

1 (Published in the Topeka Metro News March 25, 2009)

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3 **ORDINANCE NO. 19234**

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5 AN ORDINANCE introduced by Mayor William W. Bunten amending City of Topeka
6 Code § 18-4, § 18-7 and § 54-8 concerning the bow and arrow
7 hunting within City limits, and specifically repealing said original
8 sections.
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10 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

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12 Section 1. That section 18-4, Cruelty to animals, of The Code of the City of
13 Topeka, Kansas, is hereby amended to read as follows:

14 **Cruelty to animals.**

15 (a) It shall be unlawful for any person to:

16 (1) Intentionally kill, injure, maim, torture or mutilate any animal, except
17 for the hunting of wild or undomesticated animals under the provisions of § 18-7
18 of this Code;

19 (2) Abandon or leave any animal in any place without making
20 provisions for its proper care; or

21 (3) Have physical custody of any animal and fail to provide such food,
22 water, opportunity for exercise or other care as is needed for the health or well-
23 being of such animal.

24 (4) Have custody of an animal, as owner or otherwise, and fail to
25 provide such animal with necessary protection from the elements as set forth
26 below:

27 a. *Shelter from sunlight.* When sunlight is likely to cause
28 overheating, serious bodily injury or death of the animal, sufficient shade

29 shall be provided to allow the vertebrate animals kept outdoors to protect
30 themselves from the direct rays of the sun.

31 b. *Shelter from cold weather.* Housing facilities shall be
32 provided for all dogs and cats kept outdoors when the atmospheric
33 temperature falls below 40 degrees Fahrenheit. Such structure shall be
34 provided with a sufficient quantity of suitable bedding materials, consisting
35 of hay, straw, cedar shavings or the equivalent, to provide insulation and
36 protection against cold and dampness and promote retention of body heat.
37 Such shelter shall be so constructed to keep the animal dry and retain
38 sufficient body heat to prevent serious bodily injury or death of the animal.

39 (5) (a) Attach chains or other tethers, restraints or implements
40 directly to a dog without the proper use of a collar, harness, or other device
41 designed for that purpose and made from a material that prevents injury to the
42 animal.

43 (b) No person shall:

44 (1) Continuously tether a dog for more than one (1)
45 continuous hour, except that tethering of the same dog may resume
46 after a hiatus of three (3) continuous hours, for up to three (3) hours
47 total time on tether per day; provided that for the purpose of
48 tethering a dog, a chain, leash, rope or tether shall be at least ten
49 (10) feet in length; or

50 (2) Use a tether or any assembly or attachments thereto
51 to tether a dog that shall weigh more than one-eighth (1/8) of the

52 animal's body weight, or due to weight, inhibit the free movement of
53 the animal within the area tethered; or

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

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

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

66 (6) Tether an animal in an area where bare earth is
67 present and no steps have been taken to prevent the surface from
68 becoming wet and muddy in the event of precipitation.

69 (c) The following definitions apply to words used in this section:

70 (1) When used as a verb, "*tether*" or "*tethering*" shall
71 mean fastening a dog to a stationary object, pulley run line or a
72 stake.

73 (2) When used as a noun, "*tether*" or "*tethers*" shall mean
74 a chain, leash, rope, cable, chain, string, leather or nylon strap, or

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

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

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

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

95 (e) If a person is adjudicated guilty of the crime of cruelty to animals, as
96 defined in subsection (a) of this section, and the court is satisfied that an animal owned
97 or possessed by such person would be in the future subjected to such crime, such

98 animal shall not be returned to or remain with such person. Such animal may be turned
99 over to a duly incorporated humane society or licensed veterinarian for sale or other
100 disposition.

101 Section 2. That section 18-7, Injuring or killing of wild and undomesticated
102 animals unlawful; exceptions, of The Code of the City of Topeka, Kansas, is hereby
103 amended to read as follows:

104 **Injuring or killing of wild and undomesticated animals unlawful;**
105 **exceptions.**

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

114 (b) Notwithstanding the foregoing, it shall be lawful to kill wild or
115 undomesticated deer or turkeys by bow and arrow provided the bow hunting is done on
116 Kansas Department of Wildlife and Parks (KDWP) owned or managed property or
117 privately owned property posted during the hunting season by a person to whom KDWP
118 has issued a hunting license, hunting permit and special access permit for that specific
119 tract of land.

120 Section 3. That section 54-8, Uniform public offense code, of The Code of the
121 City of Topeka, Kansas, is hereby amended to read as follows:

122 **Uniform public offense code.**

123 There is hereby incorporated by reference for the purpose of regulating public
124 offenses within the corporate limits of the City of Topeka, Kansas, that certain code
125 known as the "Uniform Public Offense Code," Edition of 2006, prepared and published
126 in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except
127 Sections 4.3 ("Prostitution"), 4.4 ("Promoting Prostitution"), and 4.5 ("Patronizing A
128 Prostitute"), which are specifically deleted and omitted. No fewer than three copies of
129 said Uniform Public Offense Code shall be marked or stamped "Official Copy as
130 adopted by Ordinance No. 18821," with all sections or portions thereof intended to be
131 omitted or changed clearly marked to show any such omission or change and to which
132 shall be attached a copy of Ordinance No. 18821 and filed with the city clerk to be open
133 to inspection and available to the public at all reasonable hours.

134 The "Uniform Public Offense Code," Edition of 2006, is hereby further amended
135 by adding the following exception to Section 10.6:

136 Exception: Operation of a bow and arrow is permitted in accordance with the
137 provisions set forth in City of Topeka Code § 18-7.

138 Section 4. That original § 18-7 and § 54-8 of The Code of the City of Topeka,
139 Kansas, are hereby specifically repealed.

140 Section 5. This ordinance shall take effect and be in force from and after its
141 passage, approval and publication in the official City newspaper.

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PASSED AND APPROVED by the City Council March 17, 2009.

CITY OF TOPEKA, KANSAS

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk