



City Council Chambers 214 SE 8th
Street, 2nd Floor Topeka KS 66603
<https://www.topeka.org>

Governing Body Agenda

May 14, 2024
6:00 PM

Mayor: Michael A. Padilla

Councilmembers

Karen A. Hiller	District No. 1	Marcus D.L. Miller	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
David Banks	District No. 4	Michelle Hoferer	District No. 9
Brett D. Kell	District No. 5		

Interim City Manager: Richard U. Nienstedt

Addressing the Governing Body: Public comment for the meeting will be available via Zoom or in-person. Individuals must contact the City Clerk's Office at 785-368-3940 or via email at cclerk@topeka.org by no later than 5:00 p.m. on the date of the meeting, after which the City Clerk's Office will provide Zoom link information and protocols prior to the meeting. View the meeting online at <https://www.topeka.org/communications/live-stream/> or at <https://www.facebook.com/cityoftopeka/>.

Written public comment may also be considered to the extent it is personally submitted at the meeting or to the City Clerk's Office located at 215 SE 7th Street, Room 166, Topeka, Kansas, 66603 or via email at cclerk@topeka.org on or before the date of the meeting for attachment to the meeting minutes.

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 by 5:00 p.m. on Thursday in the City Clerk's Office, 215 SE 7th Street, Room 166, Topeka, Kansas, 66603 or on the City's website at <https://www.topeka.org>.

CALL TO ORDER:

INVOCATION:

PLEDGE OF ALLEGIANCE:

1. ROLL CALL:

2. APPOINTMENTS:

A. Board Appointment - NOTO Business Improvement District Advisory Board

BOARD APPOINTMENT recommending the appointment of DeAna Morrison to the NOTO Business Improvement District Advisory Board to fill a term ending May 14, 2026. *(Council District No. 2)*

B. Board Appointment - Citizens Advisory Council - J. Edwards

BOARD APPOINTMENT recommending the appointment of Jim Edwards to the City of Topeka Citizens Advisory Council for an expired term ending May 10, 2027. *(Council District No. 7)*

3. PRESENTATIONS:

- **NOTO Business Improvement District 2025 Program of Services**

4. CONSENT AGENDA:

A. Resolution - Celtic Fox Tap That Brew Festival - Special Event

RESOLUTION introduced by Councilmember Karen Hiller, approving a special event known as Tap That Brew Festival. *(Council District No. 1)*

(Approval would allow the sale, consumption and possession of alcoholic beverages within the designated barricaded area for the Tap That Brew Festival event on June 8, 2024, between the hours of 3:00 p.m. and 8:00 a.m.)

B. Resolution - Celtic Fox Tap That Brew Festival and After Party- Noise Exception

RESOLUTION introduced by Councilmember Karen Hiller granting The Celtic Fox an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions. *(Council District No. 1)*

(Approval would allow for live bands during the hours of 3:00 p.m. and 1:30 a.m. on June 8, 2024, SW 8th from Crosby Parking Garage to Harrison, SW Jackson Avenue from 9th to 7th Street.)

C. Resolution - Fiesta Mexicana - Special Event

RESOLUTION introduced by Councilmember Valdivia-Alcala, approving a special event known as the Our Lady of Guadalupe 91st Annual Fiesta Mexicana. *(Council District No. 2)*

(Approval would allow for the sale, consumption and possession of alcoholic liquor on the designated barricade portions of Lake Street from Atchison Avenue to Greeley Street; Greeley Street from

Branner Street to Lake Street; Atchison Avenue from Branner Street to Lime Street; Chandler Street from Atchison Avenue to State Street for Our Lady of Guadalupe Fiesta Mexicana on July 16-20, 2024, between the designated hours.)

D. Resolution - Fiesta Mexicana - Noise Exception

RESOLUTION introduced by Councilmember Valdivia-Alcala, granting Our Lady of Guadalupe an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions. *(Council District No. 2)*

(Approval would allow for live bands and amplified music and sound during the hours of 4:00 p.m. and 11:59 p.m. on July 16-20, 2024, at specified locations.)

E. Resolution - Fiesta Mexicana - Parking Waiver

RESOLUTION introduced by Councilmember Valdivia-Alcala granting a waiver to the provisions of City of Topeka Code Section 10.60.120 relating to parking on unimproved surfaces for the Our Lady of Guadalupe 91st Annual Fiesta Mexicana. *(Council District No. 2)*

(Approval would allow those individuals attending the Our Lady of Guadalupe Fiesta Mexicana event to park on unimproved surfaces at established areas during July 16-20, 2024.)

F. MINUTES of the regular meeting of May 7, 2024

G. APPLICATIONS:

5. ACTION ITEMS:

A. Contract - City Manager Employment Agreement - R. Perez

EMPLOYMENT AGREEMENT between the City of Topeka and Dr. Robert M. Perez, Jr. to serve as City Manager.

Voting Requirement: Action requires at least six (6) votes of the Governing Body.

(Employment agreement is for an initial one-year term with subsequent renewal for an additional two-year term based on the terms and conditions outlined in the agreement.)

B. Resolution of Advisability and Authorization Amendment - Sherwood Park No. 9 Improvement Project No. 601132.00

RESOLUTION introduced by Interim City Manager Richard U. Nienstedt further amending Resolution of Advisability and Authorization No. 9279, as previously amended by Resolution No. 9330, which provides street improvements for Sherwood Park Subdivision No. 9 as more specifically described herein.

Voting Requirement: Action requires at least six (6) votes of the Governing Body.

(Approval would increase the project budget by \$63,856.34 for a total project budget of \$1,028,889.34.)

C. Ordinance - Retaliatory Eviction Ordinance Amendment

ORDINANCE introduced by Interim City Manager Richard U. Nienstedt, concerning retaliatory

eviction, amending Sections 9.25.010 and 9.25.020 of the Topeka Municipal Code and repealing original sections. *(The Public Health and Safety Committee recommended approval by a vote of 4-0-0 on April 15, 2024.)*

Voting Requirement: Action requires at least five (5) votes of the City Council. The Mayor does not vote. *The proposed ordinance involves a matter of home rule on which the Mayor has veto authority.*

(Approval would authorize technical language amendments to redefine retaliate.)

6. NON-ACTION ITEMS:

A. Discussion - Trade Board Membership Residency Requirement

DISCUSSION concerning residency requirements for Trade Board membership. *(The Policy and Finance Committee recommended approval on April 23, 2024.)*

(Approval will open eligibility for board membership to qualified candidates that live in Shawnee County but work or own a business in the city of Topeka.)

7. PUBLIC COMMENT:

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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
May 14, 2024

DATE: May 14, 2024
CONTACT PERSON: Mayor Michael A. Padilla **DOCUMENT #:**
SECOND PARTY/SUBJECT: Noto Business **PROJECT #:**
Improvement District
Advisory Board
CATEGORY/SUBCATEGORY 006 Communication / 005 Other
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

BOARD APPOINTMENT recommending the appointment of DeAna Morrison to the **NOTO Business Improvement District Advisory Board** to fill a term ending **May 14, 2026**. (*Council District No. 2*)

VOTING REQUIREMENTS:

Action requires at least five (5) votes of the City Council. Mayor does not vote.

POLICY ISSUE:

The purpose of the NOTO Business Improvement District Advisory board (BID) is to monitor and oversee services provided pursuant to the business improvement district act. The board shall conduct its business in accordance with City Code.

STAFF RECOMMENDATION:

Mayor Padilla nominates and recommends the appointment of DeAna Morrison to the NOTO Business Improvement District Advisory Board (BID) to fill a term ending on May 14, 2026.

BACKGROUND:

This is a statutory board wherein the Mayor nominates and the Council has final approval. The NOTO Business Improvement District Advisory Board shall consist of five members representing businesses located in the district. Two members shall serve a one year term and three members shall serve a two year term and there are no term limits.

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable.

ATTACHMENTS:

Description

D. Morrison - NBID Application & Resume

City of Topeka Boards and Commissions Application

Submitted on	26 March 2024, 3:57PM
Receipt number	229
Related form version	8

Profile

First Name	DeAna
Last Name	Morrison
Email Address	iamdeana@outlook.com
Street Address	907 N Kansas Ave
Suite or Apt	
City	Topeka
State	Kansas
Zip	66608
Are you a resident of the City of Topeka?	Yes
What district do you live in?	District 2
Primary Phone	7858455227
Alternate Phone	7854305228
Employer	self
Job Title	Owner Resident Artist at Amused LLC
Which Board would you like to apply for?	NOTO Business Improvement District Advisory Board
Are you a registered voter?	Yes
Are you currently a full or part-time employee of the City of Topeka?	No
Which department do you work for?	

Are you or any immediate family member related to any city governmental official or employee? No

Who are you related to and how are you related?

Are you or have you been a party to any civil litigation involving the City of Topeka? No

Please explain the litigation and your role in it:

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

Please explain your delinquent payment situation. Currently on a payment plan to catch up on sales tax.

Please state why you are interested in serving on this board or commission: This is my neighborhood and I am invested in its care and growth.

Interests & Experiences

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

I have owned a business in the NOTO Arts & Entertainment District for over 10 years and a full time resident of the arts district for 4. I am a volunteer member of The Great Overland Station's steering committee with the goal of growing the cultural, educational and economic impact on not only the 2nd District but the city and county, as well.

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.) n/a

**Please upload a resume or any additional information you believe may be helpful in considering your application.

Voluntary Self Identification

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

Your electronic signature



[Link to signature](#)

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.



DeAna Morrison

Objective

A Volunteer Position on the
NOTO BID Board

Qualifications

Business Owner in the District for 10+ Years

Work History

2013 to Present, Owner/Artist in Residence, Amused LLC

General Day to Day Management

Sales, Marketing, Buyer, Maintenance of property, Curate & install rotating exhibits, Merchandise displays,
Maintaining multiple social media accounts, Book Keeping, Rental management, Business development, Teaching,
Event coordinator, Public relations, Artist in Residence

2020 to Present, Owner FootPool NOTO

Topeka's First Soccer Ball Pool Table

2006 to 2013, Home Manager of 7, Artist

Home educator, volunteer, facility director, Muralist, commission based artist

2000 to 2006, Night Supervisor & Music Dept Lead, Christian Book & Gifts

907 N Kansas Ave

Topeka, KS 66608

Phone: 785-845-5227

Email: iamdeana@outlook.com



DeAna Morrison

Awards Received

2018 Arty Award People's Choice Award Favorite Art Gallery

2023 Finalist Veteran Owned Small Business Award

Interests and Activities

Muralist/Signage

St Joseph Lofts, Axe & Ale, Circle Coffee, Great Overland Station, Potwin Lofts,

Topeka Zoo: Padas Monkey Exhibit, Restoration of Buffalo sculpture in Cushinberry Park,

Restoration of Gage Park Carousel Mural, Contributing artist on Greetings from Topeka Post Card Mural (NOTO)

Volunteer Experience

Great Overland Station Steering Committee for Great Overland Comic Convention

Artist Coordinator for Topeka Zoo's Roar & Pour Fundraiser since 2018

General Volunteer as needed NOTO Arts District 2013 to Present



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Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
May 14, 2024

DATE: May 14, 2024
CONTACT PERSON: Mayor Michael A. Padilla **DOCUMENT #:**
SECOND PARTY/SUBJECT: Citizen's Advisory Council **PROJECT #:**
CATEGORY/SUBCATEGORY 006 Communication / 005 Other
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
 PAGE #:

DOCUMENT DESCRIPTION:

BOARD APPOINTMENT recommending the appointment of Jim Edwards to the City of Topeka Citizens Advisory Council for an expired term ending May 10, 2027. (Council District No. 7)

VOTING REQUIREMENTS:

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

POLICY ISSUE:

The Advisory Council makes recommendations to the City Department of Neighborhood Relations on issues described in the advisory council by-laws.

STAFF RECOMMENDATION:

Mayor Padilla recommends the appointment of Jim Edwards to the Citizen's Advisory Council to fill a vacant term ending May 10, 2027.

BACKGROUND:

In accordance with City Code 2.105.040, one voting member from each NIA. Three members appointed at-large by the Mayor with confirmation of the Council. One appointee must be from a low to moderate income (LMI) area not represented by a certified NIA, or be a LMI citizen of Topeka not residing in an NIA area. At-large members must come from disciplines such as construction trades, architecture, appraising, real estate sales, public finance, mortgage lending, legal, real estate development, residential property management, commercial banking, construction material suppliers, fund raising, neighborhood planning, zoning, engineering or other disciplines relevant to housing and neighborhood development.

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable.

ATTACHMENTS:

Description

J. Edwards - Reappt Application

City of Topeka Boards and Commissions Application

Submitted on	10 March 2024, 8:59PM
Receipt number	225
Related form version	8

Profile

First Name	Jim
Last Name	Edwards
Email Address	jedwards3634@gmail.com
Street Address	3634 SW Spring Creek Ct
Suite or Apt	
City	Topeka
State	Kansas
Zip	66614
Are you a resident of the City of Topeka?	Yes
What district do you live in?	District 7
Primary Phone	785-231-8978
Alternate Phone	785-272-7185
Employer	Retired (Contracting with USD 501 during legislative session)
Job Title	Lobbyist
Which Board would you like to apply for?	Citizen's Advisory Council
Are you a registered voter?	Yes
Are you currently a full or part-time employee of the City of Topeka?	No
Which department do you work for?	

Are you or any immediate family member related to any city governmental official or employee? No

Who are you related to and how are you related?

Are you or have you been a party to any civil litigation involving the City of Topeka? No

Please explain the litigation and your role in it:

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? No

Please explain your delinquent payment situation.

Please state why you are interested in serving on this board or commission: I wish to continue to serve as an at-large member.

Interests & Experiences

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

I have been a resident of Topeka since 1982. During that time period I worked for two entities ... the Kansas Chamber of Commerce and Industry (1982 - 2002) and the Kansas Association of School Boards (2002 - 2012). I fully understand the importance of volunteers in moving organizations forward.

For more information see my attached resume.

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.) N/A

**Please upload a resume or any additional information you believe may be helpful in considering your application. [RESUME.pdf](#)

Voluntary Self Identification

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

Your electronic signature



Alternative electronic signature

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.

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May 14, 2024

DATE: May 14, 2024
CONTACT PERSON: Thomas Underwood, **DOCUMENT #:**
NOTO Arts and
Entertainment District
Executive Director
SECOND PARTY/SUBJECT: NOTO Business **PROJECT #:**
Improvement District
CATEGORY/SUBCATEGORY
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

- NOTO Business Improvement District 2025 Program of Services

VOTING REQUIREMENTS:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

Description

NOTO BID Report and 2025 Program of Services

NOTO Business Improvement District 2025 Program of Services

Submitted by:
Thomas Underwood, Executive Director
NOTO Arts and Entertainment District

The NOTO Business Improvement District was approved by the City of Topeka Governing Body in 2022 for formal implementation in 2023. The purpose of the NOTO BID is to provide fundamental services to the district that otherwise are not provided by local government, specifically in four primary areas: district maintenance, beautification, safety and security, and marketing.

The NOTO BID boundary is Morse Street to the north, Norris Street to the south, Quincy Street to the east, and Jackson Street to the west. Within this geographic area are two tiers, with Tier 1 to the south of Gordon and Tier 2 to the north. Assessments are based on tier and type of business, e.g., retail versus warehouse. All businesses are assessed, though businesses established in the area prior to 2008 do not have to pay the assessment. It was estimated that if every business were to pay the assessment the NOTO BID revenue would be \$17,7255; for only businesses established after 2008 the estimated revenue was \$12,350.

With only the first year as a benchmark, it is difficult to ascertain patterns of compliance. Payments were very uneven, requiring numerous communications and several invoices throughout the year. One business did not pay until the very last day of the year. Thus, it was difficult to determine expenditures when revenue was so inconsistent. Nine businesses who were obliged to pay the assessment did not do so, resulting in a \$3,000 in uncollected assessment revenue.

The final amount collected in 2023 was \$10,050. However, due to the uncertainties of collections expenditures were limited and we closed the year with about \$4,000 in unspent funds for rollover. Assuming a similar amount will be collected in 2024, the total budget for the year is estimated at about \$13,000. In addition to basic maintenance, the primary expenditure planned for 2024 is the repair, replacement, or removal of banners in the district.

2025 Services

Assuming a 2024 collection of about \$10,000, the planned program of services for 2025 will continue to be fairly basic:

ITEM	SERVICES	EST. AMOUNT
District Maintenance	Trash service, snow removal	\$5,800
Beautification	New trash cans	\$2,100
Marketing	Repair archway, window clings	\$1,050
COT Administration	2% of revenue (2025)	\$200
NOTO Administration	5% of revenue (2025)	\$500
TOTAL		\$9,650

Collection Strategies

Despite an open, transparent, and inclusive process in the development of the NOTO BID, a surprising number of NOTO businesses complained about the new assessment. In its first year, several communications recounting the history and its purpose were sent, and the advisory board was active in direct contact. Towards the end of the year a letter from the City Manager was included in an invoice which did seem to spur a few businesses to pay. Probably the most significant impact on payment was the implementation of the NOTO Redevelopment Incentive Grant fund, of which payment of the NOTO BID (post-2008) is required. We will continue to educate the district on the importance of the BID. We also seek support from the COT in exercising its authority to collect a financial obligation to the City.

Other Revenue

The NOTO organization is a small non-profit entity that provides an array of services for the NOTO district and the community. Funding for the NOTO organization comes from grants, sponsorships, and donations. Except in the form of sponsorships or grants for certain events or projects, of which we have received increasing support this past year, NOTO does not receive Transient Guest Tax for operational costs. NOTO does not receive any Tourism Business Improvement District funds for operations of Redbud Park which is a site for free community concerts, public art, and festivals.

Advisory Board

The 2023/2024 Advisory Board included:

- Pedro Concepcion, Wheel Barrel
- Monette Mark, Fire Me Up Ceramics
- Denise Selbee-Koch, Compass Point
- Dave Horn, Donaldson's Jewelers
- Thomas Underwood, NOTO Arts and Entertainment District

The terms for Pedro Concepcion and Monette Mark have expired and they have chosen not to renew their appointment. Pending Advisory Board members include:

- Trish McAlister, Decades Garage
- DeAna Morrison, Amused Gallery and Gifts

The NOTO Bid is essential to the continued development of the area. While the amounts collected are minimal compared to the need, we believe collections will continue to improve as new businesses come to the district and existing businesses realize its value. Further, the NOTO Redevelopment Incentive Grant offers a great incentive.



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May 14, 2024

DATE: May 14, 2024
CONTACT PERSON: Councilmember Hiller **DOCUMENT #:**
SECOND PARTY/SUBJECT: The Celtic Fox **PROJECT #:**
CATEGORY/SUBCATEGORY: 020 Resolutions / 005 Miscellaneous
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

RESOLUTION introduced by Councilmember Karen Hiller, approving a special event known as **Tap That Brew Festival**. (Council District No. 1)

(Approval would allow the sale, consumption and possession of alcoholic beverages within the designated barricaded area for the Tap That Brew Festival event on June 8, 2024, between the hours of 3:00 p.m. and 8:00 a.m.)

VOTING REQUIREMENTS:

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

POLICY ISSUE:

Pursuant to state law, the Governing Body must approve any special event where alcoholic liquor will be served and consumed on designated public streets, alleys, and sidewalks when a temporary permit has been issued by the Kansas Division of Alcohol Beverage Control (ABC).

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to approve the resolution.

BACKGROUND:

Streets and alleys within the boundaries of the event shall be closed to motor vehicle traffic. The traffic engineer and the chief of police or their designees shall determine the streets and alleys to be closed and the closing times. Pursuant to K.S.A. 41-719 and 41-2645, the sponsor shall ensure that the area in which alcoholic liquor is possessed or consumed is clearly marked by signs, a posted map or other means ("Designated Barricaded Area").

BUDGETARY IMPACT:

The table below outlines the cost breakdown of the 2021 Second Saturday Summer Concert Series. It is estimated the cost of City resources will be close to the same in 2022.

DEPARTMENT	COST
Police Department:	\$1,756.96
Fire Department:	\$1,465.83
Street Division:	\$70.51
Parking Division:	\$80
Traffic Division:	\$1,142
City Clerk:	\$75
Inmate Crews:	\$252
Legal Department:	\$4
Total Event Cost:	\$4,846.30

SOURCE OF FUNDING:

City Departmental Funds

ATTACHMENTS:

Description

Resolution

RESOLUTION NO. _____

A RESOLUTION introduced by Councilmember Karen Hiller approving a special event known as Tap That Brew Festival.

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

Section 1. Pursuant to state law, alcoholic liquor may be consumed at a special event to be held on designated public streets, alleys, and sidewalks when a temporary permit has been issued by the Kansas Division of Alcohol Beverage Control (ABC) and the governing body has approved the event as required by K.S.A. 41-719 and 41-1201 and amendments thereto.

Section 2. Having considered the request of the sponsor of the 2024 Tap That Brew Festival to allow the possession and consumption of alcoholic liquor, the governing body hereby approves the event to be held on June 8, 2024, between the hours of 3:00 p.m. and 8:00 p.m. provided the sponsor secures a temporary permit from ABC and complies with all state laws and ordinances regulating alcoholic liquor.

Section 3. A portion or all of the following streets/alleys shall be closed to motor vehicle traffic during the dates and times identified in Section 2: Jackson Street from 7th Street to 9th Street and 8th Avenue from Harrison Street to Kansas Avenue. Pursuant to K.S.A. 41-719 and 41-1201, the sponsor shall ensure that the area in which alcoholic liquor is possessed or consumed is clearly marked by signs, a posted map or other means (“Designated Barricaded Area”).

Section 4. Event attendees may purchase, possess and consume alcoholic beverages within the Designated Barricaded Area. Pursuant to K.S.A. 41-719, no alcoholic liquor may be removed from Designated Barricaded Area or consumed inside vehicles while on public streets or alleys at the event.

28 Section 5. This Resolution shall take effect and be in force after its approval by
29 the governing body.

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31 ADOPTED and APPROVED by the Governing Body on _____.

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CITY OF TOPEKA, KANSAS

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Michael A. Padilla, Mayor

38 ATTEST:

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Brenda Younger, City Clerk

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not applicable.

ATTACHMENTS:

Description

Resolution

1 RESOLUTION NO.

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3 A RESOLUTION introduced by Councilmember Karen Hiller granting The Celtic
4 Fox an exception to the provisions of City of Topeka Code
5 Section 9.45.150, et seq. concerning noise prohibitions.
6

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

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

16 WHEREAS, The Celtic Fox has requested that they be granted an
17 exception to the provisions of City of Topeka Code Section 9.45.150, et seq. for
18 the purposes, dates and times described herein, and

19 WHEREAS, upon review of the application of The Celtic Fox, the
20 Governing Body of the City of Topeka does hereby find that the requested
21 activity does not offend the spirit of the findings of City of Topeka Code Section
22 9.45.150, et seq.

23 NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the
24 City of Topeka that The Celtic Fox is hereby granted an exception from the
25 provisions of City of Topeka Code Section 9.45.150, et seq. for their Tap That
26 Brew Festival and After Party event located at SW 8th from Crosby Parking

27 Garage to Harrison, SW Jackson Avenue from 9th to 7th Street, during the hours
28 of 3:00 p.m. and 1:30 a.m. on June 8, 2024.

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30 ADOPTED and APPROVED by the Governing Body _____.

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32 CITY OF TOPEKA, KANSAS

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Michael A. Padilla, Mayor

37 ATTEST:

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Brenda Younger, City Clerk

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City of Topeka
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Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
May 14, 2024

DATE: May 14, 2024
CONTACT PERSON: Councilmember Valdivia-Alcala **DOCUMENT #:**
SECOND PARTY/SUBJECT: Our Lady of Guadalupe Church **PROJECT #:**
CATEGORY/SUBCATEGORY: 020 Resolutions / 005 Miscellaneous
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

RESOLUTION introduced by Councilmember Valdivia-Alcala, approving a special event known as the Our Lady of Guadalupe 91st Annual Fiesta Mexicana. (Council District No. 2)

(Approval would allow for the sale, consumption and possession of alcoholic liquor on the designated barricade portions of Lake Street from Atchison Avenue to Greeley Street; Greeley Street from Branner Street to Lake Street; Atchison Avenue from Branner Street to Lime Street; Chandler Street from Atchison Avenue to State Street for Our Lady of Guadalupe Fiesta Mexicana on July 16-20, 2024, between the designated hours.)

VOTING REQUIREMENTS:

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

POLICY ISSUE:

Approval allows the barricaded portion of Lake Street from Atchison Avenue to Greeley Street; Greeley Street from Branner Street to Lake Street; Atchison Avenue from Branner Street to Lime Street; Chandler Street from Atchison Avenue to State Street to be closed to motor vehicle traffic for a special event, allowing special event attendees to buy, possess and consume alcoholic beverages in the specific area designated by the State of Kansas Division of Alcohol Beverage Control.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to approve the resolution.

BACKGROUND:

Vendors holding the appropriate license from the State of Kansas to sell alcoholic liquor may in accordance with

all state laws and municipal ordinances sell alcoholic liquor in the specific area designated by the Division of Alcohol Beverage Control within the barricaded portion of Lake Street from Atchison Avenue to Greeley Street; Greeley Street from Branner Street to Lake Street; Atchison Avenue from Branner Street to Lime Street; Chandler Street from Atchison Avenue to State Street for Our Lady of Guadalupe Fiesta Mexicana on July 16 through 20, 2024, between the hours of 4:00 p.m. and 1:00 a.m.

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not applicable.

ATTACHMENTS:

Description

Resolution

1 RESOLUTION NO. _____

2
3 A RESOLUTION introduced by Councilmember Christina Valdivia-Alcala, approving a
4 special event known as the Our Lady of Guadalupe 91st Annual
5 Fiesta Topeka.
6

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

9 Section 1. Pursuant to state law, alcoholic liquor may be consumed at a special
10 event to be held on designated public streets, alleys, and sidewalks when a temporary
11 permit has been issued by the Kansas Division of Alcohol Beverage Control (ABC) and the
12 governing body has approved the event as required by K.S.A. 41-719 and 41-1201 and
13 amendments thereto.

14 Section 2. Having considered the request of the sponsor of the Our Lady of
15 Guadalupe 91st Annual Fiesta Topeka to allow the possession and consumption of
16 alcoholic liquor, the governing body hereby approves the event to be held on July 16, 17
17 and 18, 2024, between the hours of 4:00 p.m. and 11:00 p.m. and July 19 and 20, 2024
18 between the hours of 4:00 p.m. and 11:59 p.m., provided the sponsor secures a temporary
19 permit from ABC and complies with all state laws and ordinances regulating alcoholic
20 liquor.

21 Section 3. A portion or all of the following streets/alleys shall be closed to motor
22 vehicle traffic during the dates and times identified in Section 2: NE Branner Street from
23 NE Greeley Street to NE Atchison Avenue; NE Atchison Avenue from NE Branner Street to
24 NE Lake Street; NE Chandler Street from Atchison Avenue to State Street; NE Greeley
25 Street from NE Lake Street to NE Branner Street; and NE Seward Avenue from NE
26 Chandler Street to NE Branner Street. Pursuant to K.S.A. 41-719 and 41-1201, the

27 sponsor shall ensure that the area in which alcoholic liquor is possessed or consumed is
28 clearly marked by signs, a posted map or other means (“Designated Barricaded Area”).

29 Section 4. Event attendees may purchase, possess and consume alcoholic
30 beverages within the Designated Barricaded Area. Pursuant to K.S.A. 41-719, no alcoholic
31 liquor may be removed from Designated Barricaded Area or consumed inside vehicles
32 while on public streets or alleys at the event.

33 Section 5. This Resolution shall take effect and be in force after its approval by
34 the governing body.

35 ADOPTED and APPROVED by the Governing Body on _____.

36 CITY OF TOPEKA, KANSAS

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Michael A. Padilla, Mayor

42 ATTEST:

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47 Brenda Younger, City Clerk



City of Topeka
Council Action Form
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DATE: May 14, 2024
CONTACT PERSON: Councilmember Valdivia-Alcala **DOCUMENT #:**
SECOND PARTY/SUBJECT: Our Lady of Guadalupe Church **PROJECT #:**
CATEGORY/SUBCATEGORY: 020 Resolutions / 005 Miscellaneous
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

RESOLUTION introduced by Councilmember Valdivia-Alcala, granting Our Lady of Guadalupe an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions. (*Council District No. 2*)

(Approval would allow for live bands and amplified music and sound during the hours of 4:00 p.m. and 11:59 p.m. on July 16-20, 2024, at specified locations.)

VOTING REQUIREMENTS:

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

POLICY ISSUE:

City of Topeka Code Section 9.45.170, et seq., authorizes the City Council to grant noise exceptions. Approval grants a noise exception to Our Lady Guadalupe for the annual Fiesta Mexicana during specified dates and times.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to approve the resolution.

BACKGROUND:

Our Lady Guadalupe has requested the noise exception due to live bands and amplified music and sound at the event.

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

Description

Resolution

1 RESOLUTION NO. _____

2
3 A RESOLUTION introduced by Councilmember Christina Valdivia-Alcala granting
4 Our Lady Guadalupe an exception to the provisions of City of
5 Topeka Code Section 9.45.150, et seq. concerning noise
6 prohibitions.
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8 WHEREAS, City of Topeka Code Section 9.45.150, et seq. makes it
9 unlawful for any person to make, continue or cause to be made or continued any
10 loud, unnecessary or unusual noise or any noise which either annoys, disturbs,
11 injures or endangers the comfort, repose, health or safety or others within the
12 limits of the city; and

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

17 WHEREAS, Our Lady Guadalupe has requested that it be granted an
18 exception to the provisions of City of Topeka Code Section 9.45.150, et seq. for
19 the purposes, dates and times described herein, and

20 WHEREAS, upon review of the application of Our Lady Guadalupe the
21 Governing Body of the City of Topeka does hereby find that the requested
22 activity does not offend the spirit of the findings of City of Topeka Code Section
23 9.45.150, et seq.

24 NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the
25 City of Topeka that Our Lady Guadalupe is hereby granted an exception from the
26 provisions of City of Topeka Code Section 9.45.150, et seq. during the Fiesta

27 Mexicana at specified location during the hours of 4:00 p.m. and 11:59 p.m. on
28 July 16-20, 2024.

29 ADOPTED and APPROVED by the Governing Body _____.

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CITY OF TOPEKA, KANSAS

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Michael A. Padilla, Mayor

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ATTEST:

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Brenda Younger, City Clerk

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DATE: May 14, 2024
CONTACT PERSON: Councilmember Valdivia-Alcala **DOCUMENT #:**
SECOND PARTY/SUBJECT: Our Lady of Guadalupe Church **PROJECT #:**
CATEGORY/SUBCATEGORY: 020 Resolutions / 005 Miscellaneous
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

RESOLUTION introduced by Councilmember Valdivia-Alcala granting a waiver to the provisions of City of Topeka Code Section 10.60.120 relating to parking on unimproved surfaces for the Our Lady of Guadalupe 91st Annual Fiesta Mexicana. (Council District No. 2)

(Approval would allow those individuals attending the Our Lady of Guadalupe Fiesta Mexicana event to park on unimproved surfaces at established areas during July 16-20, 2024.)

VOTING REQUIREMENTS:

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

POLICY ISSUE:

Approval would grant a waiver for those individuals attending the Fiesta Mexicana to park on unimproved surfaces at established areas for the period of July 16-20, 2024.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to approve the resolution.

BACKGROUND:

Topeka Municipal Code Section 10.60.120 relating to parking on unimproved surfaces authorizes the City Council to waive the provisions of this code section for specified properties and identified community events or activities designated by the Council for periods of time not to exceed two (2) weeks.

Our Lady of Guadalupe Fiesta Mexicana is requesting a waiver to allow attendees to park on unimproved

surfaces in specified areas for the period of July 16-20, 2024.

BUDGETARY IMPACT:

There would be no budgetary impact to the City.

SOURCE OF FUNDING:

Not applicable.

ATTACHMENTS:

Description

Resolution

1 RESOLUTION NO. _____
2

3 A RESOLUTION introduced by Councilmember Christina Valdivia-Alcala granting a
4 waiver to the provisions of Topeka Municipal Code § 10.60.120
5 relating to parking on residential property for the Our Lady of
6 Guadalupe 91st Annual Fiesta Topeka.
7

8 WHEREAS, TMC 10.60.120, relating to parking on residential property,
9 authorizes the Governing Body to waive the provisions of this code section for
10 designated properties to accommodate a special event approved by the Governing
11 Body; and

12 WHEREAS, Our Lady of Guadalupe 91st Annual Fiesta Topeka has requested
13 that it be granted a waiver from the provisions of TMC 10.60.120 for the purposes and
14 subject to the conditions described herein.

15 NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the City of
16 Topeka that the provisions of TMC 10.60.120(b)(1) relating to parking on residential
17 property are hereby waived for the period of July 16, 2024, through July 20, 2024, for
18 properties in the following described area:

19 1. An area bordered by the Burlington Northern Santa Fe (BNSF) Railway
20 tracks on the south, Branner Street to Seward Avenue and Chandler Street to River
21 Road on the east, River Road and Division Street on the north, and Grattan Street on
22 the east.

23 2. An area between Chandler Street to Hancock Street and from 4th Street to
24 the BNSF Railway tracks on the north.
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ADOPTED and APPROVED by the Governing Body on _____.

CITY OF TOPEKA, KANSAS

Michael A. Padilla, Mayor

ATTEST:

Brenda Younger, City Clerk



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May 14, 2024**

DATE: May 14, 2024
CONTACT PERSON: Amanda Stanley, City Attorney **DOCUMENT #:**
SECOND PARTY/SUBJECT: Robert M. Perez, Jr. **PROJECT #:**
Employment Agreement
CATEGORY/SUBCATEGORY 007 Contracts and Amendments / 020 Employee Agreements
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

EMPLOYMENT AGREEMENT between the City of Topeka and Dr. Robert M. Perez, Jr. to serve as City Manager.

Voting Requirement: Action requires at least six (6) votes of the Governing Body.

(Employment agreement is for an initial one-year term with subsequent renewal for an additional two-year term based on the terms and conditions outlined in the agreement.)

VOTING REQUIREMENTS:

Action requires at least six (6) votes of the Governing Body.

POLICY ISSUE:

Whether or not the Governing Body should approve the attached employment agreement with Dr. Robert M. Perez, Jr. to serve as City Manager.

STAFF RECOMMENDATION:

This is a charter function of the Governing Body and staff is making not recommendation.

BACKGROUND:

The City engaged a search firm to help select a City Manager. The process as proceeded to the stage for a formal vote.

BUDGETARY IMPACT:

Approximately \$300,000

SOURCE OF FUNDING:

General Fund

ATTACHMENTS:

Description

Employment Agreement: R. Perez

EMPLOYMENT AGREEMENT

This **Employment Agreement**, is hereby made and entered into this on this date, _____, by and between the City of Topeka, Kansas, a duly organized municipal corporation, hereinafter referred to as the “City”, and Dr. Robert M. Perez Jr. hereinafter referred to as “Employee”, both of whom agree as follows:

Background

1. The City, a municipal corporation, operates in accordance with state and local law, as a City Manager form of government.
2. The City prides itself on being a professional, service-minded and progressive organization, and seeks a City Manager with like ideas.
3. Under the Topeka Municipal Code, the City Manager is appointed by the Governing Body and serves at its will and pleasure.
4. The City desires to employ the services of Employee to act as the City Manager and it is the desire of the City (a) to provide inducement for Employee to accept and remain in such employment; (b) to make possible full work productivity by assuring Employee's morale and peace of mind with respect to future security; (c) to act as a deterrent against malfeasance or dishonesty for personal gain on the part of the Employee, and (d) to provide a just means for terminating Employee's services at such time as he may be unable to fully discharge his duties, or when the City may desire to otherwise terminate his employment; and
5. The Employee possesses the qualifications to perform the duties of the City Manager and desires to accept employment as City Manager of the City.

Accordingly, the parties agree as follows:

Section 1: Duties, Functions and Responsibilities; Authority

A. **Duties:** The City hereby agrees to engage the Employee as City Manager of the City to perform the functions and duties of a City Manager as specified by the laws of the State of Kansas and ordinances of the City, and to perform such other legally permissible and proper duties and functions as the City shall assign.

B. **Hours of Employment:** The Employee acknowledges that the proper performance of his duties will require him to be reasonably available during normal business hours (Monday through Friday between 8:00 a.m. and 5:00 p.m.), but that such duties will often require the

performance of necessary duties and responsibilities outside of normal business hours. As it is recognized that Employee must devote a great deal of his time outside normal office hours, to the business of the City, the Employee will be allowed to take time off as he shall deem appropriate during said office hours.

C. Outside Employment or Engagements: During his term of employment, the Employee agrees to be in the exclusive employment of the City and shall neither accept outside employment nor become employed by any other employer. With the Governing Body's approval, the Employee may accept limited teaching, speaking, or writing opportunities, so long as such activities do not interfere or conflict with his duties, functions, and responsibilities as City Manager.

D. Boards: The Employee may serve on a for-profit or non-profit board if that service does not interfere with the Employee's ability to do his job. If this service interferes with his ability to perform his duties with the City, conflicts with any other policy or requirement, or tends to create a conflict of interest, the Employee shall terminate this service. Any for-profit board service must be approved in advance by the Governing Body to ensure even the appearance of any conflict of interest is avoided.

Section 2: Term

A. Initial Term: The term of this Agreement shall be for an initial period of one (1) year, beginning on the first day of Employment as City Manager, (the "Employment Date"). Within fourteen (14) days of the City's approval of this Agreement, the parties shall establish a mutually agreeable Employment Date.

B. Subsequent Renewal: Upon completion of the initial one-year term, this Agreement shall automatically be renewed on its anniversary date for an additional two-year term subject to the same terms and conditions as provided herein unless either party files written notice of its desire not to renew at least four (4) months prior to the end of such contract year.

C. Nothing in this Agreement shall be construed to prevent, limit, or otherwise interfere with the right of the Governing Body to terminate the services of the Employee at any time, for any reason or for no reason, with or without cause, subject only to the terms and conditions of this Agreement.

D. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Employee to resign at any time from his position with the City, subject only to the provisions set forth in Section 5(E) of this Agreement.

Section 3: Compensation

A. Base Salary: Effective the Employment Date, the City shall pay Employee for his services rendered pursuant hereto, a base salary of TWO HUNDRED FIFTY-FIVE THOUSAND AND 00/100 DOLLARS (\$255,000.00) per annum, payable in installments at the same time as other employees are paid.

B. Professional Expenses: The City recognizes the need for and encourages the Employee to be active in professional activities and therefore agrees to pay the professional dues and subscriptions of the Employee necessary for his continued professional participation, growth and advancement, and for the good of the City. The City further agrees to budget and pay reasonable travel and subsistence expenses of Employee for professional and official travel, meetings, and occasions adequate to continue the professional development of the Employee and to adequately pursue necessary official and other functions for the City, including, but not limited to, participation in the annual conference of the International City Management Association, the League of Kansas Municipalities and such other national, regional, state, and local governmental groups and committees thereof which Employee serves as a member. The City also agrees to pay for the reasonable travel and subsistence expenses of Employee for short courses, institutes, and seminars that are necessary for his professional development and for the good of the City.

C. Automobile Allowance: The City recognizes the use of an automobile is necessary in the performance of the Employee's duties. Therefore, the City agrees to pay the Employee an automobile allowance of seven hundred (\$700) per month. Said allowance will be reviewed annually. The City shall reimburse the Employee at the IRS standard mileage rate for any business use of the vehicle beyond that conducted in Shawnee County.

The Employee shall maintain, at all times and in full force and effect, a policy of liability insurance having limits of no less than \$100,000.00 per occurrence for bodily injury, \$500,000.00 per accident for bodily injury and \$100,000.00 per occurrence for property damage. The City shall be listed as an additional insured on this policy and the Employee shall provide appropriate proof of compliance hereunder to the Risk Manager with such proof of compliance to be furnished upon the renewal date of such policy or upon the date that a new policy is issued. The Employee agrees to keep any personal vehicle used for official business in good cosmetic and operating condition.

D. Health Insurance: The City agrees to provide and pay the premiums for the Employee, spouse, and dependents for the comprehensive major medical, prescription drug, and dental coverage that it offers to other City employees provided the Employee and spouse make a good faith effort to participate and qualify for the City's wellness incentive. Additionally, the Employee may elect to enroll in other voluntary benefits the City offers other City employees, including: accident insurance, cancer insurance, critical care insurance, and short-term disability insurance. The Employee may choose which other voluntary plan(s) in which to participate, including spouse and/or dependent coverage, and he will pay the same associated premiums as paid by other City employees.

E. Retirement; Life/Disability Insurance – KPERS: The City participates in the Kansas Public Employee Retirement System (KPERS) and the Employee shall be considered a KPERS-covered employee. KPERS is inclusive of retirement benefits, life insurance benefits and long-term disability benefits. Additional optional benefits available through KPERS include: optional group life insurance and deferred compensation, which the Employee may choose to participate.

KPERS Disclaimer: The Employee shall be responsible for his retirement benefits under KPERS. The City makes no representations regarding the Employee's KPERS retirement benefits or KPERS' treatment of any of the compensation or payouts of leave set forth in this Employment Agreement. The Employee has not relied, and agrees that he will not rely, upon any statement or representation of the City regarding his final average salary, KPERS benefits, or interpretations of the same. The Employee agrees to hold the City harmless from any adverse changes to his KPERS retirement benefits by the Kansas legislature or administration of the KPERS program. Likewise, the City has not made any representations with respect to any taxes owed by the Employee under this Agreement, and the Employee agrees that he has not and will not rely upon any statement or representation made thereon by the City. Furthermore, the parties agree that this Employment Agreement shall be construed, to the extent possible, so as not to require the City to make a KPERS "spike" payment under K.S.A. 74-49, 126, as amended. However, if such payment becomes necessary, the City agrees that it would be responsible for making such payment.

F. Deferred Compensation: In addition to other compensation provided to the Employee in this Agreement, the City agrees to contribute on behalf of the Employee an annual amount equal to the maximum permissible annual contribution as determined by the Internal Revenue Service not including any catch-up contributions that may be allowed over the age of 50 into the City's KPERS 457 deferred compensation plan or another mutually agreeable plan. Said amount shall be payable over the course of the calendar year in an equal proportionate amount each pay period and taxed in accordance with applicable law.

G. Vacation: On the Employee's first day of employment with the City as City Manager, he will be credited with one hundred and twenty (120) hours of vacation and shall immediately begin accruing leave in the same manner as other non-represented City employees. No more than 240 hours (30 days) may be carried over from one year to the next without written approval by the Governing Body starting January 1, 2026. Vacation leave will be taken by the Employee at such time or times as will cause the least amount of interference with the performance of his duties. The Employee shall receive payment for any vacation accrued as of the date of his resignation or termination.

H. Other Leave: The Employee will be entitled to the same leave benefits as those offered and available to other non-represented City employees.

- I. One-Time Relocation Expenses.
 - i. Employee agrees to establish residence within the corporate boundaries of Topeka, within 12 months of employment, and thereafter to maintain a primary residence within the corporate boundaries of the city.
 - ii. City shall pay directly for the expenses of moving Employee and his family and personal property from Dallas, Texas to Topeka, Kansas. Said moving expenses include packing, moving, storage costs, unpacking, and insurance charges. The Employee shall provide evidence of actual moving expenses by securing quotations from three (3) companies. The Employee shall submit these quotes to the City's Chief Financial Officer who, in consultation with the Employee, shall select the moving company.
 - iii. City agrees to reimburse Employee for actual lodging and meal expenses for his family en route from Dallas, Texas to Topeka, Kansas. Mileage costs for moving two personal automobiles shall be reimbursed at the current IRS allowable rate of [cents amount] per mile.
 - iv. The City shall pay Employee a one-time interim housing supplement not to exceed five thousand (\$5,000).
 - v. House Hunting and Pre-Employment Meetings: City agrees to reimburse Employee of expenses, up to seven (7) days, for house hunting trips and pre-employment meetings with the City's Governing Body and staff.

Section 4. Performance Review

A. Performance Review: On or before the first anniversary of the Employment Date, and annually during the term of this Agreement, the Employee's job performance shall be reviewed by the Governing Body using a mutually agreeable performance evaluation process that shall include a 360 evaluation performed by an outside entity. The Employee shall be provided a written copy of his performance evaluation and a copy shall be stored in his personnel file.

At the time of the Employee's annual review, if the Employee receives a rating of "Meets Expectations" or higher, he shall be entitled to receive a 3% increase to his base salary provided the City is not actively undergoing furloughs, layoffs, or mandatory across the board pay cuts of the city's workforce. Additionally, the parties may, but are not obligated to, agree to further negotiate the Employee's salary, deferred compensation, expenses and other matters for subsequent renewal terms.

B. Executive Coaching: The Governing Body is invested in Employee's success. To help maximize Employee's success, and provide Employee with all the necessary tools and skills to perform at a high level, the Governing Body and Employee shall agree upon the selection and hiring of a former Kansas City Manager or similar type professional to serve as an Executive Coach for Employee for the first year. In the event the Governing Body and the Employee cannot agree on an Executive Coach, the Governing Body's choice shall control. Employee shall meet with the Executive Coach weekly, or as frequently as administratively possible, for professional

development. The Executive Coach shall provide verbal quarterly reports, in executive session, to the Governing Body and to the Employee on Employee's development to assist in the Governing Body's performance evaluation of Employee.

Section 5: Termination; Severance Pay

A. Severance Pay: Except as provided in 5(C) and 5(D), in the event the Employee's employment is terminated by the City's Governing Body during such time that Employee is willing and able to perform the duties of City Manager, the City agrees to pay Employee a lump sum cash payment equal to nine (9) months of his base salary. Also, in addition to the continuation of employee and dependent health and dental coverage that the Employee may be entitled to under the City's Group Health Care and Dental Plans as required by COBRA, the City will pay to the Employee a lump sum cash payment equal to nine (9) months of the City's portion of the Employee's monthly health care, dental, life insurance and long-term care coverage premium.

Full details concerning such topics as how to apply, duration of coverage, rates, and payment of premiums will be provided in the COBRA notification and election packet provided to Employee, as such information is applicable. Employee's eligibility for this severance pay is conditioned on Employee first signing and not revoking a general release of claims relating to his employment and this Agreement in a form provided by the City. In the event the City at any time during the employment term reduces the salary or other financial benefits of Employee in a greater percentage than an applicable across-the-board reduction for all City employees; the City refuses, following written notice to comply with any other provisions of this Agreement benefiting Employee herein; or the Employee resigns following a suggestion by a majority of the City's Governing Body, whether formal or informal that he resign, the Employee may at his option be deemed to be "terminated" at the time of such reduction or such refusal to comply within the meaning and context of the severance pay provision referenced above.

B. Form of Government: In the event the City changes its form of government, the Employee may at his option be deemed to be "terminated" within the meaning and context of the severance pay provision referenced above at the time of such official change and shall be entitled to a lump sum cash payment equal to twelve (12) months of his base salary.

C. Exception to Severance Requirements Due to For-Cause Termination: In the event the Employee is terminated for cause, the City shall have no obligation to pay the severance sums designated herein. "For cause," for purposes of this Agreement means (i) the willful disobedience of a lawful directive of the Governing Body; (ii) Employee being charged with, convicted for, or entering a plea of no contest, to any felony criminal offense or any other criminal offense involving dishonestly; (iii) conduct that the City considers to be unethical, unprofessional, fraudulent, unlawful, or adverse to the interest or reputation of the City, including but not limited to conduct that would be deemed by a reasonable person to be disruptive, intimidating, coercive, or harassing; (iv) Employee's use of alcohol or other substances that materially impair Employee's ability to

perform his duties and obligations under this Agreement or Employee's refusal to cooperate with the City's policies and requirements regarding testing for substance abuse; (v) any other act or omission by Employee that would require or permit immediate termination of an employee pursuant to the City's employment policies, including but not limited to its discrimination and harassment policies.

D. Non-renewal: In the event the City fails or refuses to extend the term of this Agreement beyond its initial term or subsequent term with or without cause, the Employee shall not be entitled to severance.

E. Resignation: In the event Employee voluntarily resigns his position with the City during the term of his employment, Employee shall give the City forty-five (45) days' written notice in advance of such resignation. Employee will not be entitled to the severance sum described in Section 5(A) if he resigns.

F. Termination due to Death or Disability: This Agreement will terminate without penalty upon the death of Employee, and the City will pay the pro rata salary that Employee earned through the date of death to the Employee's representative or heir. This Agreement will also terminate if Employee becomes unable to perform the essential functions of his employment and no reasonable accommodation can be made that would allow Employee to perform the essential functions of his employment without imposing an undue hardship on the City. The City will explore all reasonable accommodations, including possible reassignment if appropriate. This Agreement will terminate if reassignment is necessary, and the terms and conditions of continued employment, if any, will be determined at the time of reassignment.

If this Agreement terminates due to the death or disability of Employee, no severance pay will be owed.

Section 6: Other Terms and Conditions of Employment

A. Applicability of Code Provisions, Rules, and Regulations: Unless otherwise specifically described in this Agreement, all provisions of the Topeka Municipal Code and other policies, rules and regulations of the City relating to working conditions, vacation and sick leave, retirement and pension system contributions, holidays and other benefits, as they now exist or may later be amended, shall apply to the Employee in the same way as they apply to other management employees of the City.

B. Residency: The Employee shall maintain his primary residence within the City limits through the remainder of this Agreement in compliance with the Topeka Municipal Code.

C. Statement of Substantial Interest: The Employee shall ensure he timely files a statement of substantial interest if required.

D. Ethics: The Employee will at all-time uphold the tenets of the ICMA Code of Ethics, a copy of which is attached hereto as Exhibit A and incorporated herein. The City shall support the Employee in keeping these commitments by refraining from any order, direction, or request that would require the Employee to violate the ICMA Code of Ethics. The Employee shall also adhere to the City's Rules, Regulations, Policies and Ordinances and is expected to represent the City in a professional manner throughout his tenure as city manager.

E. General: The City's Governing Body shall fix any such other terms and conditions of employment as it may deem appropriate from time to time relating to the performance of Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the laws of the State of Kansas, the ordinances of the City, or any other laws.

Section 7: General Provisions

A. Entire Agreement: The text herein shall constitute the entire Agreement between the parties and shall be binding upon and inure to the benefit of the heirs, executors, administrators, and successors in interest of the parties hereto.

B. Amendments: No amendments or additions to this Agreement will be binding unless in writing and signed by the parties hereto.

C. Severability: If any provision, or any portion thereof, contained in this Agreement is held to be unconstitutional, invalid, or unenforceable, the remainder of this Agreement or portion thereof shall be deemed severable, shall not be affected, and shall remain in full force and effect.

D. Notice: Any notice given to either the City or the Employee under this Agreement shall be given in writing unless otherwise required to be given at a public meeting, either by personal service or by registered and certified mail, postage prepaid, addressed to either the City of Topeka City Clerk or the Employee's home address as shown in the City's personnel system whichever is applicable.

E. Assignment or Transfer: This Agreement may not be assigned or transferred.

F. Governing Law: This Agreement, the rights and obligations of the parties, and any claim or dispute arising hereunder shall be construed in accordance with the laws of the State of Kansas.

G. Indemnification: The City shall indemnify Employee as required under K.S.A. 75-6109.

To evidence the parties' agreement to this Employment Agreement, they have executed and delivered it on the date set forth in the preamble.

ATTEST:

CITY OF TOPEKA, KANSAS

Brenda Younger, City Clerk

Michael Padilla, Mayor

Approved As to Form and Legality

EMPLOYEE

Amanda L. Stanley, City Attorney

Dr. Robert M. Perez, Jr.



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
May 14, 2024

DATE: May 14, 2024
CONTACT PERSON: Braxton Copley, Public Works Director **DOCUMENT #:**
SECOND PARTY/SUBJECT: Sherwood Park No. 9 Phase 1 Street and Storm Sewer Project **PROJECT #:** 601132.00
CATEGORY/SUBCATEGORY: 015 Petitions/001 Benefit District
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

RESOLUTION introduced by Interim City Manager Richard U. Nienstedt further amending Resolution of Advisability and Authorization No. 9279, as previously amended by Resolution No. 9330, which provides street improvements for Sherwood Park Subdivision No. 9 as more specifically described herein.

Voting Requirement: Action requires at least six (6) votes of the Governing Body.

(Approval would increase the project budget by \$63,856.34 for a total project budget of \$1,028,889.34.)

VOTING REQUIREMENTS:

Action requires at least six (6) votes of the Governing Body.

POLICY ISSUE:

Whether to approve the increase in the project budget.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to approve the resolution.

BACKGROUND:

On December 14, 2021, the Governing Body established the benefit district and approved a budget of \$888,000 (Resolution No. 9279). On June 14, 2022, the Governing Body approved Resolution No. 9330 increasing the estimated or probable cost of the project to \$965,033. The petition and resolution are being revised one final time

to reflect the final project costs of \$1,028,889.34. This project was constructed over two construction seasons, requiring two years of temporary notes instead of the originally budgeted one year. This project included design and construction services, asphalt pavement, curb and gutter, grading, curb inlets and storm sewer pipes.

BUDGETARY IMPACT:

The street project has a final total cost of \$1,028,889.34. The City of Topeka will finance the cost of the project through special assessment general obligation bonds. The cost will be repaid through assessment on a unit basis for all lots which are included in the improvement district.

SOURCE OF FUNDING:

100% of the costs will be paid by owners of the property within the improvement district.

ATTACHMENTS:

Description

Proposed Resolution

Revised Petition

Resolution 9330 (June 14, 2022)

Resolution 9279 (December 14, 2021)

RESOLUTION NO. _____

AMENDING RESOLUTION OF ADVISABILITY & AUTHORIZATION NO. 9279 & 9330

A RESOLUTION introduced by Interim City Manager Richard U. Nienstedt further amending Resolution of Advisability & Authorization No. 9279, as previously amended by Resolution No. 9330, which provides street improvements for Sherwood Park Subdivision No. 9 as more specifically described herein.

WHEREAS, on December 14, 2021, the Governing Body adopted and approved Resolution of Advisability and Authorization No. 9279 authorizing Improvement Project No. T-601132.00 with an estimated probable cost of \$888,000; and

WHEREAS, on June 14, 2022, the Governing Body adopted and approved Resolution of Advisability and Authorization No. 9330 authorizing Improvement Project No. T-601132.00 with an increased estimated probable cost of \$965,033; and

WHEREAS, the cost of the project has increased to \$1,028,889.34; and

WHEREAS, the City Clerk has received a revised petition, pursuant to K.S.A. 12-6a01, *et seq.*, as amended, containing the signatures of the owners of one hundred percent (100%) of the area in the improvement district; and

WHEREAS, seven (7) days have elapsed since the filing of said petition.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the City of Topeka, Kansas, that Resolution of Advisability & Authorization No. 9279, as amended by Resolution No. 9330, is hereby further amended to increase the estimated or probable cost of the project from \$965,033 to \$1,028,889.34.

BE IT FURTHER RESOLVED that all other provisions of Resolution No. 9279 and Resolution No. 9330 not in conflict with this Resolution remain in full force and effect.

THIS RESOLUTION shall become effective upon one publication in the official city newspaper.

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ADOPTED and APPROVED by the Governing Body on _____.

CITY OF TOPEKA, KANSAS

ATTEST:

Michael A. Padilla, Mayor

Brenda Younger, City Clerk

IMPROVEMENT PROJECT

PETITION

THE MAYOR AND COUNCILMEMBERS
City of Topeka

We, the undersigned owners of record of real estate located within the Improvement District legally described herein, do hereby respectfully petition for the following street improvements, in accordance with the conditions herein contained, and as provided by K.S.A. 12-6a01, *et seq.*, as amended.

STREET IMPROVEMENT - PROJECT NO. T-601132.00

A. GENERAL NATURE OF IMPROVEMENT:

To construct paved street to serve 18 lots within Sherwood Park Subdivision No. 9, along with concrete curb and gutters, storm sewer structures, piping, and engineering and all other contingencies required for a complete project.

B. PROPOSED IMPROVEMENT DISTRICT:

Sherwood Park Subdivision No. 9, City of Topeka, Shawnee County, Kansas
Lots 1 through 7, Block A;
Lots 1 through 11, Block B;

C. ESTIMATED OR PROBABLE COST:

\$1,028,889.34

This cost estimate has been prepared using the best information available, without benefit of a detailed engineering design. Variances may occur as the design details are developed. These costs should not be considered final.

D. METHOD OF ASSESSMENT:

Unit Basis.

E. APPORTIONMENT OF COSTS:

Costs are to be paid 100 percent by the owners of property within the Improvement District.

F. CERTIFICATION OF SIGNERS OF THE PETITION:


We understand, agree and certify:

- (i) That we own 100% of the property or properties included in the Improvement District; and
- (ii) That this Petition is one submitted pursuant to subsection (c) of K.S.A. 12-6a04, and amendments thereto; and
- (iii) That the proposed Improvement District does not include all properties which may be deemed to benefit from the proposed improvements; and
- (iv) That we may not withdraw our signature(s) from this Petition after the Governing

Body commences consideration of this Petition or later than seven (7) days after such filing, whichever occurs first; and

- (v) That we are willing to pay the costs of the proposed improvements; and
- (vi) That we hereby waive the notice of and the opportunity to appear at a Public Hearing available under K.S.A. 12-6a01. et seq. and Article 2 of TMC Chapter 3.45. Further we request that the City Council adopt a Resolution authorizing the above described improvement; and
- (vii) That the parcels of property contained within the Improvement District may not be altered by replatting or other means until assessments have been levied unless the developer submits a new Petition signed by all property owners with the changes or modifications to the parcels within the Improvement District. Provided, however, no new petition will be required if all owners of the parcel(s) to be altered provide the City Engineer written notice specifying the allocation of the project costs among the new parcels to be created through the replat. Said written notice of the allocation of project costs shall accompany the application for the replat and also shall be filed with the Register of Deeds and shall be a covenant running with the land and binding on the subsequent owners of said parcels; and
- (viii) That, in addition to the costs for the improvement, we will be responsible for paying all applicable rates, fees or charges for municipal services such as water, sanitary sewer or storm water management; and
- (ix) No signator to this petition has a financial interest in an existing development with delinquent tax obligations. (Resolution No. 8726); and
- (x) If the signator is a legal entity, no director, officer, or member of the entity has a financial interest in any property with delinquent special assessments, ad valorem/property taxes, or other federal or state tax liens anywhere within the State of Kansas (Resolution No. 8726); and
- (xi) That, if the property is not owned by an individual or individuals, we have disclosed the name of the company, partnership, trust corporation or other entity which owns the property along with our title, position or office, and we have been duly authorized to execute this Petition on behalf of the entity; and
- (xii) The signatories declare under penalty of perjury that the statements in this petition and certification are true and correct.

Name of Property Owner	Name, Title and Signature of Person Executing Petition	Legal Description of Property Owned	Date
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 Mike Drippe, Managing Member
 RMD Development, LLC

4/25/24
 Date

Sherwood Park Subdivision No. 9
 Lots 1 through 7, Block A;
 Lots 1 through 11, Block B;


 Roger Johnson, Managing Member
 RMD Development, LLC

4/25/24
 Date

CERTIFICATION OF PERSON CARRYING PETITION AND WITNESSING SIGNATURES

I, the undersigned, hereby certify that I have personally witnessed each and every person whose name appears on this document individually affix his or her signature and swear that the foregoing is true and correct to the best of my knowledge.

4/25/2024
 Date


 Signature of Person Carrying Petition

CERTIFICATION OF DEVELOPER


I, the undersigned developer of record of real estate located within the Improvement District, hereby certify:

- (i) That I have reviewed the City's policy for special benefit districts in Resolution No. 8726 and will supply the information requested.
- (ii) That, as required by K.S.A. 12-6a20, I will notify, in writing, each and every purchaser of parcels of property within the Improvement District that the property is located in an improvement district and is subject to special assessments to pay for the Improvement; and
- (iii) That I will notify in writing each and every purchaser of parcels of property within the Improvement District that in addition to the costs for the Improvement, the property owners will be responsible for paying all applicable rates, fees or charges for municipal services such as water, sanitary sewer or storm water management.

4/25/24
 Date


 Signature

4/25/24
 Date


 Signature

(Published in the Topeka Metro News June 20, 2022.)

RESOLUTION NO. 9330

AMENDING RESOLUTION OF ADVISABILITY & AUTHORIZATION NO. 9279

A RESOLUTION introduced by Interim City Manager William E. Cochran amending Resolution of Advisability & Authorization No. 9279 which provides street improvements for Sherwood Park Subdivision No. 9 as more specifically described herein.

WHEREAS, on December 14, 2021, the Governing Body adopted and approved Resolution of Advisability and Authorization No. 9279 authorizing Improvement Project No. T-601132.00 with an estimated probable cost of \$888,000; and

WHEREAS, the cost of the project has increased to \$965,033; and

WHEREAS, the City Clerk has received a revised petition, pursuant to K.S.A. 12-6a01, et seq., as amended, containing the signatures of the owners of one hundred percent (100%) of the area in the improvement district; and

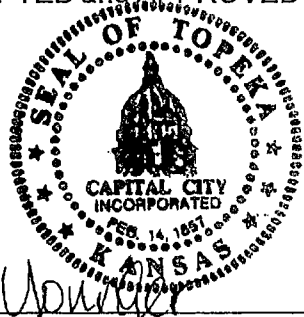
WHEREAS, seven (7) days have elapsed since the filing of said petition.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the City of Topeka, Kansas, that Resolution of Advisability & Authorization No. 9279 is amended to increase the estimated or probable cost of the project from \$888,000 to \$965,033.

BE IT FURTHER RESOLVED that all other provisions of Resolution 9279 not in conflict with this Resolution remain in full force and effect.

THIS RESOLUTION shall become effective upon one publication in the official city newspaper.

ADOPTED and APPROVED by the Governing Body on June 14, 2022.



CITY OF TOPEKA, KANSAS

Michael A. Padilla

Michael A. Padilla, Mayor

ATTEST:

Brenda Younger
Brenda Younger, City Clerk

1 **RESOLUTION OF ADVISABILITY AND AUTHORIZATION NO. 9279**

2
3 A RESOLUTION introduced by City Manager Brent Trout, authorizing Improvement
4 Project No. T-601132.00 which provides for street improvements for
5 Sherwood Park Subdivision, No. 9, as more specifically described
6 herein.

7
8 WHEREAS, the City Clerk has received a petition, pursuant to K.S.A. 12-6a04(c), as
9 amended, containing the signature of the sole property owner, RMD Development, LLC, of
10 100% of the area in the improvement district hereinafter described; and

11 WHEREAS, the property owner, having waived the notice and hearing requirements
12 of K.S.A. 12-6a04 and TMC 3.45, has agreed to pay all of the costs for the proposed
13 improvement which the property owner is requesting be constructed by the City.

14 NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the City of
15 Topeka, Kansas, that it finds Improvement Project No. T-601132.00, hereinafter described,
16 to be advisable and does hereby authorize and order said improvement to be made in
17 accordance with its findings as follows:

18 A. GENERAL NATURE OF IMPROVEMENT:

19
20 To construct paved street to serve 18 lots within Sherwood Park
21 Subdivision No. 9, along with concrete curb and gutters, storm sewer
22 structures, piping and engineering and all other contingencies
23 required for a complete project.

24
25 B. PROPOSED IMPROVEMENT DISTRICT:

26
27 Sherwood Park Subdivision No. 9
28 Lots 1 through 7, Block A
29 Lots 1 through 11, Block B

2021R27608

SHAWNEE COUNTY, KANSAS
REGISTER OF DEEDS
REBECCA J. NIOCE
DATE RECORDED:
12/17/2021 12:20:34 PM

30
31 C. ESTIMATED OR PROBABLE COST:

32
33 \$888,000

34
35 This cost estimate has been prepared using the best information available,
36 without benefit of a detailed engineering design. Variances may occur as the
37 design details are developed. These costs should not be considered final.

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39 D. PROPOSED METHOD OF ASSESSMENT:

40
41 On a unit basis for all lots which are included in the improvement district.
42 (18 Lots)
43

44 E. APPORTIONMENT OF COSTS:

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46 100% of the costs will be paid by the property owners within the
47 Improvement District
48

49 BE IT FURTHER RESOLVED THAT:

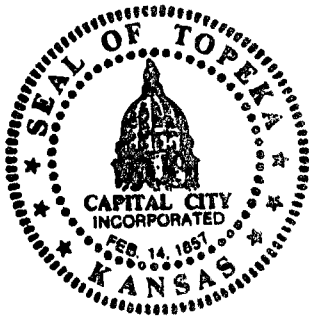
50 1. The City Clerk is directed to file a certified copy of this Resolution with the
51 Register of Deeds.

52 2. Upon completion of the project described herein, the City Clerk is directed to
53 provide all assessment notices in accordance with the provisions of K.S.A. 12- 6a09, as
54 amended.

55 THIS RESOLUTION shall become effective upon one publication in the official city
56 newspaper.

57 ADOPTED and APPROVED by the Governing Body on December 14, 2021.

58 CITY OF TOPEKA, KANSAS



64 ATTEST:

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Michelle De La Isla

Michelle De La Isla, Mayor

Brenda Younger

Brenda Younger, City Clerk



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
May 14, 2024

DATE: May 14, 2024
CONTACT PERSON: Councilmember Karen Hiller, Public Health and Safety Committee Chair
DOCUMENT #:
SECOND PARTY/SUBJECT: Retaliatory Eviction
PROJECT #: TMC Sections 9.25.010 and 9.25.020
CATEGORY/SUBCATEGORY: 013 Ordinances - Codified / 054 Criminal Code
CIP PROJECT: No
ACTION OF COUNCIL:
JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

ORDINANCE introduced by Interim City Manager Richard U. Nienstedt, concerning retaliatory eviction, amending Sections 9.25.010 and 9.25.020 of the Topeka Municipal Code and repealing original sections. (The Public Health and Safety Committee recommended approval by a vote of 4-0-0 on April 15, 2024.)

Voting Requirement: Action requires at least five (5) votes of the City Council. The Mayor does not vote. The proposed ordinance involves a matter of home rule on which the Mayor has veto authority.

(Approval would authorize technical language amendments to redefine retaliate.)

VOTING REQUIREMENTS:

Action requires at least five (5) votes of the City Council. The Mayor does not vote.

POLICY ISSUE:

Whether to adopt the recommendation of the Public Health and Safety Committee to adopt amendments to the retaliatory eviction ordinance.

STAFF RECOMMENDATION:

Staff recommends the City Council move to adopt the ordinance as recommended by the Public Health and Safety Committee.

BACKGROUND:

On July 11, 2023, the Governing Body approved an Ordinance concerning retaliatory eviction, amending Sections 9.25.010 through 9.25.030 of the Topeka Municipal Code and creating Sections 9.25.040 and 9.25.050.

The Public Health and Safety Committee approved the following language amendments to TMC Sections 9.25.010 and 9.25.020 by a vote of 4-0-0 on April 15, 2024:

Section 1: Policy – Reverts back to original ordinance language to remove the mention of eviction a second time and keeps the language focused on retaliation and harassment as the key words.

Section 2 (1) – Reverts back to the original ordinance language. This change was made to clarify that retaliatory actions are not limited to filing a suit in court, and in fact the purpose of this Act was to prevent those formal actions from happening, allowing repairs to be completed and for people to stay in place as long as they are tenants in good standing.

Section 2 (4) – New language that addresses harassing entry, or repeated demands for entry for the tenant’s dwelling unit by the landlord, wording drawn from and reference to Kansas Residential Landlord and Tenant Act language.

BUDGETARY IMPACT:

There is no budgetary impact.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

Description

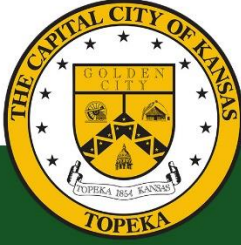
Cover Memo - K. Trussell (May 1, 2024)

Ordinance (Clean Version)

Ordinance (Strikethrough Version)

Public Health & Safety Committee Report (April 15, 2024)

Public Health & Safety Committee Meeting Minutes Excerpt (April 15, 2024)



CITY OF TOPEKA

Legal Department, Prosecution Division
215 SE 7th Street, Room 170
Topeka, KS 66603

Kelly Trussell, Chief of Prosecution
Tel: (785) 368-3910
www.topeka.org

MEMORANDUM

To: Governing Body Members
From: Kelly J. Trussell, Chief of Prosecution
Re: Amendments to TMC 9.25.010 and 9.25.020
Date: May 1, 2024

The purpose of this memo is to explain the proposed technical amendments to TMC 9.25.010 and 9.25.020, concerning retaliatory actions taken by a landlord against a tenant which would allege a violation of TMC 9.25.030.

The following are proposed changes to TMC 9.25.010:

Section 1 is the policy statement to support prosecution of retaliatory actions by landlords against tenants when the tenant has taken action to defend their right to a clean, safe, and sanitary dwelling. The proposed omissions of language is for the purpose of making the policy statement more succinct, as well as remove wording such as “where the eviction is motivated by . . .” to prevent the need for prosecution to prove “motivation” for a criminal charge. The addition of the language “due to retaliation or harassment” is for the purpose of placing the policy in-line with the proposed amendments to TMC 9.25.020, which adds actions to the definition of “retaliatory action” making a broader scope, yet more clarified explanation.

The following are proposed changes to TMC 9.25.020:

Eliminating “eviction” and amending it to “any action or proceeding to recover possession of a dwelling from a tenant” allows prosecution in cases where no formal “eviction” proceeding is pending or initiated, but instead the landlord has taken an action to remove the tenant from the dwelling by any means, by a legal filing or otherwise.

The amendment includes an addition of a fourth action that allows prosecution of retaliation: “Harassing entry or repeated demands for entry of the tenant’s dwelling unit by the landlord in violation of K.S.A. 58-2557 and/or K.S.A. 58-2571(b).” This language mirrors the statutes within the Kansas Landlord Tenant Act and these specific statutes define what “harassing entry” or “repeated demands for entry of the tenant’s dwelling” without the ordinance having to do so.

All of the proposed amendments to TMC 9.25.020 are beneficial amendments for prosecution, tenants, and landlords. These amendments clarify exactly what prosecution must prove in a criminal action, allow the tenants to better understand what rights they have, and place clear notice to landlords as to what they may or may not do in any situation that may occur under TMC 9.25.030.

It is prosecution's recommendation that these amendments be passed.

ORDINANCE NO. _____

AN ORDINANCE introduced by Interim City Manager Richard U. Nienstedt, concerning retaliatory eviction, amending § 9.25.010 and § 9.25.020 of the Topeka Municipal Code and repealing original sections.

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

Section 1. That section 9.25.010, Policy, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Policy.

The Governing Body recognizes the fact that many tenants hesitate to defend their right to a clean, safe and sanitary dwelling unit due to fear of eviction. It is hereby declared to be the public policy of the City that no tenant in good standing should be evicted from their dwelling unit due to retaliation or harassment.

Section 2. That the Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 9.25.020, which said section reads as follows:

Definitions.

“Dwelling unit” means a structure or the part of a structure that is used as a home, residence or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

“Good faith” means honesty in fact in the conduct of a transaction.

“Good standing” means that a tenant is not in arrears in the payment of rent and is in compliance with the duties of a tenant enumerated in K.S.A. 58-2555 and amendments thereto.

“Landlord” means the owner or lessor of a dwelling unit or the building of which the unit is a part.

28 “Rental agreement” means all agreements, written or oral, embodying the terms and
29 conditions concerning the use and occupancy of a dwelling unit.

30 “Retaliate” or “retaliatory action” shall include but not be limited to any of the following
31 actions by a landlord when such actions penalize a tenant because of an action
32 identified in TMC 9.25.030:

- 33 (1) Commencement of any action or proceeding to recover possession of a
34 dwelling from a tenant;
- 35 (2) Increasing the rent;
- 36 (3) Reduction of services required to be provided by the landlord pursuant to the
37 rental agreement and/or K.S.A. 58-2553 and amendments thereto; and
- 38 (4) Harassing entry or repeated demands for entry of the tenant’s dwelling unit by
39 the landlord in violation of K.S.A. 58-2557- and/or K.S.A. 58-2571(b).

40 “Tenant” means a person entitled under a rental agreement to occupy a dwelling unit.

41 Section 3. That original § 9.25.010 and § 9.25.020 of the Code of the City of
42 Topeka, Kansas, are hereby specifically repealed.

43 Section 4. This ordinance shall take effect and be in force after its passage,
44 approval and publication in the official City newspaper.

45 Section 5. This ordinance shall supersede all ordinances, resolutions or rules,
46 or portions thereof, which are in conflict with the provisions of this ordinance.

47 Section 6. Should any section, clause or phrase of this ordinance be declared
48 invalid by a court of competent jurisdiction, the same shall not affect the validity of this
49 ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

50 PASSED AND APPROVED by the City Council on _____.
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CITY OF TOPEKA, KANSAS

Michael A. Padilla, Mayor

ATTEST:

Brenda Younger, City Clerk

ORDINANCE NO. _____

AN ORDINANCE introduced by Interim City Manager Richard U. Nienstedt, concerning retaliatory eviction, amending § 9.25.010 and § 9.25.020 of the Topeka Municipal Code and repealing original sections.

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

Section 1. That section 9.25.010, Policy, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Policy.

The Governing Body recognizes the fact that many tenants hesitate to defend their right to a clean, safe and sanitary dwelling unit due to fear of eviction. It is hereby declared to be the public policy of the City that no tenant in good standing should ~~not~~ be evicted from their dwelling unit ~~where the eviction is motivated by the tenant's exercise of a legal right to complain, in good faith, to a landlord or government agency that the dwelling unit endangers or impairs the health and safety of the tenant~~ due to retaliation or harassment.

Section 2. That the Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 9.25.020, which said section reads as follows:

Definitions.

“Dwelling unit” means a structure or the part of a structure that is used as a home, residence or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

“Good faith” means honesty in fact in the conduct of a transaction.

26 “Good standing” means that a tenant is not in arrears in the payment of rent and is in
27 compliance with the duties of a tenant enumerated in K.S.A. 58-2555 and amendments
28 thereto.

29 “Landlord” means the owner or lessor of a dwelling unit or the building of which the unit
30 is a part.

31 “Rental agreement” means all agreements, written or oral, embodying the terms and
32 conditions concerning the use and occupancy of a dwelling unit.

33 “Retaliate” or “retaliatory action” shall include but not be limited to any of the following
34 actions by a landlord when such actions penalize a tenant because of an action
35 identified in TMC 9.25.030:

36 (1) Commencement of ~~eviction~~ any action or proceeding to recover possession of a
37 dwelling from a tenant;

38 (2) Increasing the rent; ~~and~~

39 (3) Reduction of services required to be provided by the landlord pursuant to the
40 rental agreement and/or K.S.A. 58-2553 and amendments thereto; and

41 (4) Harassing entry or repeated demands for entry of the tenant’s dwelling unit by
42 the landlord in violation of K.S.A. 58-2557- and/or K.S.A. 58-2571(b).

43 “Tenant” means a person entitled under a rental agreement to occupy a dwelling unit.

44 Section 3. That original § 9.25.010 and § 9.25.020 of the Code of the City of
45 Topeka, Kansas, are hereby specifically repealed.

46 Section 4. This ordinance shall take effect and be in force after its passage,
47 approval and publication in the official City newspaper.

48 Section 5. This ordinance shall supersede all ordinances, resolutions or rules,

49 or portions thereof, which are in conflict with the provisions of this ordinance.

50 Section 6. Should any section, clause or phrase of this ordinance be declared
51 invalid by a court of competent jurisdiction, the same shall not affect the validity of this
52 ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

53 PASSED AND APPROVED by the City Council on _____.

54
55 CITY OF TOPEKA, KANSAS

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60 _____
61 Michael A. Padilla, Mayor

62 ATTEST:
63
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65 _____
66 Brenda Younger, City Clerk

COMMITTEE REFERRAL SHEET

COMMITTEE REPORT

Name of Committee: Public Health and Safety

Title: ORDINANCE: Amended Retaliatory Eviction

Date referred from Council meeting: NA

Date referred from Committee: April 15, 2024

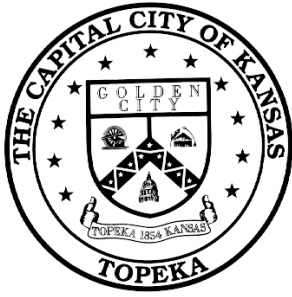
Committee Action: MOTION: To support the technical amendments to the Retaliatory Eviction Ordinance, and move it to the Governing Body for approval. Committee member Banks made a motion to approve. Committee member Valdivia-Alcalá seconded. Motion approved 4-0-0.

Comments:

Amendments: None.

Members of Committee: Councilmembers Karen Hiller (Chair), Christina Valdivia-Alcalá, David Banks and Spencer Duncan.

Agenda Date Requested: May 14, 2024



CITY OF TOPEKA

CITY COUNCIL
City Hall, 215 SE 7th St., Room 255
Topeka, KS 66603-3914
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Liz Toyne, Executive Assistant
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www.topeka.org

EXCERPT

Classroom A, Law Enforcement Center, Topeka, Kansas, Monday, April 15, 2024. The Public Health & Safety Committee members met at 10:00 A.M., with the following Committee members present: Karen Hiller (Chair), Christina Valdivia-Alcalá, David Banks, Spencer Duncan.

The following is an excerpt of the draft minutes from the meeting:

Retaliatory Eviction Ordinance:

Chairwoman Hiller introduced that the Committee would be reviewing technical amendments to the Retaliation Ordinance that had been previously adopted by the Governing Body. She noted that, in the time since the original was passed, work was being done on the education components of getting this ordinance pushed out. Not only the retaliation ordinance itself, but also the safety net package that is still being worked on. Housing and Credit Counseling Inc (HCCI) had provided some feedback in the beginning, however an attorney who has been active in tenants and eviction defense project in Kansas City has been brought to the table since that time. The attorney, along with HCCI, have gone through the language again, so that when it is time to move into “education mode”, it is clear to both tenants and landlords what considerations are being made.

The committee was provided two versions of the Ordinance. One was the current version with a redline of changes. The other was the “clean” version. Changes include:

- Section 1: Policy – The change puts this statement back to the way it was, to remove the mention of conviction a second time. It also leaves the language that is focused on retaliation and harassment as the key words.
- Section 2 (1) – The change reverts back to the original language. This change was made to clarify that retaliatory actions are not limited to filing a suit in court, and in fact the purpose of this Act was to prevent those formal actions from happening. And to get repairs done and allow people to stay in place, as long as they are tenants in good standing.
- Section 2 (4) – This is a new phrase. It talks about harassing entry, or repeated demands for entry for the tenant’s dwelling unit by the landlord.

Chairwoman Hiller noted that the amendments were made to help clarify the intentions, but did not make any major changes to the current ordinance. Prosecutor Trussell agreed that the

changes helped to clarify language to make it easier to understand for tenants and landlords. She added that anytime that there is criminal action that would pend from an ordinance, it is best to make it as clear as possible to both sides as to what the tenants' rights are and what the landlord's actions cannot be.

Committee member Valdivia-Alcalá inquired if there could be more dialog to include examples, if appropriate, with regard to Section 2(4)? City Prosecutor Kelly Trussell cited KSA 58-2557, stating that statute sets forth the right to enter by a landlord, and what type of notice needs to occur. In basic terms, it states the landlord has a right to enter the property, but provides language for what the limitations are. So, if the landlord was in violation of that particular statute, it would be clear that they are overstepping by not giving proper notice.

Prosecutor Trussell cited KSA 58-2571§(b) provides the definitions for repeated demands and harassment of, and of entry, where it is unlawful to have repeated requests. It defines what Harassment of Entry would be. By incorporating both of those statutes into the City's Ordinance, it clarifies for the landlord what they can and cannot do.

Committee member Valdivia-Alcalá inquired if this was the first time Section 4 was included in the City's ordinance? Chairwoman Hiller confirmed. She stated it has been part of the State of Kansas' Landlord Tenant Act under the Kansas Statutes, however is new for the City of Topeka. Prosecutor Trussell agreed with Committee member Valdivia-Alcalá that including this language into the City's Ordinance not only sets forth, clearly, what the limitations and parameters are, but that it also allows the City of Topeka to take more action on unlawful actions by a landlord if it is in retaliation.

Chairwoman Hiller noted that the Governing Body had approved the ordinance on July 11, 2023. She asked Prosecutor Trussell to provide a brief report on how that is going. Prosecutor Trussell stated she had received about eight or nine total complaints from citizens on retaliatory eviction. She has been able to chard one particular case, although it is in two different cases because it was two acts of allegations of retaliation where there was an eviction notice that was alleged to be based on actual reports to Property Maintenance for violations of the dwelling. There was also an allegation that, prior to the eviction process, the management company had cut off the electricity to the unit. Those were two different dates and two different allegations, so they are separated out into two retaliatory actions and are currently pending in court. The other reports that have been received have not been able to be charged, as of now, because most of them were due to the tenant not being in good standing, by definition. They were behind on rent or something similar.

Prosecutor Trussell explained the process for handling these types of complaints and cases. The complaints are sent to the Prosecution office directly, Prosecutor Trussell reviews them immediately. She then gets in contact with the tenant and asks for any further documentation that is needed, in order to decide on whether or not it fits the ordinance.

Committee member Valdivia-Alcalá thanked Prosecutor Trussell for her information and commented that she felt this shows the challenge with education. One of the main concerns is that tenants have to be up-to-date on their rent. They cannot stop paying. Chairwoman Hiller

agreed and stated the considerations would help sync up the language that is on the City's website, HCCI's website, the information that John Schardine has in his landlord packet.

Chairwoman Hiller shared that Abi Panecatl, the Tenant Landlord Counselor with HCCI, is fluent in Spanish and English. She is ready to record an informational video in both languages about this subject, but it was important that all of the language was final, so that the educational preparation and printing of materials, could move forward.

Committee member Banks inquired about the recourse that a tenant could take in a scenario where there had been an agreement between a tenant and landlord, and for some reason one party did not keep up their end of the agreement and the landlord began the eviction process. Prosecutor Trussell stated that a tenant in good standing, is a tenant who has abided by its lease, whatever those requirements would be and would state the landlord's duties, as far as what services and obligations to the tenant, would be set forth in the lease. If the landlord is supposed to maintain the grass, or provide the utilities, then those things must be abided by within that contract within the lease. The same would go for the tenant. The tenant cannot be the cause of the violations, and then not allow entry to have those issues fixed, or not fix them if they are obligated to do so. That is why it is really important for Prosecutor Trussell to have the lease agreement in front of her when she is looking at retaliatory allegations.

Chairwoman Hiller included that the Kansas Residential Landlord Tenant Act recognizes a rental agreement that can be verbal or written. The City has lately focused on the apartment complexes that have deteriorated so badly, and where they have been a number of problems, and that the leases may have clauses that are not enforceable. It is the State Law and the City's local Property Maintenance Code that are the core for those relationships. HCCI helps with the education part, but people can call any time. Careful consideration was made to the amendments at first, to ensure it said "the law and the rental agreement" throughout the local retaliatory eviction ordinance. These are some reasons why the Prosecution office has kept the Complaint Form, instead of only the affidavit. The form helps provide additional details that can be considered.

Prosecutor Trussell clarified that this would be run through as a criminal action. Regardless if there was or was not something in writing to prove what obligations were, taking this to trial would allow for testimony. The Fact Finder would have to determine what was or was not part of the agreement, and if what happened was a retaliatory action or not. The Prosecutors office would provide all of the evidence of what the tenant's action was that would support the allegation of the retaliation, and then the landlord would have the opportunity to provide a defense and demonstrate that these things were not retaliatory. Ultimately it would be up to the Fact Finder, which is the judge in this case, to decide what actually occurred.

Chairwoman Hiller included that this was a piece of the safety net for Property Maintenance in rental situations. This is a Changing Our Culture movement, in coordination with Legal. She noted that, although taking a case to court and fining a landlord might address some of the issue, it still does not provide compensation to the tenant. The Kanas Landlord Tenant Act provides for damages for tenants, if landlords have failed to maintain. Part of the safety net that is still being worked on, ensures that there will be full education on if there is any eviction defense through some sort of contract or pro bono/low cost attorneys that are willing to help out.

Additional conversation regarding legal counsel/representation at eviction hearings was had. Committee member Duncan suggested reviewing what Kansas City, Kansas is doing.

MOTION: To support the technical amendments to the Retaliatory Eviction Ordinance, and move it to the Governing Body for approval. Committee member Banks made a motion to approve. Committee member Valdivia-Alcalá seconded. Motion approved 4-0-0.



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
May 14, 2024

DATE: May 14, 2024
CONTACT PERSON: Richard Faulkner, **DOCUMENT #:**
Development Services
Division Director
SECOND PARTY/SUBJECT: Trade Board Residency **PROJECT #:**
Requirement
CATEGORY/SUBCATEGORY 013 Ordinances - Codified / 002 Administration
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

DISCUSSION concerning residency requirements for Trade Board membership. (*The Policy and Finance Committee recommended approval on April 23, 2024.*)

(*Approval will open eligibility for board membership to qualified candidates that live in Shawnee County but work or own a business in the city of Topeka.*)

VOTING REQUIREMENTS:

Discussion only. Action requires at least five (5) votes of the City Council. The Mayor does not vote.

POLICY ISSUE:

This is a request to modify Section 5.63.120 of the Topeka Municipal Code to allow people who live in the county and either work or own a business in the city to serve on city boards. The current ordinance requires that you live in the city limits to serve on city boards. We have had several candidates apply to sit on our boards but were denied because they did not live in the city limits but they worked in the city or owned a business in the city. We have three trade boards that are in need of members. The boards are required to have 5 members. The plumbing and mechanical boards are in need of two members and the electrical board is in need of one member. We have had candidates apply but were denied because they did not live in the city limits.

STAFF RECOMMENDATION:

Discussion only. Staff is recommending approval by the Governing Body when the ordinance is considered.

BACKGROUND:

The Board of Building Fire and Appeals went through a similar process to help fill seats on the board with qualified candidates. The board worked to get the requirement modified to allow people who live in the county and work in the city to be allowed to sit on city boards.

BUDGETARY IMPACT:

Not applicable.

SOURCE OF FUNDING:

Not applicable.

ATTACHMENTS:

Description

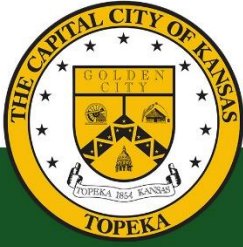
Cover Memo - R. Faulkner (April 12, 2024)

Proposed Ordinance

Policy and Finance Committee Presentation (April 23, 2024)

Policy and Finance Committee Report (April 23, 2024)

Policy and Finance Committee Meeting Minutes Excerpt (April 23, 2024)



CITY OF TOPEKA

Richard Faulkner
Division Director of Development Services
Holliday Building, 620 SE Madison St., Topeka, KS 66607

rfaulkner@topeka.org
Tel: 785-368-1606
www.topeka.org

Date: April 23, 2024

To: Policy & Finance Committee
Marcus Miller
Spencer Duncan
Michelle Hoferer

From: Richard Faulkner, Division Director Development Services

Subject: Topeka Municipal Code 5.63.120

At the present time we have three trade boards, Plumbing, Mechanical and Electrical, which need members to fill the boards. The Plumbing Board is down 2 members, Mechanical Board down 2 members, and the Electrical Board down 1 member. We have reached out to people in these trades to get members. We had some response and had people in these trades submit applications to join the boards but were not selected. The issue that they faced is they do not live within the city limits so their applications were denied.

This is an issue that was faced by the Board of Building Fire Appeals (BBFA). To address this issue the BBFA worked to get the requirement of living within City limits modified. They were able to get it modified to allow board members who own a business or work within the city limits be allowed to be on BBFA. We are working to get this same modification applied to the trade boards.

1 (Published in the Topeka Metro News _____)
2

3 ORDINANCE NO. _____
4

5 AN ORDINANCE introduced by Interim City Manager Richard U. Nienstedt,
6 concerning the establishment of boards for each trade created,
7 amending § 5.63.120 of the Topeka Municipal Code and repealing
8 original section.
9

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

11 Section 1. That section 5.63.120, Boards, of The Code of the City of Topeka,
12 Kansas, is hereby amended to read as follows:

13 **Boards.**

14 (a) *Boards for Each Trade Created.* There is hereby created a board for each of
15 the licensed trades: Board of Electrical Appeals, Board of Plumbing Appeals, and Board
16 of Mechanical Appeals. Such boards shall have five members and shall be comprised of
17 two masters licensed in the particular trade, two journeymen licensed in the particular
18 trade, and an engineer, practicing in the particular trade, appointed in accordance with
19 TMC 2.205.010 and the Charter Ordinance codified at Appx. A, Section A2-72.
20 Provided, however, the two positions designated to be filled by journeymen may be
21 filled by licensed journeymen, licensed masters, or engineers practicing in that particular
22 trade. Further, a candidate for a position on the board, who is otherwise qualified but
23 does not reside in the City, may be appointed if the candidate resides in Shawnee
24 County and is employed or operates a business within the City. The purpose of the
25 boards shall be to hear appeals from administrative decisions and upon request from
26 the administration to review applicants in accordance with this chapter.

27 (b) *Terms of Members.* The terms of office for the members of the trade
28 licensing boards shall be two years.

29 (c) *Chairpersons.* The chairpersons of the trade licensing boards shall be
30 selected by a majority vote of the members thereof.

31 (d) *Licensing Authority.* The Board shall have the final authority to determine the
32 experience and competency to take the examination for the particular license. The
33 Development Services Director shall review all initial applications prior to testing to
34 determine eligibility and shall notify the applicant of the test results within seven working
35 days after receipt of the test results. Any appeals from the licensing determination of the
36 Development Services Director shall be made to the Board.

37 (e) *Authority to Hear Appeals, Permit Exceptions and Grant Variances or Waivers.*

38 (1) The Board shall have authority to hear and determine appeals from
39 interpretations or other determinations by the Development Services Director of the
40 code.

41 (2) The Board shall also have the authority to grant exceptions, variances or
42 waivers from the code provisions in cases or situations which meet the purpose and
43 intent of the code. An exception, variance or waiver shall only be granted in those
44 situations that will not endanger life or limb, health, property, or public welfare. All
45 requests for appeals from interpretation of the code by the Development Services
46 Director, exceptions, variances or waivers shall be written. Such application shall be
47 accompanied by a full written explanation of the rationale and reasoning for such
48 request.

49 (3) Procedure for appeal and granting exceptions, variances or waivers shall be
50 in accordance with TMC 2.45.010 et seq. Provided, however, appeals under this

51 chapter shall be to the Board and not to a Hearing Officer. Further, the decision of
52 the Board shall constitute the final determination by the City.

53 (f) *Authority to Suspend or Revoke License.*

54 (1) The Board shall be empowered to suspend a license for infractions including
55 but not limited to the following:

56 (i) Failure to obtain a permit prior to initiating work on the project.

57 (ii) Creating a hazardous situation which endangers life and/or property.

58 (iii) Failure to correct a written violation notice within the allotted time.

59 (2) The Board shall be empowered to revoke a license for infractions including
60 but not limited to the following:

61 (i) Loaning of his license to another individual or company.

62 (ii) Creating a hazardous situation which endangers life and/or property.

63 (iii) Subsequent violations of failure to obtain a permit prior to initiating
64 work on the project, creating a hazardous situation which endangers life and/or
65 property, or failure to correct written violation notice within the allotted time after
66 having been previously suspended for such violation.

67 (3) The Development Services Director shall send written notice to the license
68 holder setting forth the alleged infraction(s) and setting forth a time and place at
69 which the proposed suspension or revocation will be heard by the Board. Procedure
70 for administrative hearings related to suspension or revocation shall be in
71 accordance with TMC 2.45.010 et seq. to the extent applicable. Provided, however,
72 appeals under this chapter shall be to the Board and not to a Hearing Officer.
73 Further, the decision of the Board shall constitute the final determination by the City.

74 During the course of suspension or revocation, all work shall cease except that work
75 necessary to correct a hazardous situation or correct a written violation notice.

76 Section 2. That original § 5.63.120 of The Code of the City of Topeka, Kansas,
77 is hereby specifically repealed.

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

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

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

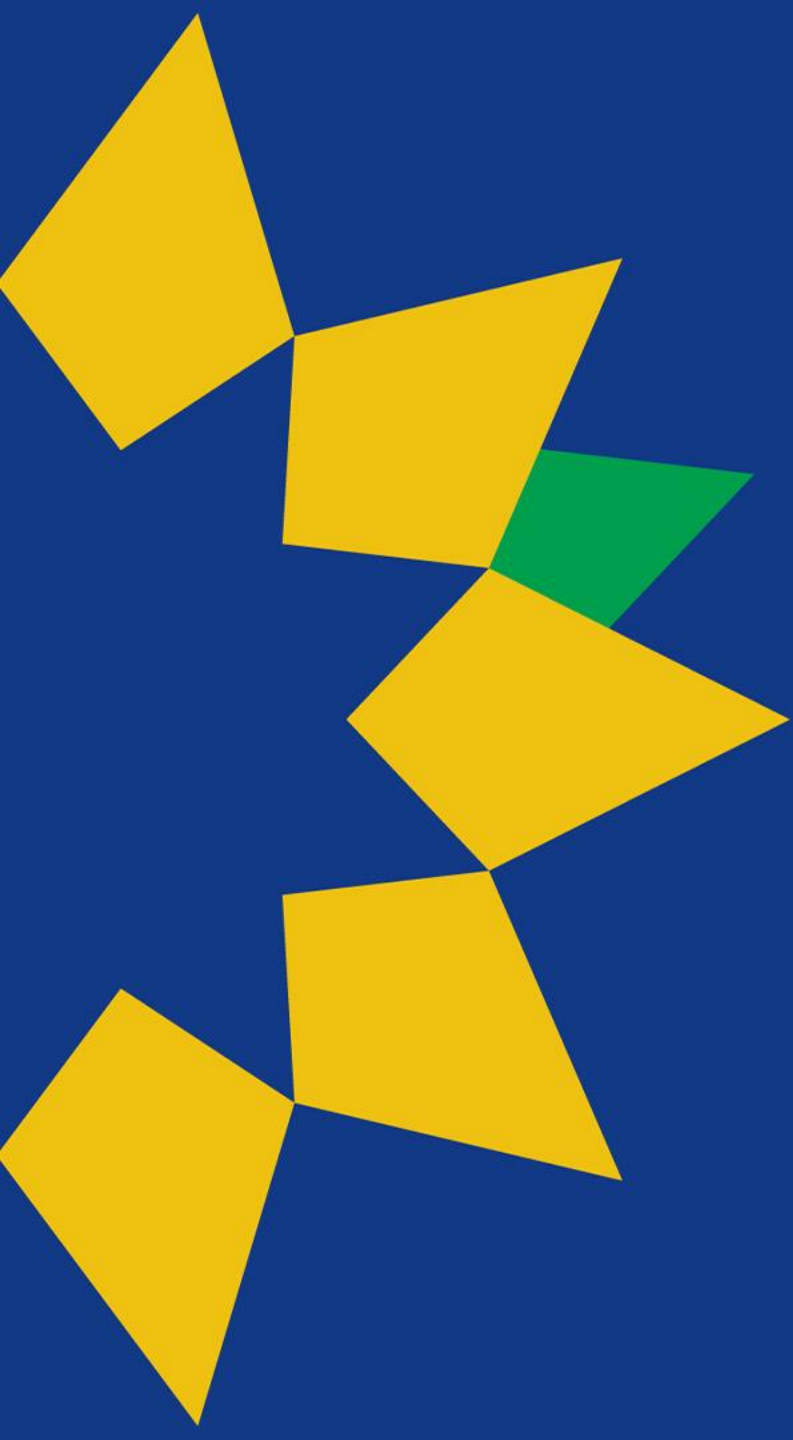
85 PASSED AND APPROVED by the Governing Body on _____.

86
87 CITY OF TOPEKA, KANSAS

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92 _____
Michael A. Padilla, Mayor

93 ATTEST:

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95
96
97 _____
98 Brenda Younger, City Clerk



CITY OF
TOPEKA



Topeka Municipal Code Amendment

Section 5.63.120 Boards

Our current municipal code requires that all members of our boards reside within the city limits of Topeka:

TMC 2.205.010 ...Unless otherwise provided, all members appointed to any board, commission, or plural authority shall be residents of the City...



- The current code limited the number of people who may apply to a board
- Our trade boards are not filled at this time (Plumbing-2, Mechanical-2, and Electrical-1)
- We reached out to our contractors in these fields to get candidates for these boards.
- We had enough candidates to fill the boards but they did not live in the city limits
- The Board of Building Fire and Appeals (BBFA) was faced with same situation



- We have sent out emails to our licensed contractors to get their input on looking into modifying this code to include people who live in the county and either own a business or work in Topeka
- We discussed this proposal with the trade boards and the BBFA
- The BBFA was able to get the requirement modified to allow people who live in the county and either own a business or work in Topeka to join their board



- All the trade boards and the BBFA have recommended that we bring this request to amend this code to the Governing Body
- Staff supports this recommendation
- Our trade boards are important part of the development of our community, and having these boards full is important to collect input and feedback



COMMITTEE REFERRAL SHEET

COMMITTEE REPORT

**Name of
Committee:**

Policy & Finance

Title:

Ordinance: Modification to Section 5.63.120 of the TMC

**Date referred
from Council
meeting:**

**Date referred
from
Committee:**

April 23, 2024

**Committee
Action:**

MOTION: Committee member Hoferer made a motion to approve the request to amend the TMC 5.65.120. Committee member Miller seconded. Motion approved 3-0-0.

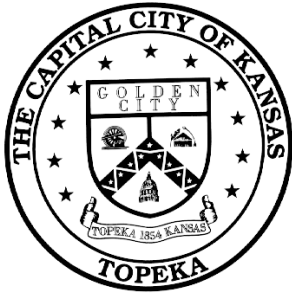
Comments:

**Members of
Committee:**

Councilmembers Spencer Duncan (Chair), Marcus Miller, Michelle Hoferer

**Agenda Date
Requested:**

May 14, 2024



CITY OF TOPEKA

CITY COUNCIL
City Hall, 215 SE 7th St., Room 255
Topeka, KS 66603-3914
(785) 368-3710

Liz Toyne, Executive Assistant
E-mail: etoyne@topeka.org

www.topeka.org

EXCERPT

1st Floor Conference Room; Cyrus K. Holliday Building Topeka, Kansas, Tuesday, April 23, 2024. The Policy & Finance Committee members met at 2:00 P.M., with the following Committee members present: Duncan (Chair), Miller, and Hoferer.

The following is an excerpt of the draft minutes from the meeting:

APPROVAL by the Committee of an ORDINANCE to modify Section 5.63.120 of the Topeka Municipal Code to allow people who live in the county and either work or own a business in the city to serve on city boards.

Trades Board Membership Residency Requirement

Development Services Division Director Richard Faulkner presented information on the Municipal Code, section 5.63.120 Boards. Presently, applicants to City Trade Boards are required to reside within the city limits of Topeka. This has put limitations on professionals who work in Topeka, and some recent applicants own businesses in Topeka, but live outside of the city limits. At present time, there are three (3) City Trade Boards and all of the boards are short members. This begins to cause a problem when it comes to being able to have a quorum to hold a meeting and conduct business.

Presentation Highlights:

Current board vacancies include: 2 on the Board of Plumbing Appeals, 2 on the Board of Mechanical Examiners Appeals, and 1 on the Board of Electrical Appeals.

Contractors in these fields are contacted to help recruit candidates for the boards.

There have been enough qualified candidates that were needed, however they do not reside inside of the city-limits.

The Board of Building Fire and Appeals (BBFA) was faced with the same situation.

Staff sent emails to licensed contractors to seek input on interest of modifying the code to include people who live in the county and either own a business or work in Topeka. – The feedback received was positive and in favor of this change.

Staff discussed the proposal with the trade boards and the BBFA. – They were also in favor of the change.

The BBFA was able to get the requirement modified to allow people who live in the county and either own a business or work in Topeka to join their board. They had also experienced this issue previously.

Staff supports the recommendation, as does all of the trade boards and the BBFA and is seeking approval by the Governing Body to amend it.

The trade boards are an important part of the development of our community, and having these boards full is important to collect input and feedback.

Questions/Comments:

Committee member Hoferer voiced support for approving this. She provided testimony from a professional standpoint on the matter to support what Division Director Faulkner presented on.

Chairman Duncan noted the BBFA change was made about two years ago and echoed the same concerns that they had faced prior to the change, and felt that people who worked or owned businesses inside of the city limits still provided an investment into Topeka. He noted that the change has since been positive and he would also support doing this for the Trade Boards.

Committee member Miller touched on the same sentiments made by the other Committee members.

Interim City Manager Nienstedt anecdotally pointed out that this model being considered is not unusual, and that there are other communities that have faced the same issue. He stated that whether or not the tradespeople live in the city they work in, they share the same goal to try and ensure that the trade is regulated correctly and fairly.

MOTION: Committee member Hoferer made a motion to approve the request to amend the TMC 5.65.120. Committee member Miller seconded. Motion approved 3-0-0.



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Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
May 14, 2024

DATE: May 14, 2024
CONTACT PERSON: **DOCUMENT #:**
SECOND PARTY/SUBJECT: Public Comment **PROJECT #:**
Protocol
CATEGORY/SUBCATEGORY
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

PUBLIC COMMENT PROTOCOL

VOTING REQUIREMENTS:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

Governing Body Rule 5.5

(c) **Public Comment on a specific agenda item:** Comments from members of the public concerning a specific agenda item will be heard at the time the item is considered. Persons will be limited to addressing the governing body one (1) time on a particular matter unless otherwise allowed by a vote of six (6) or more members of the governing body.

(d) **General public comment:** Requests by members of the public to speak during the public comment portion of a regular governing body meeting will be placed on the agenda on a "first-come, first-served" basis. The request should state the name of the individual(s) desiring to be heard. Each such individual shall be limited to addressing the governing body one (1) time and his or her comments shall be limited to topics directly relevant to business of the governing body; provided however, that comments pertaining to personnel and litigation matters shall not be allowed.

Procedures for Addressing the Governing Body

In accordance with Governing Body Rules 5.6 and 5.7, the following protocols for public comment apply:

- Each person shall state his or her name and city of residence in an audible tone for the record.
- All remarks shall be addressed to the Governing Body as a whole -- not to any individual member.

- In order to provide additional time for as many individuals as possible to address the Governing Body, each individual signed up to speak will need to complete his or her comments within four minutes.

The following behavior will not be tolerated from any speaker:

- Uttering fighting words
- Slander
- Speeches invasive of the privacy of individuals (no mention of names) Unreasonably Loud Speech
- Repetitious Speech or Debate
- Speeches so disruptive of proceedings that the legislative process is substantially interrupted

Any speaker who engages in this type of behavior will be warned once by the presiding office (Mayor). If the behavior continues, the speaker will be ordered to cease his or her behavior. If the speaker persists in interfering with the ability of the Governing Body to carry out its function, he or she will be removed from the City Council Chambers or Zoom meeting room.

Members of the public, Governing Body and staff are expected to treat one another with respect at all times.

Zoom Meeting Protocol

- Make sure your Zoom name, email and/or phone number matches what was submitted to the City Clerk when you signed up for public comment. Any misnamed or unauthorized users will not be admitted to Zoom.
- Please keep your mic muted and your camera off until you are called by the Mayor to give your comment.
- If you are cut off during your comment time due to an internet connection or technical issue, you will need to submit your comments in writing to the City Clerk atcclerk@topeka.org 215 SE 7th Street, Room 166, Topeka, KS 66603 for attachment to the minutes.
- If you break any of the public comment rules, you will receive one warning from the Mayor. If you continue any prohibited behavior, you will be removed from the Zoom meeting room and will not be allowed to rejoin.
- Public comment is limited to four minutes. You may receive an extension at the discretion of the Governing Body. The timer will be visible to you in the 'City of Topeka Admin' window on the Zoom app. Call-in users will hear one beep when a minute is remaining and then another beep when time has expired.
- Please do not share the Zoom login information with anyone. Any unauthorized users will not be admitted to the Zoom meeting room.

BUDGETARY IMPACT:

SOURCE OF FUNDING: