extend into the 100-year floodplain area.~~

(d) Stream Buffer Easement: The owner of the project shall secure all the necessary easements on a permanent basis, including a stream buffer easement for the stream buffer area included in the project design. The stream buffer easement shall provide for access to the buffer at reasonable times for periodic inspection by the city, or

its contractor or agent and shall require the property owner to ensure that the stream buffer is maintained in proper working condition to meet design standards and any other provisions established by this chapter. All easements shall be shown on the recorded plat granted by separate, recorded instrument and shall run with the land until they are lawfully released.

Section 20. That section 17.10.070, Enforcement procedures, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Enforcement procedures.

(a) The Director of ~~the Department of Public Works~~Utilities or designee is authorized and empowered to enforce the requirements of this chapter in accordance with the procedures of this section.

(b) If, upon inspection or investigation, the Director or his/her designee is of the opinion that any person has violated any provision of this chapter, he/she shall with reasonable promptness issue a correction notice to the person. Each such notice shall be in writing and shall describe the nature of the violation, including a reference to the provision within this chapter which has been violated. In addition, the notice shall set a reasonable time for the abatement and correction of the violation. Failure to abate or correct the violation or seek a waiver or variance, as may be applicable, will render the person ineligible for future building permits or for City approvals until such time as the violation is abated, corrected or resolved by waiver or violation as may be applicable.

(c) Any person who violates any provision of this chapter may be liable for any costs or expenses incurred as a result thereof by the City.

Section 21. That section 17.10.080, Waivers - Variances, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Waviers – Variances.

(a) The Director of ~~Public Works~~Utilities or designee may grant a waiver for any of the following:

(1) Those projects or activities serving a public need where no feasible alternative is available.

(2) The repair and maintenance of public improvements where avoidance and minimization of adverse impacts to wetlands and associated aquatic ecosystems have been addressed.

(3) Those developments which have had buffers applied in conformance with previously issued requirements.

(4) Those developments that are redeveloping parcel(s) that are predominately impervious to maintain that impervious area.

(b) Variances for development may be granted if deemed appropriate by the Director of ~~Public Works~~Utilities or designee: Subject to Planning and Development Director approval, additional density elsewhere on the site may be allowed to counterbalance in the loss of developable land due to the requirements of this chapter.

~~(1) The buffer width of a type I, II, or III stream may be reduced and the buffer permitted to become narrower at some points as long as the average width of the buffer meets the minimum requirement. This averaging of the buffer may be used to allow for the presence of an existing structure or to recover a lost lot, as long as the streamside area is not disturbed by the narrowing, and no new structure is built within the 100-year floodplain.~~

~~(2) Subject to Topeka Planning Commission approval, additional density elsewhere on the site may be allowed to counterbalance in the loss of~~

developable land due to the requirements of this chapter.

(c) The applicant shall submit a written request for a waiver or variance to the Director of ~~Public Works~~Utilities or designee. The application shall include specific reasons justifying the variance and any other information necessary to evaluate the proposed variance request. The Director of ~~Public Works~~Utilities may require an alternatives analysis that clearly demonstrates that no other feasible alternatives exist and that minimal impact will occur as a result of the project or development. At a minimum, a variance or waiver request shall include the following information:

(1) A site map that includes locations of all streams, wetlands, and other natural features, as determined by field survey;

(2) A description of the shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;

(3) A detailed site plan that shows the locations of all existing and proposed structures and other impervious cover, the limits of all existing and proposed land disturbance, both inside and outside the buffer area. The exact area of the buffer to be affected shall be accurately and clearly indicated;

(4) Documentation of unusual hardship should the buffer be maintained;

(5) At least one alternative plan, which does not include a buffer or setback intrusion, or an explanation of why such a site plan is not possible;

(6) A calculation of the total area and length of the proposed intrusion;
and

(7) Proposed mitigation, if any, for the intrusion. If no mitigation is proposed, the request must include an explanation of why none is being proposed.

(d) In granting a request for a waiver or variance, the Director of ~~Public Works~~Utilities may require site design, landscape planting, fencing, the placement of signs, and the establishment of water quality best management practices in order to reduce adverse impacts on water quality, streams, wetlands, and floodplains.

Section 22. That section 17.30.040, Findings of fact, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Findings of fact.

(a) Flood Losses Resulting from Periodic Inundation. The special flood hazard areas of the City are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the public health, safety and general welfare.

(b) General Causes of the Flood Losses. Flood losses are caused by the cumulative effect of development in any delineated floodplain causing increases in flood heights and velocities; and the occupancy of flood hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.

(c) Methods Used to Analyze Flood Hazards. The flood insurance study (FIS) that is the basis of this chapter uses a standard engineering method of analyzing flood hazards, which consist of a series of interrelated steps.

(1) Selection of a base flood that is based upon engineering

calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for this chapter is representative of large floods, which are characteristic of what can be expected to occur on the particular streams subject to this chapter. The base flood is the flood that is estimated to have a one percent chance of being equaled or exceeded in any one year as delineated on the current effective Federal Insurance Administrator's FIS, and illustrative materials ~~dated September 29, 2011, as amended,~~documented in the Interior Drainage Area Maps of the Topeka Levee Certification package, and any future revisions thereto.

(2) Calculation of water surface profiles that are based on a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.

(3) Computation of a floodway required to convey this flood without increasing flood heights more than one foot at any point.

(4) Delineation of floodway encroachment lines within which no development is permitted that would cause any increase in flood height.

(5) Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines, but still subject to inundation by the base flood.

Section 23. That section 17.30.070, Lands to which this chapter applies, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Lands to which this chapter applies.

(a) This chapter shall apply to all lands within the jurisdiction of the City of Topeka, Kansas, identified as numbered and unnumbered A Zones, AE, AO, and AH

1050 zones, on ~~the index map dated September 29, 2011, of the Flood Insurance Rate~~
1051 ~~Map (FIRM) panels released on the associated FIRM Index dated September 29,~~
1052 ~~2011, as amended, and any future revisions thereto; and the flood insurance study (FIS)~~
1053 ~~designated AH zones illustrated as interior drainage area floodplains (or levee ponding~~
1054 ~~areas) in the Interior Drainage Area Maps of the Topeka Levee Certification package or~~
1055 ~~any other work map areas designated by the City of Topeka that can be considered~~
1056 ~~best available data.~~ In all areas covered by this chapter, no development shall be
1057 permitted except through the issuance of a floodplain development permit, granted by
1058 the City ~~Council or its duly designated representative~~ Manager or designee under such
1059 safeguards and restrictions as ~~the City Council or its designated representative may~~
1060 ~~reasonably impose~~ are necessary for the promotion and maintenance of the general
1061 welfare, health of the inhabitants of the community, and as specifically noted in Article III
1062 of this chapter.

1063 (b) In addition, this chapter shall also apply to those lands which, based on
1064 the most accurate information available to the Development Services Director, fall within
1065 the ultimate 100-year floodplain.

1066 Section 24. That section 17.30.160, Application, of The Code of the City of
1067 Topeka, Kansas, is hereby amended to read as follows:

1068 **Application.**

1069 To obtain a floodplain development permit, the applicant shall first file an
1070 application in writing on a form furnished for that purpose. Every floodplain development
1071 permit application shall:

1072 (a) Describe the land on which the proposed work is to be done by lot, block
1073 and tract, house and street address, or similar description that will readily identify and

specifically locate the proposed structure or work;

(b) Identify and describe the work to be covered by the floodplain development permit;

(c) Indicate the use or occupancy for which the proposed work is intended;

(d) Indicate the assessed value of the structure and the fair market value of the improvement;

(e) Specify whether development is located in designated flood fringe or floodway;

(f) Specify whether development is located in a designated Zone AH floodplain or levee ponding area as designated by the City of Topeka;

~~(fg)~~ Identify the existing base flood elevation and the elevation of the proposed development;

~~(gh)~~ Give such other information as reasonably may be required by the Floodplain Administrator;

~~(hi)~~ Be accompanied by plans and specifications for proposed construction; and

~~(ij)~~ Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.

Section 25. That section 17.30.180, General standards, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

General standards.

(a) No permit for floodplain development shall be granted for new construction, substantial improvements, and other improvements, including the

1097 placement of manufactured homes, within any numbered or unnumbered A, AE, AO,
1098 and AH zones, unless the conditions of this article are satisfied.

1099 (b) All areas identified as unnumbered A zones on the FIRM are subject to
1100 inundation of the 100-year flood; however, the base flood elevation is not provided.
1101 Development within unnumbered A zones is subject to all provisions of this chapter. If
1102 flood insurance study data is not available, the Floodplain Administrator shall obtain,
1103 review, and reasonably utilize any base flood elevation or floodway data currently
1104 available from Federal, State, or other sources.

1105 (c) Until a floodway is designated, no new construction, substantial
1106 improvements, or other development that exceeds 5,000 square feet of impervious
1107 surface or is part of a larger common plan of development that exceeds 5,000 square
1108 feet of impervious surface, including fill, shall be permitted within any unnumbered or
1109 numbered A zones, AH zones or AE zones on the FIRM, unless it is demonstrated that
1110 the cumulative effect of the proposed development, when combined with all other
1111 existing and anticipated development, will not increase the water surface elevation of
1112 the base flood more than one foot at any point within the community, will not exceed the
1113 lowest adjacent grade of the lowest impacted habitable structure, and will not exceed
1114 the current water surface elevation at the location of a habitable structure currently
1115 impacted by the floodplain.

1116 (d) No new construction, substantial improvements or other development,
1117 including fill, shall be permitted within a designated Zone AH floodplain or levee ponding
1118 area designated by the City of Topeka unless it is demonstrated that all fill in the Zone
1119 AH/ponding area is offset by compensating cut to negate volume losses, with the

compensatory storage being frequency/stage based for the 2yr, 10yr, 25yr, 50yr, and 100yr events.

(e) No new construction, substantial improvements or other development that exceeds 5,000 square feet of impervious surface or is part of a larger common plan of development that exceeds 5,000 square feet of impervious surface, including fill, shall be permitted within a Zone AE floodplain fringe zone on the FIRM, unless it is demonstrated that the water surface elevation will not exceed the lowest adjacent grade of the lowest impacted habitable structure, and will not exceed the current water surface elevation at the location of a habitable structure currently impacted by the floodplain.

(f) No new construction, substantial improvements or other development, including fill, resulting in alternations to a stream that has a drainage area greater than 640 acres (1 square mile) shall be permitted without KDA-DWR approval for the stream change, unless the change is specifically exempt from the KDA-DWR regulations.

(dg) All new construction, subdivision proposals, substantial improvements, prefabricated structures, placement of manufactured homes, and other developments shall require:

(1) Design or adequate anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) Construction with materials resistant to flood damage;

(3) Utilization of methods and practices that minimize flood damages;

(4) All electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities be designed and/or located so as to

1143 prevent water from entering or accumulating within the components during
1144 conditions of flooding;

1145 (5) New or replacement water supply systems and/or sanitary sewage
1146 systems be designed to minimize or eliminate infiltration of flood waters into the
1147 systems and discharges from the systems into flood waters, and on-site waste
1148 disposal systems be located so as to avoid impairment or contamination from
1149 them during flooding; and

1150 (6) Subdivision proposals and other proposed new development,
1151 including manufactured home parks or subdivisions, located within special flood
1152 hazard areas are required to assure that:

1153 (i) All such proposals are consistent with the need to minimize
1154 flood damage;

1155 (ii) All public utilities and facilities, such as sewer, gas, electrical,
1156 and water systems are located and constructed to minimize or eliminate
1157 flood damage;

1158 (iii) Adequate drainage is provided so as to reduce exposure to
1159 flood hazards; and

1160 (iv) All proposals for development, including proposals for
1161 manufactured home parks and subdivisions, of five acres or 50 lots,
1162 whichever is lesser, include within such proposals base flood elevation
1163 data.

1164 (eh) The storage or processing of materials within the special flood hazard
1165 area that are in time of flooding buoyant, flammable, explosive, or could be injurious to
1166 human, animal, or plant life is prohibited. Storage of other material or equipment may be

1167 allowed if not subject to major damage by floods, if firmly anchored to prevent flotation,
1168 or if readily removable from the area within the time available after a flood warning.

1169 Section 26. That section 17.30.210, Areas of shallow flooding (AO and AH
1170 zones), of The Code of the City of Topeka, Kansas, is hereby amended to read as
1171 follows:

1172 **Areas of shallow flooding (AO and AH zones).**

1173 Located within the areas of special flood hazard as described in TMC 17.30.070
1174 are areas designated as AO and AH zones. These areas have special flood hazards
1175 associated with base flood depths of one to three feet where a clearly defined channel
1176 does not exist and where the path of flooding is unpredictable and indeterminate. The
1177 following provisions apply:

1178 (a) AO Zones.

1179 (1) All new construction and substantial improvements of residential
1180 structures, including manufactured homes, shall have the lowest floor, including
1181 basement, elevated above the highest adjacent grade at least as high as the
1182 depth number specified in feet on the City's FIRM (at least two feet if no depth
1183 number is specified).

1184 (2) All new construction and substantial improvements of any commercial,
1185 industrial, or other nonresidential structures, including manufactured homes, shall
1186 have the lowest floor, including basement, elevated above the highest adjacent
1187 grade at least as high as the depth number specified in feet on the City's FIRM
1188 (at least two feet if no depth number is specified) or together with attendant
1189 utilities and sanitary facilities be completely floodproofed to that level so that the
1190 structure is watertight with walls substantially impermeable to the passage of

water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(3) Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

(b) AH Zones.

(1) The specific standards for all areas of special flood hazard where base flood elevation has been provided shall be required as set forth in TMC 17.30.180 and TMC 17.30.190.

(2) Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

Section 27. That section 17.30.220, Floodway, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Floodway.

Located within areas of special flood hazard established in TMC 17.30.070 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris and potential projectiles, the following provisions shall apply:

(a) The City shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one foot at any point.

(b) The City shall prohibit any encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses

performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge. Documentation shall be provided to the City of Topeka for any permits required by the KDA-DWR and/or FEMA.

(c) If subsection (b) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this article.

(d) In unnumbered A zones, the City shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources as set forth in TMC 17.30.180(b).

Section 28. That section 18.235.090, Stormwater best management practice credits, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Stormwater best management practice credits.

Credits may be authorized up to 20 percent when stormwater best management practices are incorporated into the landscape plan, subject to the approval of the ~~Water Pollution Control Division, City of Topeka~~ Director of Utilities. Such practices shall adhere to recognized principles of stormwater drainage engineering, ~~and consist of but are not limited to:~~ The list of Best Management Practices (BMPs) available for credits and their potential credit is set forth in the City of Topeka Stormwater BMP Design Handbook.

~~(a) Bioretention systems.~~

~~(b) Open vegetated channels.~~

~~(c) Filter strip.~~

(d) ~~Dry and wet swales.~~

(e) ~~Detention systems.~~

(f) ~~Retention/wetland systems.~~

(g) ~~Stream buffers.~~

~~A point value of credit for stormwater best management practices shall be established by separate resolution of the City of Topeka.~~

Section 29. That original §§ 13.25.090, 13.35.010, 13.35.050, 13.35.060, 17.10.020, 17.10.040 through 17.10.080, 17.30.040, 17.30.070, 17.30.160, 17.30.180, 17.30.210, 17.30.220 and 18.235.090 of The Code of the City of Topeka, Kansas, are hereby specifically repealed.

Section 30. This ordinance shall take effect and be in force on January 1, 2021 after its passage, approval and publication in the official City newspaper.

Section 31. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 32. 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

Michelle De La Isla, Mayor

ATTEST:

Brenda Younger, City Clerk

Inspection Cost WorkSheet

Medium Site - 1 Infiltration Basin. 1 Vegetated Channel. 1 Extended Detention Pond

Activity	Professional Engineer				Landscape Architect			
	Sr PE	Jr PE	Expenses		Sr LA	Jr LA	Expenses	
	\$ 135.0	\$ 110.0	\$ 50.0		\$ 110	\$ 80	\$50	
1. Contracting/Project Startup		0.5				0.5		
2. Review As-Built		1.5	0.2			1.5	0.2	
3. Mobilize for field inspection		0.5	0.5			0.5	0.5	
4. Field inspection/Inspection Form		3				3		
5. Summary of Findings/Memo		2				2		
6. Senior PE check	1	0.5			1	0.5		
7. Delivery to client		0.5				0.5		
TOTAL HOURS	1	8.5	0.7	TOTAL	1	8.5	0.7	TOTAL
TOTAL COST	\$ 135	\$ 935	\$ 35	\$ 1,105	\$ 110	\$ 680	\$ 35	\$ 825

What is TMC Chapter 13.25?

TMC Chapter 13.25 consists of Topeka's stormwater utility code sections declaring the City's responsibility for operating the City's stormwater management system and financing necessary system repairs and improvements. The code regulates stormwater drainage fees for residential and nonresidential developed properties and describes stormwater drainage fee adjustments. Currently, the code allows fee adjustments for stormwater **quantity** best management practices (BMPs) only.

Why is Topeka revising TMC Chapter 13.25?

The current language in TMC Chapter 13.25 that describes the stormwater drainage fee adjustments is not clear, often causing confusion when determining the appropriate fee adjustment for a particular site. In addition, it does not include adjustments for stormwater **quality** BMPs. These BMPs are now an important piece of Topeka's stormwater program requirements and goals. A fee adjustment for compliance and implementation of stormwater quality BMPs is warranted.

What revisions to TMC Chapter 13.25 are proposed?

The proposed revisions to Chapter 13.25 are confined to in Section 13.25.090 which establishes stormwater drainage fee adjustments for stormwater BMPs. In addition to proposing new fee adjustments for stormwater quality BMPs, various other revisions were made to the text to eliminate confusion about fee adjustment calculations. All revisions proposed are in keeping with the goals of Topeka's stormwater management program and the proposed improvements to stormwater quality and quantity requirements in TMC Chapters 13.35 and 13.40. The maximum total fee adjustment for a site will remain at 40%, which is the current maximum adjustment. The proposed fee adjustments are shown in the table below.

Code Change?	Description of Stormwater BMP Design	Fee Adjustment
No change	The property meets Topeka's stormwater quantity requirements for volume control. Runoff is fully retained onsite.	30%
No change	The property drains to a stormwater system that is not owned and operated by the City of Topeka	30%
Revised	The property meets Topeka's stormwater quantity requirements for peak flow control.	5% for each design storm event achieved, up to a maximum of 30%
New	The property meets Topeka's stormwater quality requirements.	10%
New	The property exceeds Topeka's stormwater quality requirements by 5% or more.	10%

All fee adjustments are subject to proper maintenance and operation of the stormwater BMPs. This means that the fee will be discounted in keeping with the table above so long as property owners protect, inspect, and maintain the BMPs on their property in keeping with the requirements of TMC Chapter 13.40 and the new *Property Owner's Guide to Stormwater BMP Maintenance*.

What is TMC Chapter 13.35?

TMC Chapter 13.35 consists of the City's code sections that regulate stormwater quality at new land developments and redevelopments that disturb more than 1 acre of land. These code sections are required by the Environmental Protection Agency (EPA) and Kansas Department of Health and Environment (KDHE) via Topeka's municipal stormwater permit. Informally, the permit's name is the *MS4 Permit*.

Why is Utilities revising TMC Chapter 13.35?

TMC Chapter 13.35 is being revised for two primary reasons.

1. Topeka must improve the code sections to comply with all of the stormwater quality requirements of the MS4 Permit and to comply with requirements under the Agreed Order of Consent.
2. Topeka's current stormwater detention requirements are outdated and disconnected from stormwater quality design requirements. Today, we have a better understanding of how Topeka's watersheds and streams respond to storms and how designs can achieve multiple objectives.

What is changing in Topeka's stormwater quality requirements?

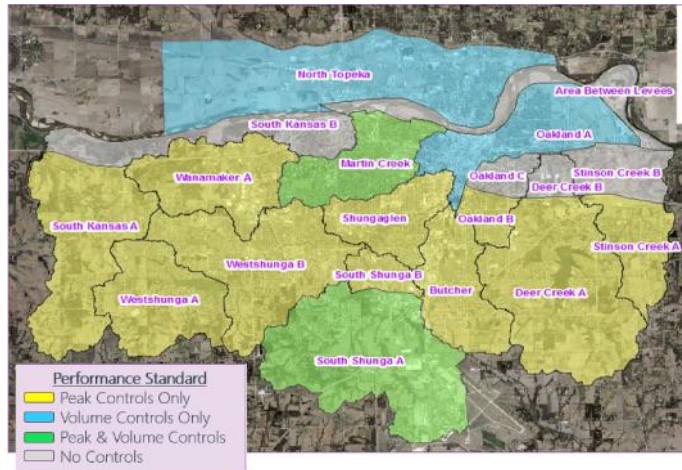
TMC Chapter 13.35 is being revised to better clarify the main stormwater quality treatment requirement. The revision requires the use of a Level of Service-based method for designing stormwater quality best management practices (BMPs). So, revising TMC Chapter 13.35 to use this method will ensure Topeka remains in compliance with its current MS4 permit and places the City in position to comply with expected future permit requirements. It also provides developers and engineers with a familiar and flexible design requirement, as many of them already use this method. Finally, the method aligns well with the vision for growth and pillars for prosperity outlined in Topeka's *Land Use and Growth Management Plan*.

Beyond that, the revisions to TMC Chapter 13.35 are largely administrative in nature, primarily to comply with administrative deficiencies identified by EPA during their 2019 audit of Topeka. First, the revisions clarify and expand on the requirements for stormwater design plans. Topeka Utilities has gradually instituted these requirements over the past year via a comprehensive design plan checklist, so much of this is already familiar to developers and site designers. Second, the revisions add new requirements for an as-built plan and a site inspection when construction is done. These are necessary to confirm that stormwater treatment practices are constructed properly and are clean and functional when construction is finished, and the new property owner takes over. This is critically important since owners are responsible for the operation and maintenance of stormwater practices on their property.

What is changing in Topeka's detention requirements?

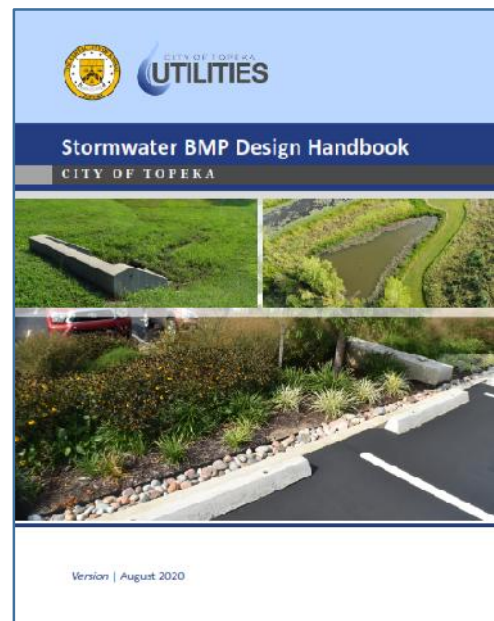
Topeka's current stormwater detention (i.e., stormwater quantity) requirement, now in the City's *Design Criteria and Drafting Standards*, is outdated. First, it doesn't recognize that stormwater quality treatment is now a common part of stormwater design. Today, municipalities will credit the stormwater removed from the system by certain stormwater quality controls and will include design specifications for stormwater practices that control both stormwater quality and quantity. So, the proposed revisions to Topeka's stormwater quantity code includes these modern approaches.

Second, there was a need for Topeka to have a “tailored” approach to stormwater detention and volume requirements to ensure that the correct type or level of stormwater controls was implemented based on characteristics of the basin. With advances in engineering analysis, stormwater practitioners know that “one size fits all” standards can result in worsening flood conditions as a municipality grows, or unnecessary requirements in some areas. In Topeka, we now have a good understanding of City watersheds and streams and how they respond to storms. In 2019, the Kansas Department of Agriculture awarded the City a grant to develop computer models of our watersheds and streams. The models helped us understand how to optimize Topeka’s stormwater quantity standards based on watershed and stream sensitivity to stormwater runoff. As a result, the proposed code revision varies the required flood protection control depending on the watershed a proposed land development is located in. The map shown to the right is a graphical depiction of the required standards. The map is provided to make it easy for site designers to understand which watershed their development is located in and the relevant performance requirement.



Will TMC Chapter 13.35 replace Topeka’s *Design Criteria and Drafting Standards*?

No. Topeka Utilities proposes to remove the outdated detention and design plan requirements from the *Design Criteria and Drafting Standards* and include the revised standards in TMC Chapter 13.35. The current stormwater system design standards (for street-side inlets, pipes, ditches, etc.) will remain in the *Design Criteria and Drafting Standards*. In addition, policies, design specifications, and design guidance to support the requirements of the revised TMC Chapter 13.35, such as the map shown above, will be provided in a new *City of Topeka Stormwater BMP Design Handbook*. The cover of the Handbook is shown on the right.



Were design stakeholders involved in the update?

Yes. A meeting in December 2019 educated stakeholders on the proposed revisions. Numerous listening sessions occurred in the months that followed to gather stakeholder comments. Changes to the proposed code were made based on the comments. An additional workshop was held in August 2020.

Will developers and engineers be trained on the revised requirements?

Yes. Topeka Utilities plans to provide virtual training on both TMC Chapter 13.35 and the Stormwater BMP Design Handbook after adoption of the code revisions.

What is TMC Chapter 13.40?

TMC Chapter 13.40 is a new code chapter being proposed by Topeka Utilities to regulate the maintenance of stormwater best management practices (BMPs) that are located on private properties. BMPs are stormwater quality treatment practices and flood protection controls (i.e., detention and retention basins). The regulation of stormwater BMP maintenance is required by the Kansas Department of Health and Environment (KDHE) in Topeka's municipal stormwater permit. This permit is sometimes called the *MS4 Permit*. BMP design and construction is addressed in TMC Chapter 13.35.

If Topeka already regulates BMP design & construction, why do we need new code?

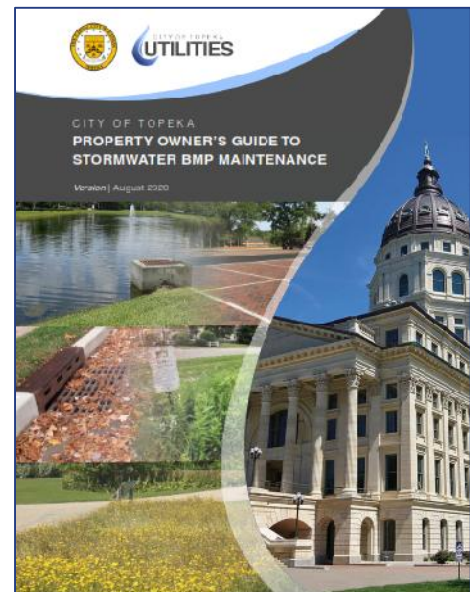
The table below explains the differences between TMC Chapter 13.35 and proposed TMC Chapter 13.40.

	TMC Chapter 13.35	TMC Chapter 13.40 (new)
Purpose	Regulate the design and construction of stormwater quality and quantity BMPs	Regulate the long-term maintenance of stormwater quality and quantity BMPs
Applies to	Properties over specific size thresholds that are being developed	Properties that have stormwater quality and/or quantity BMPs already constructed
Primary audience	Land developers and land development designers	Property owners
Basic Requirement	Design and construct stormwater BMPs in accordance with City of Topeka requirements	Maintain BMPs in accordance with City requirements to ensure their proper function.

Because TMC Chapter 13.35 regulates BMP design and construction on properties undergoing development, it is unsuitable for the regulation of stormwater BMP maintenance at properties that are developed (i.e., design and construction activities are finished).

Since Topeka already regulates stormwater BMPs, what is changing?

Currently Topeka's code places the responsibility for long-term maintenance of stormwater BMPs on the owner of the property where the BMPs are located. This requirement is not proposed to change. We are simply moving this requirement from TMC Chapter 13.35 to TMC Chapter 13.40. However, the proposed new code expands upon this basic requirement by establishing minimum standards for maintenance, setting rules for owner-led inspections of BMPs, and placing restrictions on BMP areas to avoid damage and improper function. To help owners understand and implement these requirements, Chapter 13.40 is supported by an informative guidance document called the *City of Topeka Property Owner's Guide to BMP Maintenance*. The cover of the Maintenance Guide is shown on the right. The table on the next page highlights the main requirements of TMC Chapter 13.40 and the supporting information provided in the Maintenance Guide.



	TMC Chapter 13.40 <i>(Each requirement refers to the Maintenance Guide as the standard method for compliance)</i>	Maintenance Guide <i>(The supporting information described below is given for each type of BMP allowed in Topeka)</i>
How to maintain	Property owners must protect and maintain BMPs to ensure their proper function as shown in the as-built plan <i>(this plan is required by the proposed revisions to TMC Chapter 13.35)</i>	Specific maintenance actions are explained in detail. Pictures of good maintenance and unmaintained BMPs are provided.
When to maintain	BMPs must be maintained in perpetuity	General maintenance schedules are provided for each BMP and general BMP components
How to inspect	Inspections are required in order to determine when and what maintenance is needed	Specific inspection actions are explained in detail and by inspection type. Pictures of BMP components are provided.
When to inspect	) Routine inspections as needed) 2-year inspections <i>(must be documented)</i>) 6-year inspections <i>(must be performed and documented by registered prof. engineer or landscape architect)</i> Documentation of 2- and 6-year inspections must be retained by the owner. The City may request and review them.	General schedule information is provided by BMP and, to some degree, by component. Inspection checklists with explanatory information is provided for the two and six-year inspections. These can also be used for routine inspections at the discretion of the maintainer.
What NOT to do	Specific uses and activities that can damage BMPs or introduce pollutants into the BMP are identified and prohibited. <i>(Examples: storage of motor vehicles or wastes; gardening or crops, livestock holding area; kennels, trash dump areas)</i>	Refers to Chapter 13.40

Why does Topeka need to improve its stormwater BMP maintenance requirements?

Topeka's MS4 permit requires the City to ensure the long-term operation and maintenance of stormwater quality BMPs. It is common for municipalities to adhere to this requirement by placing the responsibility for BMP maintenance on property owners. As a result, effective compliance with the permit condition typically includes municipal regulatory authority (City code), administrative processes (maintenance and inspection oversight by City staff), and educational support tools (maintenance and inspection guidance for BMP owners). Beyond the permit however, many cities are experiencing increased pressure on their stormwater level-of-service as a result of aging, unmaintained private infrastructure. Today, it is not uncommon for an old, overgrown detention basin to become an eyesore (at best) or a flooding problem (at worst). The improvements to Topeka's stormwater BMP maintenance code can help such issues from happening on BMPs constructed after adoption of the ordinance.

Were stakeholders involved in the development of the code?

Yes. A meeting in December 2019 educated stakeholders on the new requirements. Numerous listening sessions occurred in the months that followed to gather stakeholder comments. Changes to the proposed code were made based on the comments. An additional workshop was held in August 2020.

Will property owners be educated on the maintenance requirements?

Yes. Topeka Utilities plans to provide virtual education on both TMC Chapter 13.40 and the Maintenance Guide after adoption of the revised code.

What is TMC Chapter 17.10?

TMC Chapter 17.10 is currently Topeka's stream buffer code chapter. It regulates the land use, protection, restoration and long term maintenance of the land adjacent to a stream in order to protect long term water quality. It does this through requiring specific set back distances from the stream.

Regulations are common and are in place throughout the nation and the state. Some Kansas communities that have stream buffer regulations include Gardner, Johnson County, Lenexa, Olathe, Overland Park, and Platte County. These communities have adopted ordinances that protect the stream buffer by requiring setbacks and protection.

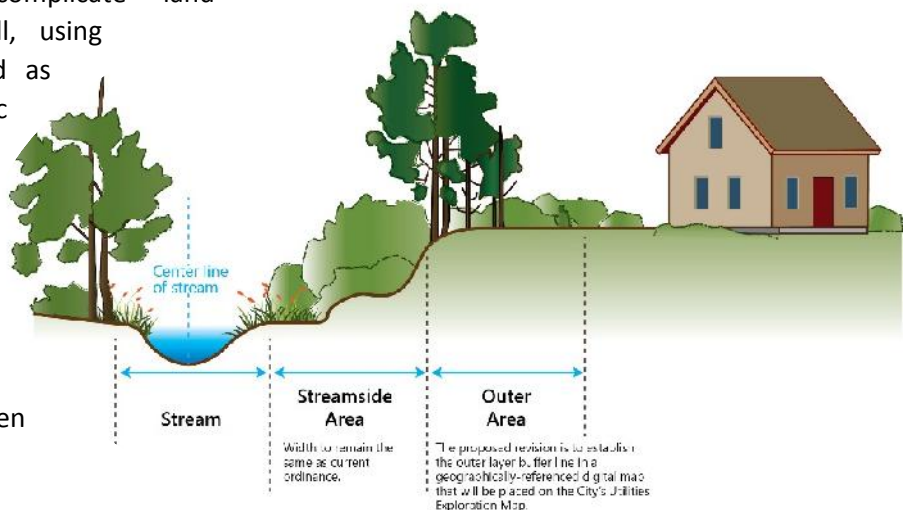
What is a stream buffer and why is it important?

A stream buffer, also called riparian buffer/area/zone, is the vegetated area next to and along a stream. Buffers generally have a mix of native trees, plants, and grasses, and can be restricted from development or encroachment. The trees, plants, and grasses in a stream buffer protect water quality by filtering out pollutants that are carried by stormwater runoff, such as sediment, bacteria, fertilizers and pesticides. Stream buffers also preserve wildlife habitat by allowing stream channels to meander naturally, providing shade that keeps the water cool, and holding the banks in place during high flows.



Why does Topeka need to revise TMC Chapter 17.10?

The basic current requirements of TMC Chapter 17.10 are shown in the table below. Note that the table indicates the two areas of a stream buffer: the **streamside area**; and the **outer area**. Note also that the ordinance requires adjustments to the Outer Area width of a stream buffer based on steep slopes, erodible soils, and other physical conditions that can influence stream flow. These adjustments can be confusing and tend to complicate land development designs. As well, using these adjustments is outdated as they are not based on scientific analysis of the stream. With advances in stream modeling, we know that streams will change as land is developed and they encounter higher and faster flows after storms. These changes can impact property as streambanks widen toward buildings and roadways.



	Streamside Area	Outer Area
Width	Width requirement ranges from 15ft to 50ft depending on stream size	Width requirement ranges from 15ft to 50ft depending on stream size Width adjustments based on slope, erodible soils, and physical conditions
Vegetation	Native plants only	Native plants or managed lawn depending on stream type
Uses	Flood control, utility corridors, foot paths, road crossings	Biking/hiking paths, flood control, detention/retention structure, utility corridors, stormwater BMPs, residential yards, landscaped areas
Function	Protect the physical & ecological integrity of the stream ecosystem	Protect key components of the stream, filter & slow velocity of stormwater runoff

What revisions to TMC Chapter 17.10 are proposed?

Computer models of Topeka's streams were developed in 2019 using a Kansas Department of Agriculture grant awarded to Topeka Utilities. After the models were determined to accurately reflect Topeka's streams, they were used to predict streambank movement as land in the City of Topeka continues to develop in the future. This prediction allows us to determine a boundary for the Outer Area that is based on the science of stream flow and the expected growth in Topeka over the next several years.

Topeka Utilities proposes to revise TMC Chapter 17.10 to use the stream buffer boundary predicted by the computer models to set the boundary of the Outer Area of the stream buffer. This changes the uppermost righthand box in the table, which will be provided by the City. The width of the streamside area (the left side of the table) will remain the same as it is defined currently. This change eliminates the confusion and often baseless adjustments in the current code chapter. As a result, we strongly believe the use of these models to regulate stream buffers in Topeka will prevent property loss and economic impacts that otherwise would result from expanding streams.

There are other minor revisions to Chapter 17.10 to clarify nomenclature and definitions, align buffer requirements with other City code, and establish easement and code variance conditions.

Will developers and site designers need to run models to design a stream buffer?

No. The stream widths are already predicted by the model. Topeka Utilities will provide the stream buffer line in a geographically-referenced digital map that will be placed on the City's Utilities Exploration Map for easy access and use by site designers. In fact, this approach will eliminate confusion on buffer adjustments by providing the required buffer boundary for designers.

Was the design community involved in the update?

Yes. Topeka Utilities held meetings with land development design stakeholders in December 2019 and August 2020 to gauge their opinion about the above updates. The proposed revision was well received by the meeting participants.

What is TMC Chapter 17.30?

TMC Chapter 17.30 contains Topeka's floodplain management code sections. It regulates land development within the special flood hazard areas of the City. Its purpose is to mitigate the effects of flooding and promote public health and safety during large storm events. It also maintains the City of Topeka's eligibility for participation in the National Flood Insurance Program (NFIP), which makes flood insurance available to local property owners.

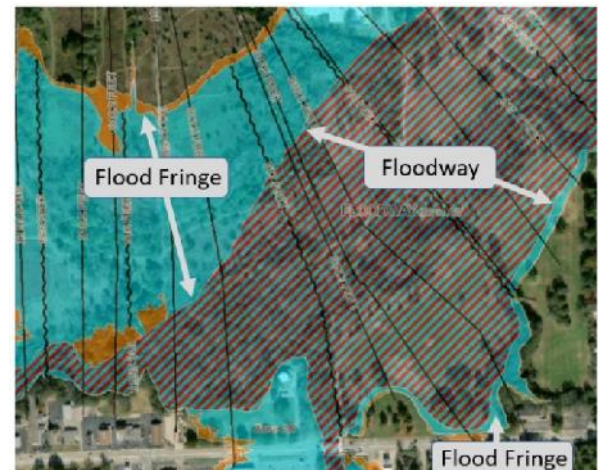
Why is Topeka revising TMC Chapter 17.30?

The current requirements of TMC Chapter 17.30 do not address flood zones behind the City of Topeka levee systems. These levee ponding areas, also known as interior drainage area floodplains, were determined as part of the Topeka Levee Certification project through detailed modeling of the levee system. The levee ponding areas are critical flood storage features. Preserving the available storage volume in these areas is key to reducing or eliminating flood impacts on neighboring areas. In addition, TMC Chapter 17.30 provides little guidance on development in flood fringe areas to ensure existing properties are protected.



What revisions to TMC Chapter 17.30 are proposed?

Revisions to the code chapter are proposed for construction in all levee ponding areas. These areas will be designated as FEMA AH zones once the draft maps become effective and are currently designated by the City as best available data for the subject areas. Any fill in an AH zone/ponding area must be offset by compensating cuts to maintain the overall flood storage volume. In addition, proposed land development projects that add 5,000 square feet or more of buildings, pavement, and other hard surfaces and is located in any mapped flood zone must demonstrate that the development will not cause an increased flood risk to an existing habitable structure located in or adjacent to the FEMA floodplain.



Was the design community involved in the update?

Yes. Topeka Utilities has implemented compensating cut/fill requirements for development projects within levee ponding areas since the Levee Certification material is the best information available. As a result, the design community has already been following this practice. In addition, Utilities held a meeting with land development design stakeholders on August 18, 2020 and described the proposed revisions to this code chapter.

What is TMC Chapter 18.235?

TMC Chapter 18.235 is Topeka's landscape requirements. The code chapter regulates landscaping requirements for new development. The purpose of this chapter is to enhance, protect, and promote the aesthetic, ecological, and economic environment in the City of Topeka through landscaping associated with new construction.

Why is Topeka revising TMC Chapter 18.235?

The only section being revised in the landscape requirements is TMC Chapter 18.235.090 Stormwater Best Management Practices (BMPs). The current language in TMC Chapter 18.235.090 Stormwater BMP Credits needed to be updated to reference the new City of Topeka Stormwater BMP Design Handbook and reflect the values developed by the City of Topeka Planning and Utilities Departments. The current section provides a maximum 20% credit to any type of BMP regardless of whether it is vegetated or not. Topeka Utilities and Planning worked together to determine the appropriate credits to provide to the various stormwater BMPs based on the intent of the code chapter which is to enhance the ecological and aesthetic conditions of the property.

What revision to TMC Chapter 18.235 is proposed?

The proposed revision to Chapter 18.235.090 provides a reference to the City of Topeka Stormwater BMP Design Handbook for the landscape credits by BMP type. In turn, the Handbook establishes the credit values for each type of BMP (see the Handbook's landscape credit table below). Vegetated BMPs will have higher landscape credits than non-vegetated BMPs. This revision will eliminate confusion in the current ordinance and promote the use of vegetated BMPs which can reduce and/or clean runoff. (The picture below shows a bioretention BMP in a landscaped parking lot island as an example of a vegetated BMP.) This credit provides a direct benefit to developers by allowing the landscape and stormwater regulations to work together and use the same developable area to meet two City requirements.



BMP Type	Landscape Credit (see TMC Chapter 18.235.090)
VEGETATED BMPS ¹	
Native Vegetation Established or Preserved	20%
Rain Garden	
Bioretention	
Vegetated Filter Strip	
Native Vegetation Swale	
BMPS THAT REDUCE IMPERVIOUS AREA	
Green Roof	10%
Pervious Concrete	
Porous Asphalt	
Modular Concrete Block	
Cistern	
INFILTRATION BMPS	
Infiltration Basin	10%
Infiltration Trench	
DETENTION BMPS ¹	
Extended Wet Detention	10%
Extended Dry Detention ²	
MEDIA FILTRATION BMPS	
Surface Sand Filtration	0%
Underground Sand Filter	
Pocket Sand Filter	
Perimeter Sand Filter	
OTHER SYSTEMS	
Proprietary Media Filtration	0%
Hydrodynamic Devices	
Baffle Boxes	
Catch Basin Inserts	

Stormwater Program Revisions

*City of Topeka, KS
September 15, 2020*



Goals for code revisions

- Comply with Topeka's Municipal Stormwater Permit and EPA audit findings
 - Stormwater quality treatment at new developments and redevelopments ≥ 1 acre
 - Municipal design plan review, construction, and maintenance processes
- “Modernize” and improve our code by aligning stormwater *quality* & *quantity* rules
- Use our improved understanding of Topeka streams for smarter regulation
- Use methods that are locally relevant, familiar, and flexible

Important Terms

Best Management Practice (BMP)

A structural facility used to manage stormwater runoff from one or more properties



Bioretention BMP on Jackson Street in Topeka



Extended Dry Detention BMP

Important Terms

Stormwater Quality BMP

A BMP that protects streams and properties from pollutants in stormwater



Bioretention BMP on private property in Topeka



Bioretention BMP on Jackson Street in Topeka

Important Terms

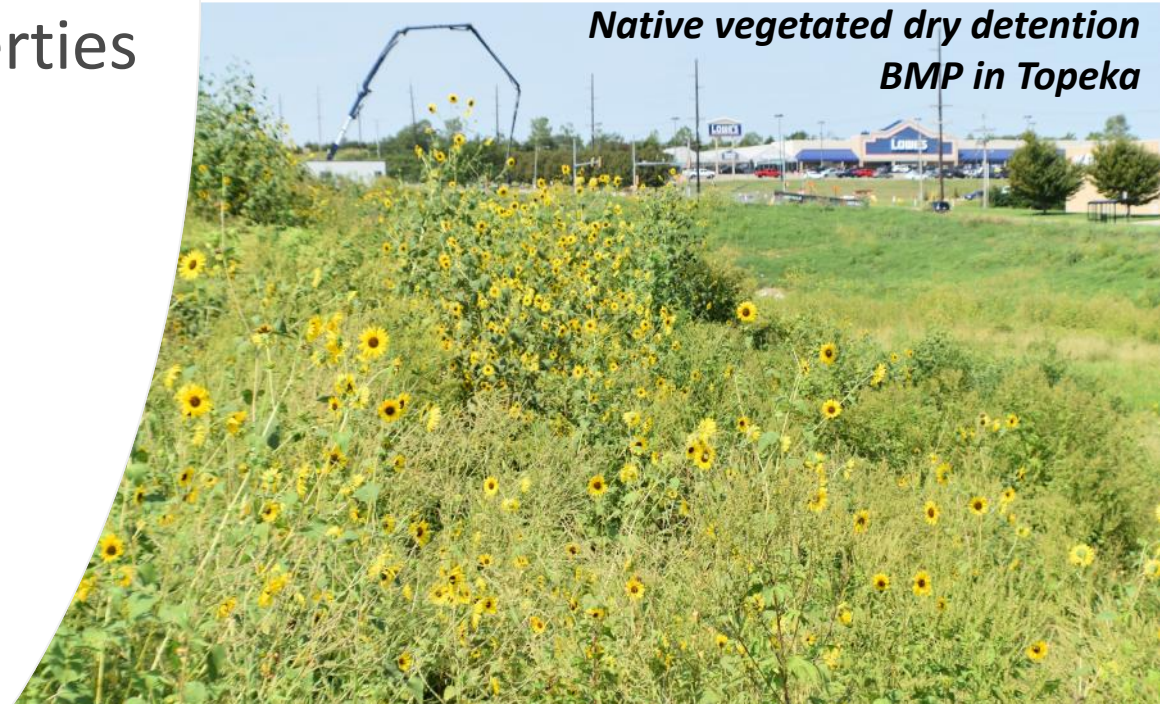
Stormwater Quantity BMP

A BMP that protects downstream properties from flooding

Wet detention BMP in Topeka



Native vegetated dry detention BMP in Topeka



TMC Chapter 13.35 Revisions

- Clarify rules for stormwater quality BMP design and construction
- **Add** rules for stormwater quantity BMP design and construction
- **Add** rules for stormwater design plan preparation and submittal



Design Criteria & Drafting Standards

- Drainage system design (i.e., inlets, pipes, channels, culverts)
- Detention/Retention basin design
- Design plan preparation and submittal requirements
- Erosion and sediment control practices

Stormwater BMP Design Handbook

- Design requirements for stormwater quality BMPs
- Detention/Retention basin design
- Design plan preparation and submittal requirements

Stormwater Management Code Revisions

TMC Chapter 13.35

Establishes **core requirements** for
stormwater BMP
design & const.

CODE REVISIONS:

- Update and clarify stormwater **quality and quantity** requirements
- Insert stormwater design plan checklist
- Insert new construction termination rules
 - Stormwater BMP Record Drawing
 - Final Inspection

New to Topeka

DOES NOT INCLUDE:

- Calculation methods
- BMP design requirements
- Helpful checklists and support tools



**In the new
Stormwater Design
Handbook**

Stormwater BMP Design Handbook

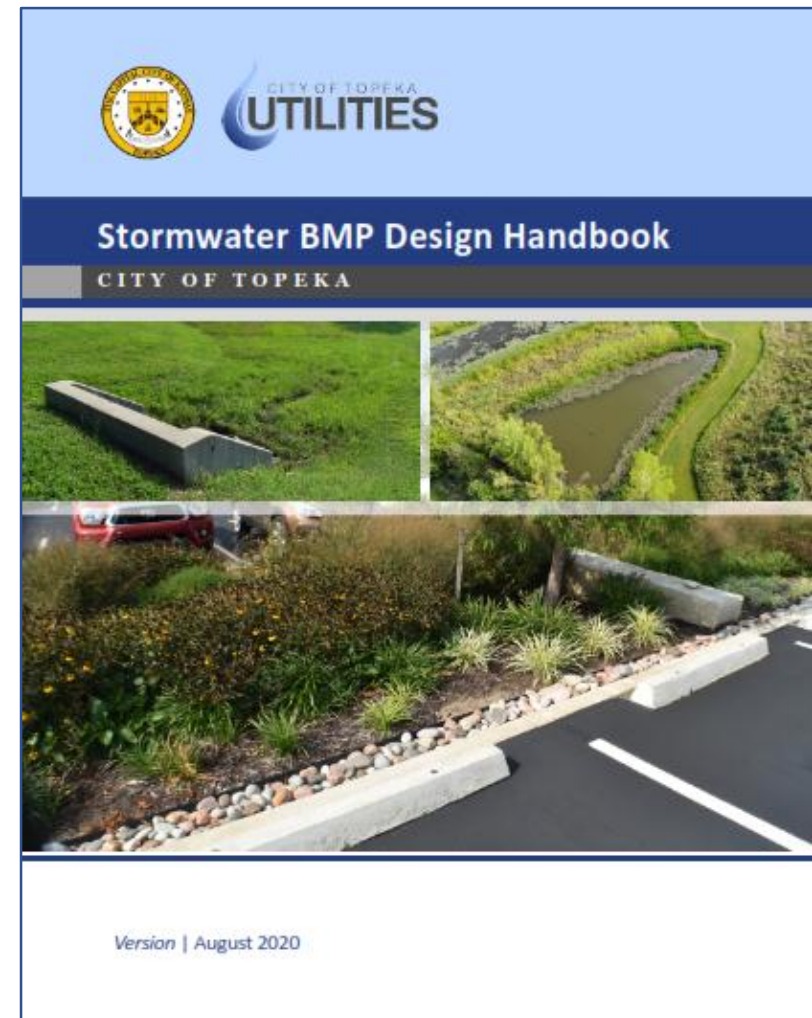


Chapters

1. Introduction
2. Design Process & Plans
3. SW Quality Design
4. SW Quantity Design
5. LID Techniques

Appendices

- A. Acronyms & Definitions
- B. SWMP checklist
- C. Required Forms
- D. BMP Record Drawing checklist
- E. BMP Certification Statement
- F. BMP Design Procedure Forms



Stormwater BMP Maintenance Code Revisions

TMC Chapter 13.40

Establishes **core requirements** for inspection & maint. by property **owners**.

CONTENT:

- Applicability
- Owner responsibilities
- Authority for City inspections of BMPs
- Prohibited uses and activities

New to Topeka

DOES NOT INCLUDE:

- How to inspect a BMP
- How to maintain a BMP



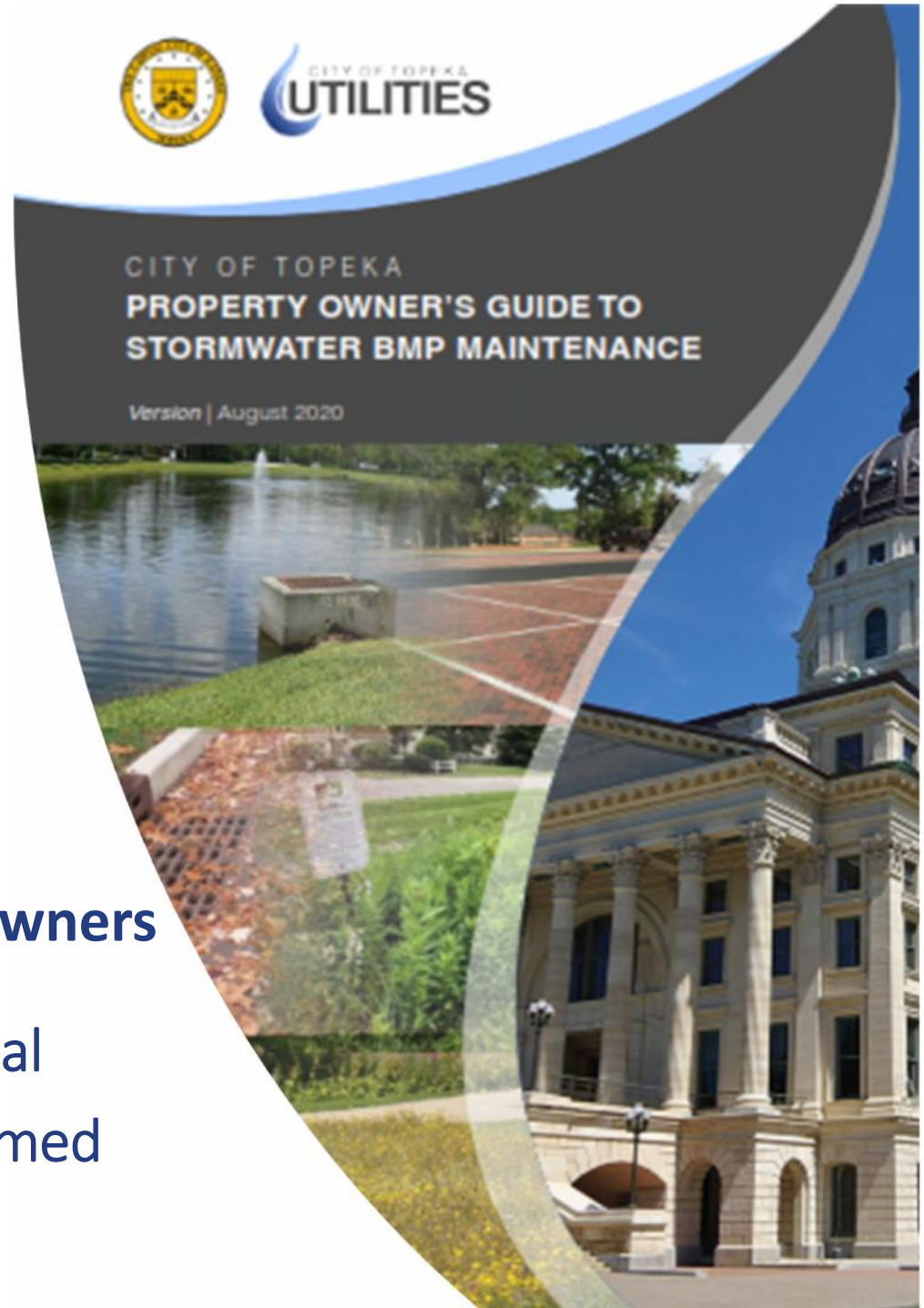
**Refers to the BMP
Owner's Manual for all
the above**

BMP Maintenance Manual

-
- 1: Introduction and Stormwater BMPs 101
 - 2: BMP Operational and Success Criteria
 - 3: BMP Inspection
 - 4: BMP Maintenance
 - 5: Individual BMP Inspection Checklists
 - 6: Helpful Resources

Target Audience: **Property Owners**

- ✓ Uncomplicated
- ✓ Educational
- ✓ Visual
- ✓ Themed



Stormwater Utility Code Revisions

TMC 13.25

Authorizes, and
establishes
rules for, the
stormwater
drainage fee



Reasons for Change

- Fix confusing fee adjustment (discount) calculations
- Add a fee adjustment for stormwater quality BMPs

Description of Stormwater BMP Design	Fee Adjustment
The property meets Topeka's stormwater quantity requirements for volume control. Runoff is fully retained onsite.	30%
The property drains to a stormwater system that is not owned and operated by the City of Topeka	30%
Revised The property meets Topeka's stormwater quantity requirements for peak flow control.	5% for each design storm event achieved, up to a maximum of 30%
New The property meets Topeka's stormwater quality requirements.	10%
New The property exceeds Topeka's stormwater quality requirements by 5% or more.	10%

Maximum fee adjustment is 40%

TMC 17.10



CITY OF TOPEKA
UTILITIES

- Disconnect stream buffer & regulated floodplain
- Replace unwieldy width adjustments with a science-based outer boundary
- Provide development community with a GIS-based tool that conveys buffer boundary



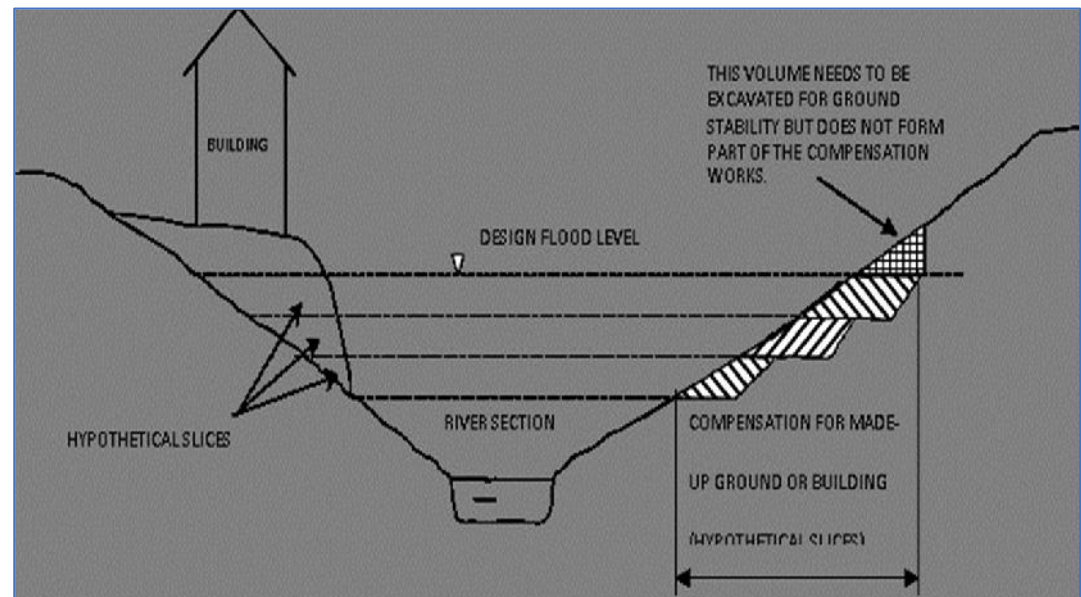
Floodplain Management Code Revisions

TMC 17.30

Establishes rules
for land
development in
and around
floodplains

Revisions

- Added rules for construction in Levee Ponding Areas
- Requires compensatory cut for fill placed in Levee Ponding Areas
- Requires compensatory cut for development greater than 5,000 sf in floodway fringe





City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
October 6, 2020

DATE: October 6, 2020
CONTACT PERSON: Corrie Wright, Division Director of Housing Services 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:

DISCUSSION of funding recommendations by the Alcohol and Drug Abuse Advisory Council in the amount of \$620,000 for the 2021 Special Alcohol Fund.

VOTING REQUIREMENTS:

Discussion only. No action required by the Governing Body.

POLICY ISSUE:

The recommended amount is based on the projected Liquor Tax collected by the State and required to be allocated to alcohol and drug programs.

STAFF RECOMMENDATION:

Discussion only. No action required by Governing Body.

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 review team is recommending the following amounts for 2021:

- PARS (Prevention Programs) \$173,000
- PARS (Evaluation & Intervention) \$58,183
- Valeo (Social Detox Program) \$297,775
- Third Judicial District (Drug Court Program) \$55,500
- Kansas Children Service League (Successful Connections Drug Endangered Child Program) \$14,000
- Rollover - Mini-grants, capital improvements \$21,542

BUDGETARY IMPACT:

\$620,000 will be expended from the Special Alcohol Program Fund in 2021.

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

2021 Special Alcohol and Drug Recommendation

**Topeka-Shawnee County Alcohol-Drug Abuse Advisory Council's
2021 Recommendations for 2021 City of Topeka Special Alcohol and Drug
Program Grant Requests
Total funds projected: \$620,000**

The Topeka-Shawnee County Alcohol-Drug Abuse Advisory Council recommends the following programs for funding from 2021 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.”

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.

City of Topeka - \$620,000 Available					
Agency	Program	2019 Funded	2020 Funded	2021 Requested	Review Committee Recommendation
Boys & Girls Club	Smart Moves Logan Center	8,500	Did not apply	Did not apply	0
Boys & Girls Club	Smart Moves Teen Center	10,000	11,000	Did not apply	0
PARS	Prevention Programs	171,438	173,000	173,000	\$173,000
PARS	Eval & Intervention	55,243	58,183	58,183	\$58,183
Third Judicial	Drug Treatment Court	30,000	43,000	43,000	\$55,500
KCSL	Drug Endangered Child	12,382	14,000	14,000	\$14,000
VALEO	Social Detox	282,437	285,275	285,275	\$297,775
ADAAC/Rollover	Mini Grants, Capital Improvements & Grant Workshop	0	41,542		\$21,542
TOTAL		570,000	626,000	573,458	\$620,000

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

The Substance Abuse Prevention Program at PARS is comprised of a variety of strategies designed to decrease substance abuse among 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 for overall program operation

Agency	Program	2019 Funded	2020 Funded	2021 Request	ADAAC Recommendation
PARS	Community Prevention Program	\$171,000	\$171,438	\$173,000	\$173,000

Program Name: Prevention and Recovery Services (PARS) Substance Abuse Evaluation & Intervention Program

PARS provides substance abuse evaluation services for youth and adults. A Spanish interpreter is also provided for Spanish-speaking parties. Most youth who access this service are referred to PARS because of a violation of school policy concerning use of substances on campus. PARS has had a long-standing partnership with all public Shawnee County Schools and a few private schools to provide evaluations free of charge. I

Agency	Program	2019 Funded	2020 Funded	2021 Request	ADAAC Recommendation
PARS	Evaluation & Intervention	\$51,300	\$55,243	\$58,183	\$58,183

Program Name: 3rd Judicial District's Drug Treatment Court

Drug Treatment Court is a "Specialty Court" program that combines problem-solving court sessions, intensive community supervision, and personalized treatment into a public health approach towards helping high-risk, substance-using offenders.

The goals and directives of Drug Treatment Court are as follows:

- To improve the efficiency of the criminal justice system for drug addicted offenders
- To reduce substance use and negative effects of co-occurring disorders
- To increase law-abiding behavior and reduce recidivism within our community
- Promote effective use of community resources and increase pro-social involvement

Agency	Program	2019 Funded	2020 Funded	2021 Request	ADAAC Recommendation
3 rd Judicial District	Drug Treatment Court	\$27,450	\$30,000	\$43,000	\$43,000

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

This program proposes serving 50 families in Shawnee County during 2021. 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 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. This is accomplished through weekly home visits, individualized service plans and education about their responsibility as a parent and the impact substance use can have on their ability to be an effective parent.

Agency	Program	2019 Funded	2020 Funded	2021 Request	ADAAC Recommendation
Ks Children's Service League	Drug Endangered Child	\$12,300	\$12,382	\$14,000	\$14,000

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 to 1) 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 and determination of need for care.

Social Detox is an unduplicated service in this community which has been in continuous operation for approximately 38 years. The average length of stay in Social Detox ranges from 24 hours to six days. Social Detox is a service that is provided 24 hours per day, seven days per week, to include weekends and holidays.

Agency	Program	2019 Funded	2020 Funded	2021 Request	ADAAC Recommendation
VALEO	Social Detox	\$258,430	\$282,437	\$285,275	\$285,275

Program Name: ADACC – Mini Grants, Capital Improvements

Available City of Topeka funds for 2021 is estimated to be \$620,000. With an excess of \$21,542 dollars more than what was requested. \$21,542 is to be rolled over to be made available for Recovery Month Mini-Grants (\$6,000), Capital Improvement Grants (\$11,500). Prevention and Recovery Services has agreed to serve as the fiscal agent for distribution of the \$21,542 and fiscal agent fee of 4,042.



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
October 6, 2020

DATE: October 6, 2020
CONTACT PERSON: Bill Fiander/Dan Warner DOCUMENT #:
SECOND PARTY/SUBJECT: Six Zero, Inc. PROJECT #:
CATEGORY/SUBCATEGORY 006 Communication / 005 Other
CIP PROJECT: No
ACTION OF COUNCIL: JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

DISCUSSION regarding the annexation ordinance for property located at the southwest corner of NW 25th Street and NW Button Road (Six Zero North Subdivision) within unincorporated Shawnee County, Kansas and adjacent to the City of Topeka corporate limits Shawnee County, Kansas.

(Annexation of a 74-acre tract to accommodate an industrial development with multiple small office/warehouse type industries. The tract will be assigned to Council District No. 2.)

VOTING REQUIREMENTS:

Discussion only. No action required by the Governing Body.

POLICY ISSUE:

Six Zero, Inc. has requested annexation requested annexation of a 74-acre tract at southwest corner of NW 25th Street and NW Button Road that will be developed as an industrial project with multiple small office/warehouse type industries. The property was recently platted as Six Zero North Subdivision. The property is located within the Employment Tier of the City's Urban Growth Area and is deemed ready for annexation.

STAFF RECOMMENDATION:

Discussion only. Staff recommends consideration at a future meeting.

BACKGROUND:

Ordinance: Land Use and Growth Management Plan 2040 Review: The property lies within the Employment Tier of the Urban Growth Area. The Employment Tier contains areas that are zoned or planned for industrial type uses. The subject property is contiguous to the city and also lies in an area where urban infrastructure and services are available. There is industrial/commercial development that is being served by the City directly to the west and south of the subject property. Annexing and developing this property makes the city more compact.

Street Network: Future access to the property from public roads will come from NW 25th Street, NW Button Road and the Highway 24 frontage road. NW Button Road is currently a local two-lane rural gravel road between the Highway 24 frontage road and NW 25th Street. NW 25th Street is a major collector that is currently a two-lane paved rural road. The Highway 24 frontage road is a paved two-lane road.

Due to the speculative nature of the development proposal, required improvements to either of the two public roads is unknown at this time. Traffic Improvement Analysis (TIA) for the entire subdivision must be approved at the time of development of the first lot and be updated for development on each subsequent lot. If the TIA warrants public roadway and sidewalk improvement, those improvements must be completed prior to issuance of a Certificate of Occupancy for the first building on each lot or as otherwise warranted by the approved TIA. The Topeka Planning Commission reviewed the annexation proposal at their meeting on May 18, 2020, and found the annexation to be consistent with the City's Land Use and Growth Management Plan by a vote of 9-0-0.

BUDGETARY IMPACT:

Utilities and Services: There are no additional costs to serve the proposed annexation for Fire, Police, Stormwater and Forestry. Water, Sewer, and Streets will incur additional operational and replacement costs. Any costs associated with operational and replacement costs can be accommodated within existing budgets or with future revenues.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

Description

Ordinance

Topeka Planning Commission Memo - May 18, 2020

Aerial Map

Fact Sheet - Annexation A20-2

Topeka Planning Commission Minutes - May 18, 2020

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Brent Trout annexing land to the City of Topeka, Kansas, in accordance with K.S.A. 12-520, located the southwest corner of NW 25th Street and NW Button Road, within unincorporated Shawnee County, Kansas and adjacent to the City of Topeka corporate limits, and said land being annexed for all City purposes. **(A20/2) (Council District No. 2)**

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

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

A TRACT OF LAND IN GOVERNMENT LOT 4 AND GOVERNMENT LOT 5 SITUATED IN THE SOUTHEAST QUARTER OF FRACTIONAL SECTION 14, TOWNSHIP 11 SOUTH, RANGE 15 EAST OF THE 6TH P.M. IN SHAWNEE COUNTY, KANSAS, DESCRIBED AS FOLLOWS: **BEGINNING** AT THE NORTHEAST CORNER OF SAID GOVERNMENT LOT 5; THENCE ON AN ASSUMED BEARING OF SOUTH 01 DEGREE 19 MINUTES 56 SECONDS EAST, 1272.43 FEET TO A LINE WHICH IS 150 FEET NORTH OF THE CENTERLINE OF HIGHWAY US-24; THENCE SOUTH 87 DEGREES 58 MINUTES 07 SECONDS WEST, 2656.70 FEET ALONG SAID LINE TO THE WEST LINE OF SAID GOVERNMENT LOT 4; THENCE NORTH 01 DEGREE 05 MINUTES 24 SECONDS WEST, 548.28 FEET ALONG SAID WEST LINE; THENCE NORTH 88 DEGREES 18 MINUTES 23 SECONDS EAST, 998.250 FEET; THENCE NORTH 01 DEGREE 19 MINUTES 58 SECONDS WEST, 739.73 FEET TO THE NORTH LINE OF SAID GOVERNMENT LOT 4; THENCE NORTH 88 DEGREES 18 MINUTES 38 SECONDS EAST, 330.94 FEET ALONG SAID NORTH LINE TO THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 5; THENCE NORTH 88 DEGREES 18 MINUTES 03 SECONDS EAST, 1325.05 FEET ALONG THE NORTH LINE OF SAID GOVERNMENT LOT 5 TO THE POINT OF BEGINNING. THE ABOVE DESCRIBED TRACT CONTAINS 61.07 ACRES, MORE OR LESS.

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

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

PASSED AND APPROVED by the Governing Body of the City of Topeka,

_____, 2020.

Michelle De La Isla, Mayor

ATTEST:

Brenda Younger, City Clerk

To Be Codified

Not To Be Codified

X



CITY OF TOPEKA

Planning Department
620 SE Madison, Unit 11
Topeka, KS 66607

Bill Fiander, AICP, Director
Tel: 785-368-3728
www.topeka.org

MEMORANDUM

To: Topeka Planning Commission
From: Dan Warner, AICP, Comprehensive Planning Manager
Date: May 18, 2020

RE: A20/2 Six Zero North Subdivision (3325 NW 25th Street) annexation request by Six Zero, Inc.

Proposal

Six Zero, Inc. is requesting annexation of Six Zero North Subdivision (P20/9), an approximately 74-acre subdivision on property located at 3325 NW 25th Street (see Map 1). The use of the property is projected to be industrial with multiple small office/warehouse type industries. There is no immediate development project.

The project will be connecting to City of Topeka sewer and water. Development that connects to water and sewer outside the city is required by City of Topeka utility rules to annex and plat (Six Zero North Subdivision).

Background

A unilateral annexation of this type, one in which the property owner has consented to the annexation and the property is contiguous to the City, requires City of Topeka Governing Body approval. Planning Commission review of annexations is not required by State Statute.

However, the Land Use and Growth Management Plan 2040 (LUGMP) established a policy that the Planning Commission should review annexations greater than 10 acres for consistency with growth management principles of the LUGMP.

LUGMP Review

The property lies within the Employment Tier of the Urban Growth Area (see Map 2). The Employment Tier contains areas that are zoned or planned for industrial type uses.

The subject property is contiguous to the City and also lies in an area where urban infrastructure and services are available. The subject property is located in an area that is primarily developed with industrial type uses. There are industrial uses being served by the city to the south and west of the subject property. Annexing and developing this property makes the city more compact.

The subject property is designated as Urban Growth Area (Employment) by the Topeka Future Land Use Map (Map #3). Industrial uses are consistent with a future employment area.

Street Network

Future access to the property from public roads will come from NW 25th Street, NW Button Road, and the Hwy. 24 frontage road. NW Button Road is currently a local two-lane rural gravel road between the Hwy. 24 frontage road and NW 25th Street. NW 25th Street is a major collector that is currently a two-lane paved rural road. The Hwy. 24 frontage road is a paved two-lane road.



CITY OF TOPEKA

Planning Department
620 SE Madison, Unit 11
Topeka, KS 66607

Bill Fiander, AICP, Director
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MEMORANDUM

Due to the speculative nature of the development proposal, required improvements to either of the two public roads is unknown at this time. Traffic improvement analysis for the entire subdivision must be approved at the time of development of the first lot and be updated for development on each subsequent lot. If the TIA warrants public roadway and sidewalk improvement, those improvements must be completed prior to issuance of a Certificate of Occupancy for this first building on each lot or as otherwise warranted by the approved TIA.

Recommendation

Annexing the subject property is consistent with the Comprehensive Plan.

Map 1



Map 2



CITY OF TOPEKA

Planning Department
620 SE Madison, Unit 11
Topeka, KS 66607

Bill Fiander, AICP, Director
Tel: 785-368-3728
www.topeka.org

MEMORANDUM



A20/2 - Six Zero North Subdivision
Urban Growth Area

March 20, 2020



A20/2 - Six Zero North Subdivision
Urban Growth Area

March 20, 2020

*Annexation Proposal
3325 NW 25th Street
Fact Sheet & Department Comments*

Site

Address/Location: 3325 NW 25th Street - Southwest Corner of NW 25th Street and NW Button Road

Owner: Six Zero Inc.

Size: Approximately 74 acres

Existing Land Use: Vacant

Proposed Land Use: Industrial - multiple small office/warehouse type industries

Subdivision: Property is being platted as *Six Zero North Subdivision*

Planning

Existing Zoning: I2 (Heavy Industrial District)

Proposed Zoning: I2 (Heavy Industrial District)

Current Population: 0 residents

Projected Population: 0 residents

Density: N/A

Comprehensive Plan: Urban Growth Area – Employment Tier

Primary Service Area (Sewer Required): Yes



*Annexation Proposal
3325 NW 25th Street
Fact Sheet & Department Comments*

Annexation Procedure

Contiguous?: Yes.

Consent?: Yes. Owner provided a written consent.

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

Approval Method: COT governing body passes ordinance.

Revenue/Expenses Estimates

Property tax revenue to the City of Topeka in 2020 would be approximately **\$1,000** before any development takes place. **Future annual property tax revenue** to the City of Topeka upon build-out of development is estimated to be approximately **\$166,000** (estimate based on the assessed value per acre of existing similar land uses north of the subject property along NW Button Road). Current property tax revenue to Soldier Township is approximately **\$3,500** in 2020.

There is no existing **utility revenue**. **Future annual COT utility revenue** to the City of Topeka upon development of the property is estimated to be approximately **\$30,741**.

There are no additional costs to serve the proposed annexation for Fire, Police, Stormwater and Forestry. Water, Sewer, and Streets will incur additional annualized infrastructure operational and replacement costs of approximately **\$76,216**. All costs can be accommodated within existing budgets or with future revenues.

Utility and Service Providers

	Current	Proposed
Water	N/A	COT
Wastewater	N/A	COT
Fire	Soldier Township	COT
Police	Shawnee County	COT
Streets – NW 25th Street	Shawnee County	COT/Shawnee County
Streets – NW Button Road	Soldier Township	COT/Solder Township
Parks	Shawnee County	Shawnee County
Governing Body	Shawnee County (#1)	COT (#2)

The subject property is proposed for industrial development. COT sewer and water mains will serve this development. No parks existing or planned. No new streets are planned as part of this development.

Streets

Future access to the property from public roads will come from NW 25th Street, NW Button Road, and the Hwy. 24 frontage road. NW Button Road is currently a local two-lane rural gravel road between the Hwy.

*Annexation Proposal
3325 NW 25th Street
Fact Sheet & Department Comments*

24 frontage road and NW 25th Street. NW 25th Street is a major collector that is currently a two-lane paved rural road. The Hwy. 24 frontage road is a paved two-lane road.

Due to the speculative nature of the development proposal, required improvements to either of the two public roads is unknown at this time. Traffic improvement analysis for the entire subdivision must be approved at the time of development of the first lot and be updated for development on each subsequent lot. If the TIA warrants public roadway and sidewalk improvement, those improvements must be completed prior to issuance of a Certificate of Occupancy for this first building on each lot or as otherwise warranted by the approved TIA.

No new public roads will serve this development.

Metro Bus Service

Fixed-route service is not currently offered to this area. The closest fixed route system is 1.5 miles east of the property at NW 25th and NW Clay Streets.

Ability to Provide Adequate Public Services

FIRE

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

No additional.

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

Yes.

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

No additional impacts foreseen.

Ability to Provide Adequate Public Services

FORESTRY

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

No major cost to department.

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

Yes.

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

*Annexation Proposal
3325 NW 25th Street
Fact Sheet & Department Comments*

Single small annexations can be taken care of by Forestry with no major budget impacts. The cumulative effects of multiple annexations will ultimately not be sustainable.

**Ability to Provide Adequate Public Services
POLICE**

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

We do not anticipate any additional cost with annexation project. We already provide services to the surrounding areas.

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

Yes, but at some point if the City continues to annex properties and expands the city limits additional staffing will be needed.

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

At this time we do not see any additional issues.

**Ability to Provide Adequate Public Services
STREETS**

- 1) What is the estimated cost/benefit of providing adequate service to the proposed annexation (in current year \$'s):**

- a. Estimate annualized operations/maintenance cost over the lifecycle of the assets:**

\$14,000 per year based on existing roadway needs only.

- b. Estimate annualized replacement cost of the asset:**

\$50,000 per year assuming the existing assets need rebuild in 25years.

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

Yes

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

These roads may be functionally, and possibly structurally, unable to handle a large increase in traffic and such a change will accelerate the need to replace the roads.

**Ability to Provide Adequate Public Services
STORMWATER**

- 1) What is the estimated cost/benefit of providing adequate service to the proposed annexation (in current year \$'s):
 - a. Estimate annualized operations/maintenance cost over the lifecycle of the assets (\$0/year).
 - b. Estimate annualized replacement cost of the asset (\$0/year). This is based on 100 year replacement cycle.
 - c. Estimate annualized revenue over the lifecycle of the assets (\$13,998/year).

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

Yes.

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

None.

**Ability to Provide Adequate Public Services
WASTEWATER**

- 1) What is the estimated cost/benefit of providing adequate service to the proposed annexation (in current year \$'s):
 - a. Estimate annualized operations/maintenance cost over the lifecycle of the assets (\$765/year). This is based on 450' of new 8" sewer line.
 - b. Estimate annualized replacement cost of the asset (\$8,086/year). This is based on a 100 year replacement cycle.
 - c. Estimate annualized revenue over the lifecycle of the assets (\$9,266/year).

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

Yes.

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

None.

**Ability to Provide Adequate Public Services
WATER**

- 1) What is the estimated cost/benefit of providing adequate service to the proposed annexation (in current year \$'s):
- a. Estimate annualized operations/maintenance cost over the lifecycle of the assets (\$990/year). These costs are based on 1,550 feet of new water line.
 - b. Estimate annualized replacement cost of the asset (\$2,375/year). This is based on a 100 year replacement cycle.
 - c. Estimate annualized revenue over the lifecycle of the assets (\$7,477/year).

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

Yes.

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

None.

**Ability to Provide Adequate Public Services
Topeka Metro Bus Service**

- 1) Do you currently provide service to this subdivision/immediate area?

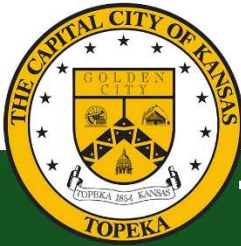
No. The closest service is 1.5 miles east at NW 25th and NW Clay, with no direct access from the proposed site.

- 2) If not, can you provide service?

Topeka Metro has no plans to provide service to this area.

- 3) What is the estimated cost of providing service to this subdivision?

A new route costs approximately \$300-500,000 annually, and were funding to become available, restoring service lost to budget cuts last year and adding service to already identified new routes which would take priority.



CITY OF
TOPEKA

TOPEKA PLANNING COMMISSION

Monday, May 18, 2020

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

CASE MINUTES

Members present: Brian Armstrong (Chair), Corey Dehn, Marc Fried, Wiley Kannarr, Jim Kaup, Corliss Lawson, Ariane Messina, Katrina Ringler, Matt Werner (9)

Members Absent: (0)

Staff Present: Bill Fiander, Planning & Development Director; Dan Warner, Comprehensive Planning Manager; Mike Hall, Current Planning Manager; Annie Driver, Planner; Kris Wagers, Administrative Officer; Mary Feighny, Legal

A20/02 Six Zero North Subdivision (P20/09), an approximately 74-acre subdivision on property located at 3325 NW 25th Street. (Warner)

Mr. Warner reviewed the memo provided in the agenda packet, explaining that the Land Use and Growth Management Plan (LUGMP) has established a policy that the Planning Commission review annexations greater than 10 acres for consistency with growth management principles of the LUGMP. Staff's recommendation is for a finding that annexing the subject property is consistent with the Comprehensive Plan.

Hearing no concerns voiced, Mr. Kaup made a **motion** for a finding that annexing the subject property is consistent with the Comprehensive Plan. **Second** by Mr. Kannarr. **APPROVAL** (9-0-0)



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
October 6, 2020

DATE: October 6, 2020
CONTACT PERSON: Brendan Wiley, Director **DOCUMENT #:**
of the Topeka Zoo
SECOND PARTY/SUBJECT: Friends Of Topeka Zoo **PROJECT #:**
(FOTZ) - Zoo
Governance
CATEGORY/SUBCATEGORY 006 Communication / 005 Other
CIP PROJECT: No
ACTION OF COUNCIL: Discussion 06-04-19. **JOURNAL #:**
Discussion 12-03-19.
Discussion 03-03-20.
PAGE #:

DOCUMENT DESCRIPTION:

DISCUSSION on the governance of operations at the Topeka Zoo.

VOTING REQUIREMENTS:

Discussion item only. No action required by the Governing Body.

POLICY ISSUE:

Determine whether to move forward with discussions related to entering into a Public Private Partnership with Friends of the Topeka Zoo (FOTZ) to manage the Topeka Zoo in accordance with terms and conditions set out in a corresponding License and Management Agreement.

STAFF RECOMMENDATION:

Discussion only. There is no action required by the Governing Body.

BACKGROUND:

Operating the Topeka Zoo & Conservation Center through a public-private partnership was first recommended by an Association of Zoos & Aquariums (AZA) special inspection in the fall of 2009, and was again considered in 2012, 2016 and 2018. This issue was most recently discussed by the Governing Body during the regular meetings held on June 4, 2019, December 3, 2019 and March 3, 2020.

In a public-private partnership (PPP), the City would maintain ownership of all assets, including land, buildings

and animals. The City would contract with a non-profit to operate the Zoo for an agreed upon annual management fee. Most City employees would become employees of the non-profit in the short-term. In the long-term, all personnel would become employees of the non-profit.

The City currently contracts with Friends Of Topeka Zoo (FOTZ), a non-profit organization, to operate several Zoo functions for an agreed upon annual fee: (1) admission, rental concession and public area custodial (since 2013); (2) hiring seasonal animal care staff (since 2015); and (3) hiring seasonal education staff (since 2019).

Completing this transition with FOTZ through a PPP would (1) facilitate operational and infrastructure growth without pressure on the City's general fund budget; (2) provide budgeting consistency for the City; (3) eliminate confusion related to areas of operational responsibility; and (4) create a better process for operational fundraising. Seventy- Five Percent (75%) of AZA zoos use a PPP model, as it is an industry best practice and allows for operational and infrastructure growth without passing the associated costs of such growth to the public.

BUDGETARY IMPACT:

Undetermined at this time.

SOURCE OF FUNDING:

Not Applicable

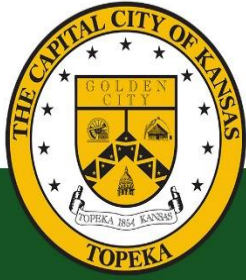
ATTACHMENTS:

Description

Executive Summary - Topeka Zoo Operations

Presentation

Excerpt of Governing Body Meeting Minutes



CITY OF TOPEKA

Topeka Zoo & Conservation Center
635 SW Gage Blvd
Topeka, KS 66606
www.topeka.org

Brendan Wiley, Zoo Director
785-368-9131
Email: bwiley@topeka.org

EXECUTIVE SUMMARY TOPEKA ZOO GOVERNANCE DISCUSSION

Objective: Create a governance model that allows for countywide public funding that promotes low cost admission, growth and an annual visitorship of 300,000 guests. The desired model would be similar to that of the Topeka Shawnee County Public Library or the Transit Authority. The first step in this process would be to shift the operation of the Topeka Zoo under Friends of the Topeka Zoo ("FOTZ") through a Public Private Partnership.

Background: Over the past thirty years, the Topeka Zoo has experienced cycles in which funding becomes strained followed by regulatory problems. Two previous cycles have resulted in consent agreements with the United States Department of Agriculture. The Topeka Zoo is currently operating in another one of these cycles.

During the last cycle, the City of Topeka requested a special inspection of the Topeka Zoo in 2009. One recommendation from the special inspection was to privatize the operation of the zoo through a public private partnership. Since the 1980's, privatizing the operation of publicly-owned zoos has become a zoo industry best practice.

Since 2013, City of Topeka funding for the Topeka Zoo began a trend of falling behind cost of business. To avoid past problems and keep available funding focused on critical areas, the City began outsourcing zoo functions to FOTZ. Examples of this include:

- 2013 - Food and beverage, admission and public area custodial services shifted to FOTZ.
- 2015 - FOTZ funds and employs the seasonal staff to work seasonal exhibits. These seasonal staff are FOTZ employees that report directly to City staff.
- 2018 - FOTZ began employing a full time educator to report directly to City staff as the City budget could no longer support the position in its temporary employee line. This fulltime educator reports directly to City staff.
- 2019 - FOTZ began employing camp counselors who report directly to City staff. While formerly volunteer/intern positions, new KDHE requirements makes them paid positions.

Why is now the right time to do this?

There is positive momentum at the Zoo. With the recent opening of two master plan projects, and funding for the third 80% in place, support of the zoo is at an all-time high. However, while we can grow infrastructure, we do not have a way to grow operations. Furthermore, we have already outsourced every possible function to FOTZ. If we don't change our model, we will need to change our product.

It would simplify operations if all employees were on the same team, rather than working under two separate organizations. This would allow all team members to have access to the appropriate tools to do their jobs and optimize fundraising efforts that would support all operations at the Zoo.

October 6, 2020

What if we don't?

Any further delays will make it more challenging each year for City staff to maintain minimum standards. Standards are always going to be enhanced. Costs are always going to increase. If we don't change our operating model, we need to begin the process of downsizing to a zoo that the City can afford to operate in accord these enhanced standards. This will require prioritizing which animal groups we want to maintain and which buildings we want to keep open.

What about the Pandemic?

COVID-19 has been a great exercise in disaster management. City staff at the Zoo know what the direct cost of every animal, every building and every program is at the Zoo and has gone through the exercise of priority reductions based on any given scenario. Furthermore, because FOTZ is a 501(c)(3), FOTZ had access to additional CARES Act funding that the City did not. FOTZ staff have not had to face reductions like City staff has. FOTZ is ready to assume the full operation of the Topeka Zoo and Conservation Center.

Zoo Governance

Creating a Public Private Partnership as the First Step in a Long-Term Plan.

Topeka City Council Meeting – 6 October 2020

Long-Term Objective

- Create a governance model that allows for countywide public funding that supports admission costs that ensure high accessibility that grows annual visitorship to at least 300,000 guests thereby securing a successful future for the Topeka Zoo and Conservation Center.

Long-term Plan Action Steps

1. COT shifts operational responsibility of the Zoo to Friends of Topeka Zoo (FOTZ) through a public private partnership.
2. FOTZ seeks support from the City Governing Body and County Commission for a long-term model.
3. FOTZ works with members of the Kansas Legislature to draft legislation creating a new countywide taxing district or authority, similar to the Topeka Shawnee County Public Library District or the Transit Authority.
4. Community determines whether to adopt or reject the proposed taxing district or authority through a public vote.
5. If community votes in favor, City Governing Body and County Commission appoint a Board to oversee the new district or authority.
6. If community does not vote in favor, the Public Private Partnership may become the long-term sustainable model.

Short-Term Objective:

Pursue a Public Private Partnership
as the first step in a long-term plan
that will preserve the integrity of
the Zoo

Public Private Partnership: Background

- If the governance change would have been adopted at the time it was originally recommended in 2009, adopting a model similar to the Library District or Transit Authority could have been the logical next step.
- However, at the time of the 2009 recommendation, too many systems were too broken for any type of governance shift to occur. We had to put things back together first.
- Along the way, we needed FOTZ to become engaged in zoo operations so that services the City was no longer able to afford could continue.
- We are now in a position to pursue a model that will allow operational employees of both organizations to work under one umbrella, as one team with less repetition of service.

Public Private Partnership: Current Relevance

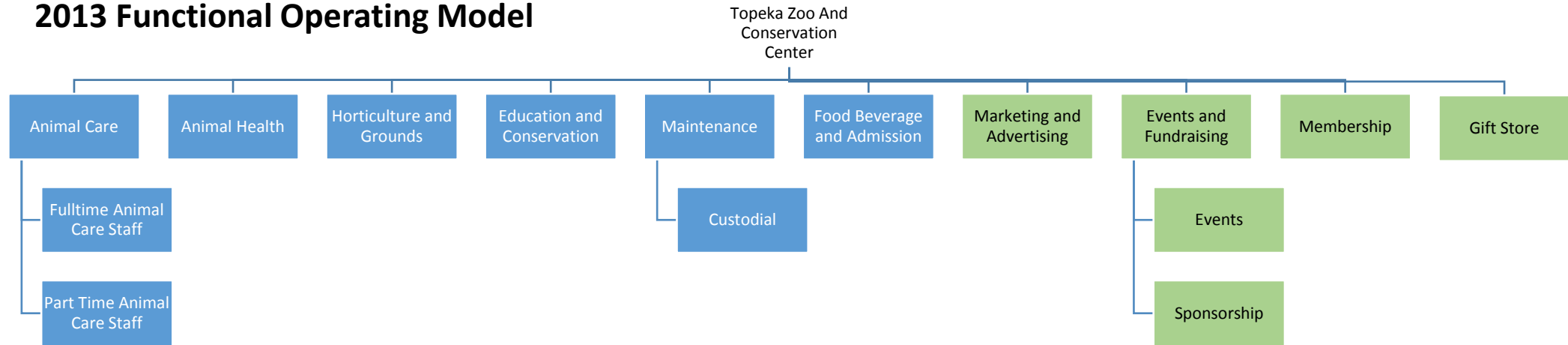
- Organizational mission will remain on hold as we decide whether or not we are an organization that is growing or shrinking.
- COT staff who work at the zoo will be doing so in a much less resource supported environment. To generate resources we have to rehome some key animals and not replace older key species after they die.
- Failure to change our model keeps the team of City staff and FOTZ staff divided and continues use of necessary resources on repetitive services.
- Current model is not sustainable for current zoo.
- “Bridge” to Long-Term Action Steps 2, 3 and 4 – FOTZ will take lead on pursuing legislation to create a taxing district or authority that would be submitted to the voters for approval.

Public Private Partnership: Current Status

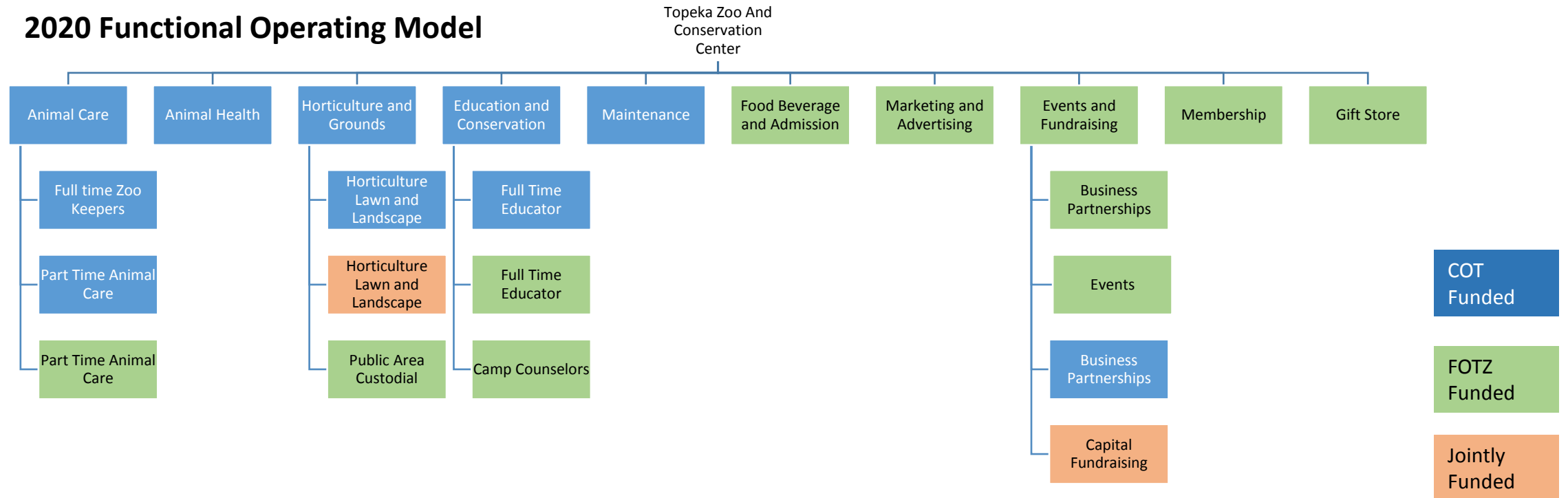
- Eleven years into the process.
- Proposed license and management agreement has been drafted.
- Issues requiring further discussion:
 1. Determine license and management fee.
 2. Agree on plan for capital maintenance.
 3. Finalize employee matters – Come to an agreement with the union that represents some members of COT staff who work at the Zoo.
 4. Identify which entity will provide insurance (i.e. Who will insure what)?
 5. Finalize IT transition plan.

Status of Operational Shift to FOTZ

2013 Functional Operating Model



2020 Functional Operating Model



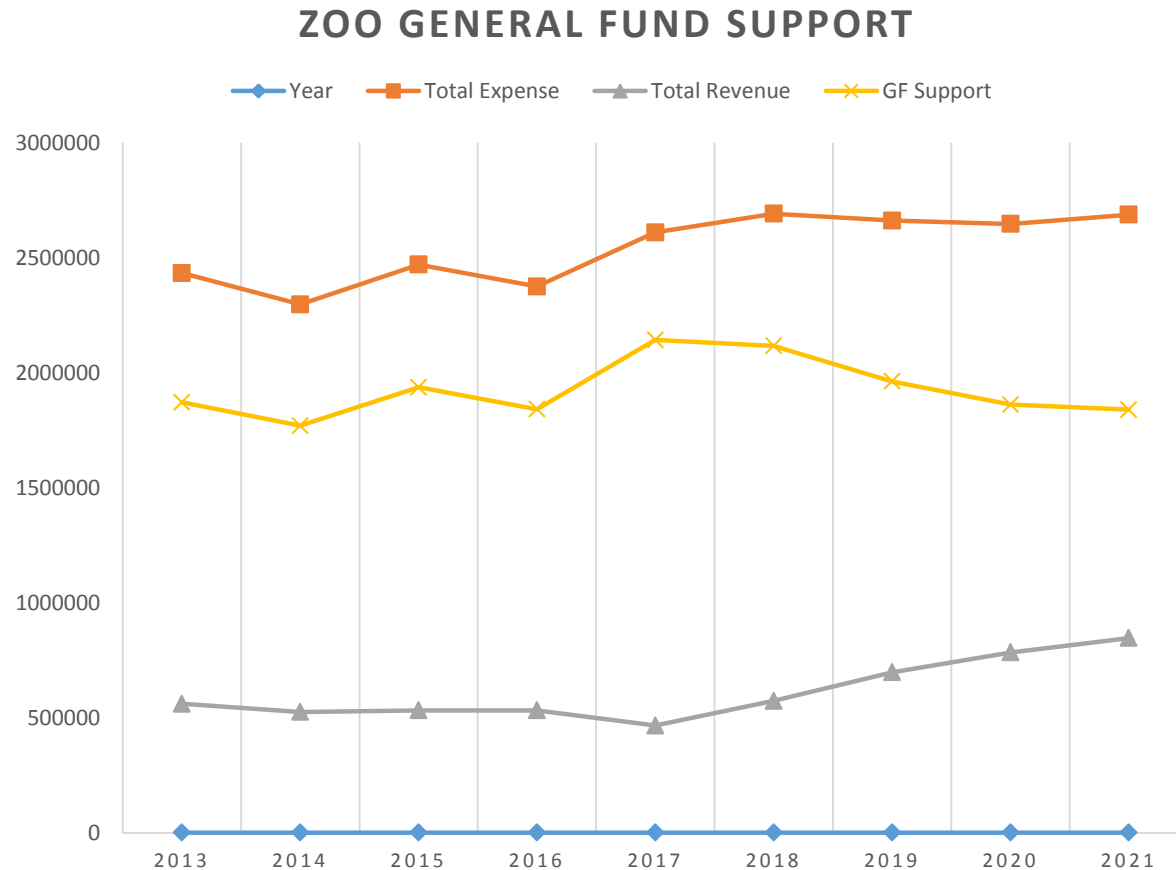
License & Management Fee

Financial Considerations:

- Accessibility – Established through Admission Rates.
- Operations – Has typically been supported through COT General Fund.
- Future Capital Improvement/Maintenance –
 - Capital Maintenance (Capital Funding to Maintain Existing Assets) – Has typically been supported through GO Bonds or to a limited degree, COT General Fund. Typically, capital maintenance is a function of a license or management fee.
 - Capital Improvements (Capital Funding for New Improvements and Projects)* – Future Improvements and projects will be funded through a combination of private funding secured through FOTZ and ½ Cent Countywide Retailers Sales Tax. Typically, capital improvements are not a function of a license or management fee.

* There may be a time when the COT wants to fund a Capital Improvement on or near Zoo property outside of the License or Management agreement. Examples of this may include funding a master plan or multipurpose infrastructure needs. This license or management fee/agreement does not prohibit that.

General Fund Operational Support - History



Year	Total Expense	Total Revenue	GF Support
2013	2,433,815	562,193	1,871,622
2014	2,297,439	526,763	1,770,676
2015	2,470,559	533,235	1,937,325
2016	2,375,174	533,335	1,841,839
2017	2,610,591	467,332	2,143,259
2018	2,691,853	574,506	2,117,347
2019	2,661,575	698,756	1,962,819
2020*	2,647,382	785,000	1,862,382
2021*	2,687,269	847,522	1,839,747

* 2020 and 2021 are budget amounts. All other years are actual expenditures and revenue.

GO Bond CIP Maintenance Support

Project	Year	Cost
Animals and Man Roof Replacement	2010	\$89,504
Hippo Wall and KS Carnivore Roof	2011	\$170,402
Rainforest Roof Replacement	2011	\$1,012,187
Necropsy Room	2011	\$109,256
Security Fence Phase 1	2011	\$155,477
Animals and Man Boiler Replacement	2012	\$105,547
Quarantine Facility	2012	\$1,034,287
Rainforest AC Upgrade	2013	\$242,400
Security Fence Phase 2	2013	\$126,130
Pond Repair	2015	\$217,709
Greenhouse/Storage	2016	\$154,200
Digital X-Ray	2016	\$91,140
Fire Hydrant Install	2017	\$154,000
Zoo Parking Lot Resurfacing and Drainage	2018	\$416,079
Storm Drainage	2019	\$1,456,000
		\$5,534,318

Average Capital Maintenance cost through the CIP is somewhere between \$338,226 and \$614,924 annually.

Current maintenance approach will be addressed in next week's presentation.

License Fee Examples

License Fee	Amt	Capital Maintenance	Accessibility/ Ticket Cost	Term	Structure	Pros	Cons
Zoo Advisors Model	2.25 mils flat or 2.125 mils average over 10 years starting at 2.5 mils then decreasing.	Accomplished by License Fee	Adult - \$7.75 Child - \$6.25 Senior - \$7.25	10 Years	Year 1 - 2.5 mils Year 2 - 2.375 mils Year 3 - 2.25 mils Year 4 - 2.125 mils Year 5 - and beyond - 2.0 mils	Based on best practice and benchmarking. Perpetuates success. Promotes growth and accomplishes capital maintenance. Supports current admission rates.	Fee is higher than current support in General Fund.
Neutral General Fund Impact Model	1.55 mils flat for the contract term.	Approved CIB - FOTZ is contracted with to perform capital maintenance.	Adult - \$9.75 Child - \$8.25 Senior - \$9.25	10 Years	Flat over contract term. Fee increases if mil levy increases	Fits within approved 2021 COT Budget.	Most likely requires an animal program reduction. Places higher burden on user through higher admission.
Negotiated Fee Model	2 mils flat for the contract term.	Negotiated CIB	Adult - \$8.75 Child - \$7.25 Senior - \$8.25	10 Years	Flat over contract term.	Admission rate can increase at a more gradual impact.	Fee is higher than current support in General Fund. May require an animal program reduction.

But... We are in a pandemic?

- COVID-19 has taught COT and FOTZ staffs how to engage and perform in crisis management situations.
- If either organization has to make pandemic-related future reductions, either organization can make them. We have developed the related data sets.
- If positioned as a non-profit, bounce back will be more rapid.

Proposed Timeline

- October 13 – Financial Matters
 - General Fund Neutral Model, Capital Maintenance, Contingency Planning
- October 20 – Property Ownership; Insurance; Proposed License Fee
 - Overview of applicable Articles 4, 5 and 15; 8 and 9
- November 10 – City Employees
 - Overview of Article 7 and Employee Services Agreement
 - Executive Session - AFT Labor Agreement
- November 17 – Action Items
 - Approval of License and Management Agreement with FOTZ and Employee Services Agreement
 - Approval of AFT Working Agreement
- Around January 1 – Transition Begins

Desired Feedback

- Over the next several meetings your guidance and feedback will be sought on the following items:
 - License and management fee amount, structure and term.
 - The future of Zoo capital maintenance.
 - Transition of personal property and property insurance.
 - Transition of some City staff to FOTZ employment.
 - Public engagement relating to a governance transition.
 - Contingency funding and planning.



CITY OF TOPEKA

CITY CLERK
City Hall, 215 SE 7th St., Room 166
Topeka, KS 66603-3914
(785) 368-3940

Brenda Younger, M.M.C.
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Fax: (785) 368-3943
www.topeka.org

The following excerpt of minutes are from the June 4, 2019, December 3, 2019, and March 3, 2020, Governing Body Meetings regarding the operations of the Topeka Zoo.

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, June 4, 2019. The Governing Body members of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Hiller, Clear, Ortiz, Emerson, Padilla, Jensen, Mays, Coen and Lesser -9. Mayor De La Isla presided -1.

The following is an excerpt of the minutes from the meeting of the Governing Body of the City of Topeka, Kansas held June 4, 2019, at 6:00 P.M.:

DISCUSSION on the governance of operations at the Topeka Zoo was presented.

Brendan Wiley, Topeka Zoo Director, gave a brief overview of evaluating Zoo governance through a Public Private Partnership including the typical partnership roles; money savings; history of similar partnerships at other zoos; successes and preventing failures; plans for long term success and the next steps. He distributed the Zoo Governance Discussion Supplemental Information (**Attachment A**) and commented on the City of Topeka Zoo Budget versus the Friends Of Topeka Zoo (FOTZ) Budget. He stated the City would work towards a suitable management fee and define what action would be needed from the Governing Body to plan for long term success. He noted staff has met with two stakeholders who are interested in two projects after the completion of Kay's Garden.

Councilmember Emerson spoke in support of the Zoo; however, he expressed concern with public perception of how a private partnership relates to civic pride. He asked if more monetary donations would be received if a private organization operated the Zoo.

Brendan Wiley stated the Zoo would not be "privatized" and the City would still maintain ownership; however, the private-public partnership would allow a different operating model.

Councilmember Ortiz complimented the Zoo and staff for continued improvements. She asked for clarification on what was being proposed and why. She noted there would be advantages in receiving grants only available to non-profit organizations. She asked if the partnership was approved, how the ongoing projects would be affected; what are the City's assets; and what would the partnership agreement entail. She thanked FOTZ for thinking outside the box and proposing a solid operational model for the Zoo.

Doug Gerber, Deputy City Manager, stated an agreement or plan has not yet been determined; however, if there was support from the Governing Body, City staff in collaboration with FOTZ will begin drafting an agreement to be considered by the Governing Body.

Brendan Wiley stated the typical private-public partnership organizational structure consists of one executive leader with all other positions remaining the same with the intent of providing better employment opportunities in the long term.

Councilmember Jensen requested all scenarios be reviewed with the intent of creating a good solid agreement to be reviewed by the Governing Body. He questioned how FOTZ plans to manage all costs associated with the Zoo as well as contingency funding.

Councilmember Padilla spoke in support of the concept. He requested the Governing Body be allowed to review as well as be fully briefed on the details of the agreement when drafted.

Mayor De La Isla spoke in support of Zoo leadership and staff. She expressed concern with ensuring the agreement includes all details, even during difficult financial times so the City would be safeguarded and the Zoo would continue to be successful.

Councilmember Hiller commended the Zoo and staff and stated the idea appeals to her; however, she has many questions about how it would be structured and what the agreement would include.

Councilmember Lesser asked for clarification if all Zoo employees would transition to FOTZ and how the changes would be structured. He asked Mr. Wiley to comment on his commitment to a private-public partnership.

Brendan Wiley stated all employees would eventually be transitioned to FOTZ and an organizational chart has not been discussed at this point in the process. He stated he believes a private-public partnership would support the Zoo's growth and provide a solid operational model for both the City and FOTZ.

Councilmember Mays left the room.

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, December 3, 2019. The Governing Body members of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Hiller, Ortiz, Emerson, Padilla, Jensen, Dobler, Coen and Lesser -8. Deputy Mayor Clear presided -1. Absent: Mayor De La Isla -1.

The following is an excerpt of the minutes from the meeting of the Governing Body of the City of Topeka, Kansas held December 3, 2019, at 6:00 P.M.:

DISCUSSION on the governance of operations at the Topeka Zoo was presented.

Brent Trout, City Manager, stated the purpose of the discussion was to provide the Governing Body an update on the opportunity that exists to modify the current operational partnership between the City and Friends of the Topeka Zoo (FOTZ) and exploring a City agreement with a non-profit organization to manage the full operation of the Topeka Zoo.

Doug Gerber, Deputy City Manager, reported the City of Topeka currently operates the Topeka Zoo through a public-private partnership with FOTZ and in the fall of 2018, FOTZ retained a consultant to assist both organizations with evaluating the direction of the partnership and future governance of the Zoo. He stated the recommendation to evaluate the form of governance of the Topeka Zoo took place in 2009, and the topic has been discussed every two or three years since then. He reported the recent conversation was initiated due to the level of growth the Topeka Zoo continues to experience.

Brendan Wiley, Topeka Zoo Director, provided an overview of the timeline of events that led to the evaluation of Zoo operations. He spoke in support of the operational model they are working towards as it would provide relief to the general fund and allow the same people to perform the same duties. He reported the best practices transition has already begun and over the next five years, the new budget model would provide for more benefits; clarify fund raising parameters; provide clear direction for staff; and offer efficiencies in many other areas of operations. The timeline was as follows:

- 2009 - began working through compliance issues and recommendation to evaluate Zoo operations

- 2012 - consultant was hired to evaluate the form of governance of the Zoo
- 2013 - public-partnership was developed with FOTZ by transferring certain operations
- 2015- FOTZ began hiring employees
- 2016 - continue conversations with Zoo advisors in regards to what the Zoo operations model might look like
- 2019 - FOTZ hired part-time education staff and absorbed all expenses possible to relieve the general fund

Doug Gerber reported a Request for Quote (RFQ) for services was distributed across the nation and only one response was received from FOTZ; employment and compensation models for exiting employees along with a retirement model will be similar to the City's current employment model; and preliminary discussions have taken place with the AFT bargaining union. He stated they continue to develop asset lists and are requesting input from the Governing Body on the following:

1. The term of license agreement. Staff was considering 10-15 years. There are deed restrictions that will not allow for a lease agreement to be executed.
2. FOTZ Board representation. Staff was proposing two Governing Body member representatives and two City staff members (Director of Public Works and Director of Administrative and Financial Services)
3. Management Fee Model. Continue to allocate two mills of general fund dollars or some percentage of the general fund such as 2% which could steadily decline through the course of the license agreement.

Lisa Robertson, City Attorney, reported other action that would be required by the Governing Body includes amending all Topeka Municipal Code sections relating to the Zoo as well as all AFT Bargaining Union agreements if needed. She stated the license agreement would give permission for FOTZ to operate the Zoo.

Councilmember Hiller asked staff to comment on the management of assets and how it relates to the use of Capital Improvement funds.

Doug Gerber spoke to the importance of proper asset management and how it would relate to the continued use of capital funds for maintenance.

Lisa Robertson reported asset lists are being created and will be transitioned over to FOTZ through the term of the license agreement.

Doug Gerber reported the underlying ownership of the property will remain with the City.

Councilmember Emerson requested an email be distributed to the Governing Body outlining the pros and cons *i.e.* an analysis of each option presented by staff.

Councilmember Dobler spoke in support of a three-year term license agreement. He questioned if the FOTZ Board representation could be appointed members by the Governing Body, similar to other boards and commissions. He also asked staff to provide information on the City's liability and insurance requirements.

Councilmember Ortiz expressed the importance of making sure the transition of privatizing Zoo operations will be supported by the community as well as staff. She stated she would prefer funding for the Zoo decrease as it becomes fully privatized. She expressed concern with the City's liability as it relates to the public-private partnership.

Doug Gerber asked for an affirmation of direction by the Governing Body.

Brent Trout expressed the importance of the City having a partner such as FOTZ willing to address the financial challenges as well as provide the necessary resources to support a quality Zoo that will continue to grow.

Fred Patton, Kansas House of Representatives, District 50, spoke in support of the private-public partnership with FOTZ. He stated private-public partnerships are the way of the future by supporting the concept of doing more with less and the first step in making the Zoo better. He stated the partnership would allow for a boarder fund raising base and noted FOTZ has raised \$22 million over the past five years.

Deputy Mayor Clear expressed the importance of allowing the experts to operate the Zoo and suggested Governing Body members serving on the FOTZ Board provide guidance not directive.

Councilmember Hiller requested staff send examples of operational models so she can better understand the context of knowledge of how different concepts work.

Councilmember Emerson spoke in support of the private-public partnership if it saves money and improves operations. He expressed the importance of the license agreement details and concurs with Councilmember Dobler in regards to an initial short-term license agreement.

Councilmembers Dobler, Lesser and Jensen spoke in support of moving forward and evaluating the partnership with FOTZ.

Councilmember Hiller suggested Zoo entry fees be evaluated and addressed in the license agreement.

CITY COUNCIL CHAMBERS, Topeka, Kansas, Tuesday, March 3, 2020. The Governing Body members of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Hiller, Valdivia-Alcala, Emerson, Padilla, Naeger, Dobler and Lesser -7. Mayor De La Isla presided -1. Absent: Councilmembers Ortiz and Duncan -2.

The following is an excerpt of the minutes from the meeting of the Governing Body of the City of Topeka, Kansas held March 3, 2020, at 6:00 P.M.:

DISCUSSION on the governance of operations at the Topeka Zoo was presented.

Brent Trout, City Manager, reported a number of meetings have been conducted related to the consideration of changing the governance of the Topeka Zoo. He spoke in support of FOTZ managing the Topeka Zoo and noted staff would provide details on the process to date.

Doug Gerber, Deputy City Manager, provided an overview of the process and reported Lisa Robertson, City Attorney, has drafted a license and management agreement and meetings with labor union representatives are complete. He stated a number of issues were identified as a result of one-on-one meetings with members of the Governing Body. He reported a comprehensive question and answer document will be compiled and presented to the Governing Body in the future. He reported questions relate to the following:

- Ownership of Facility and Animals
- Protection for all Parties Involved
- Amount of Outstanding Debt
- Board Representation
- Employee Transition

He noted there seems to be general support to move forward with the proposal with a time table of continued discussions with the AFT Employee Bargaining Unit; finalizing the financial information in the document as it relates to the Capital Improvement Plan; finalizing the asset list; finalizing ownership in regards to the City and/or FOTZ, or hybrid that works best for both. He stated there would be at least one or two more discussions before staff would request action from the Governing Body and if it was agreed to move forward, action items may be presented in

May or June, and include approval of the license and management agreement, amending the Topeka Municipal Code, and changes to the AFT Bargaining Unit Agreement.

Councilmember Valdivia-Alcala spoke in opposition of the draft agreement. She referenced Article 7, Section 7.2 – Bargaining Unit Employees; and Section 7.4(a) – Oversight of Zoo Employees – Responsibility. She asked staff to clarify the two sections.

Doug Gerber reported in the general sense; the ideal for the agreement would be that employees transfer from the City to FOTZ with the assurance employees will be treated fairly and appropriately. He noted the three employees that are close to retirement (3 years or less) under the KPERS Retirement System would have the option to remain City employees until retirement, with FOTZ honoring the terms of the agreement.

Councilmember Valdivia-Alcala expressed concern with the private/public partnership as it relates to the human resources component for employee protection; the potential for new employees to receive lower starting wages over time; and the competitive wages and benefits being proposed seem low. She asked if the City could consider utilizing the “Choose Topeka” program being offered by the Greater Topeka Partnership. She asked Brendan Wiley, Topeka Zoo Director, to list the top three reasons why he supports the proposal.

Brendan Wiley, Topeka Zoo Director, reported employees would not be members of a City bargaining unit; however, FOTZ would have protections in place similar to current City of Topeka employment systems including a human resources partner. He stated all budget models anticipate wages currently being paid, and the expectation was to hire qualified employees with competitive wages. He reported the top three reasons he supports the proposal include (1) budget compression; (2) the City cannot sustain operational growth parallel to infrastructure needs; and (3) the current funding source does not fit the user base.

Councilmember Valdivia-Alcala questioned residency requirements of the City as it relates to the management and license agreement and the governance of the Zoo. She asked Mr. Wiley if he resides in Shawnee County as well as if he was a registered voter.

Brendan Wiley stated he meets the City of Topeka residency requirement.

Mayor De La Isla questioned the legal bearing of the residency questions and cautioned Councilmember Valdivia-Alcala against asking certain types of questions that may result in putting the City in a difficult position.

Councilmember Valdivia-Alcala challenged the ruling of the chair and stated she believes the questions are germane to the topic. She stated she continues to have questions about this particular issue and requested the City Attorney clarify how the topic was not relevant to the discussion.

Lisa Robertson, City Attorney, stated the topic being discussed was governance of the Topeka Zoo and the management and license agreement. She stated direct questions about residency do not relate to the license agreement, and perhaps, should be discussed at a different time.

Councilmember Valdivia-Alcala expressed her opposition to the ruling and stated she believes the topic needs to be addressed, especially if the proposal was not approved. She stated she inquired further on the residency information because the forms provided to her by City Manager Trout appear to reflect compliance of the City’s residency requirement by all directors; however, there was no way of knowing on an annual, bi-annual or tri-annual basis if a director was still living in Shawnee County. She noted one of the items used to verify residency was proof of voter registration.

Brent Trout confirmed proof of voter registration was only one of the many items allowed to be presented for proof of residency.

Mayor De La Isla respectfully requested the discussion topic remain on governance of the Topeka Zoo and the management and license agreement. She requested the City’s residency

policy be discussed on a future agenda.

Councilmember Valdivia-Alcala again expressed her opposition to the ruling. She stated she believes the residency requirement was germane to the topic being discussed.

Councilmember Hiller requested staff provide clarification on the proposed direction of the City. She asked if the City wanted to hire a management company to run a City owned zoo; or will the City provide start up and reversion rights for a new company to run their own zoo. She stated it was her understanding FOTZ wanted full separation of the Zoo from the City so they were free to grow the Zoo and raise funds without being burdened by municipal government regulations; however, the documents presented by staff do not reflect this.

Brendan Wiley reported the Vision has not changed; however, since the license agreement has come to fruition the direction of the conversation may have changed. He reported there have been some deed restrictions that have surfaced and the City was proposing to hire a mission based organization to help excel the growth potential of the Topeka Zoo.

Councilmember Hiller stated she continues to have questions such as insurance requirements by both entities and noted the City was self-insured. She asked if the City was expecting a net gain or to reposition what the City already has in place.

Brendan Wiley stated the Community would receive a net gain with the intent over time for the cost and/or liability of the City to become fairly stable with additional support secured through FOTZ.

Doug Gerber confirmed the Vision has not changed; however, in terms of other conversations staff has had with the Governing Body, there have been other suggested alternatives given for consideration as discussions continue.

Councilmember Lesser explained different types of insurance protections and noted very few entities self-insure. He stated there are details that need to be worked through regarding protection for the City and FOTZ, and how it relates to common practice with these types of agreement proposals or partnerships. He recognized there are a number of issues that need to be worked through; however, he believes the license agreement was a good place to start.

Councilmember Dobler stated he struggles with voting on the proposal until a master plan has been drafted for Gage Park providing him the understanding of how the zoo fits in the overall plan for the area. He stated he would support an initial 5-year term agreement with the ability to revise as needed as opposed to the 15-year term currently being proposed in the agreement.

Councilmember Naeger stated she concurs with Councilmember Dobler. She encouraged staff to work with Shawnee County to develop a Gage Park Master Plan.

Doug Gerber reported approximately two years ago, Shawnee County began moving forward with a Gage Park Master Plan and the City was prepared to contribute funding towards the plan; however, since that time Shawnee County has put those efforts on hold. He assured the Governing Body that staff understands the importance of integrating the two master plans.

Brent Trout reported it may be a few months before Shawnee County will begin to engage in the drafting of a Gage Park Master Plan as they are currently working on a Family Park Master Plan.

Brendan Wiley stated the Zoo's current master plan mainly consists of the renovation and/or rehabilitation of the zoo, addressing an extensive amount of repair to old infrastructure. He noted the next master plan would address future expansion within the fence boundary of the zoo.

Councilmember Hiller questioned the expected timeline for the proposal.

Doug Gerber reported initially the ideal timeframe to move forward with the proposal would be in conjunction with, or prior to, the adoption of the 2021 City of Topeka Operating Budget; however, given the recent discussions, this may not be accomplished based on how

conversations progress in regards to a Gage Park Master Plan.

STATE OF KANSAS)
SHAWNEE COUNTY)

I, Brenda Younger, City Clerk of the City of Topeka, Kansas, County of Shawnee, do hereby certify that the above and foregoing is a true and correct copy of an excerpt of the minutes from the regular meeting of the Governing Body, held on Tuesday, June 4, 2019, December 3, 2019 and March 3, 2020, at 6:00 P.M., as the same appears on record in the office of the City Clerk.



Brenda Younger
Brenda Younger, M.M.C.
City Clerk

	FOTZ 2018	FOTZ 2017	2013 Zoo Budget
Conservation Expenses	25,261.39	20,054.71	-
Docent Supplies	1,000.00	3,871.14	-
Concession Expenses	62,837.88	40,411.35	29,046.86
Seasonal Staff	159,683.86	160,297.71	47,352.88
Janitorial Supplies	4,150.97	3,808.47	4,000.00
Website and Online Store Marketing and Printing			
	252,934.10	228,443.38	80,399.74

City of Topeka Zoo Budget	2016 Budget	2016 Actual	2017 Budget	2017 Actual	2018 Budget	2018 Actual
Revenue	524,389.00	533,335.00	533,104	467,332	580,000	574,506
Expense	2,364,797.00	2,375,174.00	2,499,978	2,610,591	2,595,276	2,630,937
Difference	(1,840,408.00)	(1,841,839.00)	-1,966,874	-2,143,259	-2,015,276	-2,056,431
3 yr avg based on budget		(1,940,853.00)				
3 yr avg based on actual		(2,013,843.00)				
Average annual growth 2016 to 2017 and 2017 to 2018		115,240.00	4.74%			



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
October 6, 2020

DATE:	October 6, 2020	DOCUMENT #:
CONTACT PERSON:		PROJECT #:
SECOND PARTY/SUBJECT:		
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

VOTING REQUIREMENTS:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING: