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3 ORDINANCE NO. \_\_\_\_\_  
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5 AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending  
6 City of Topeka Code § 6.05.010, § 6.05.020, § 6.05.040, §  
7 6.05.080, 6.30.010, § 6.30.050 and § 9.05.080 concerning cruelty  
8 to animals, dangerous dogs, feral cats and animal control and  
9 specifically repealing said original sections and the U.P.O.C. cruelty  
10 to animal ordinance, as well as repealing in its entirety Chapter  
11 6.25 concerning pit bull dogs.  
12

13 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA:  
14

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

17 **Definitions.**

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

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

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

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

28 (2) Any dog which in a vicious or threatening manner, approaches any  
29 person in apparent attack upon the person while on the streets, sidewalks, or any

30 public grounds or places; or on private property other than on the property of the  
31 owner; or

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

34 (4) Any dog which was previously determined to be a vicious animal  
35 pursuant to the previous Topeka City Code 18.8 or 6.05.080; or

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

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

47 (7) No dog may be declared dangerous if an injury or damage was  
48 sustained by a domestic animal which at the time such injury or damage was  
49 sustained was teasing, tormenting, abusing or assaulting the dog. No dog may  
50 be declared dangerous if the dog was protecting or defending a human being or  
51 if the dog was protecting or defending her litter of offspring or offspring on the

52 owner's property, within the immediate vicinity of the dog from an attack or  
53 assault.

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

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

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

67 (ee) "Humane Society" means the Helping Hands Humane Society in the city  
68 or any animal shelter contracted with the City of Topeka which is licensed by the State  
69 of Kansas.

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

73 (eg) "Secure enclosure" or "secure six-sided enclosure" shall mean a pen,  
74 kennel or structure with secure sides, a secure top attached to the sides and a secure

75 bottom or floor attached to the sides of the pen or embedded in the ground no less than  
76 two feet. The secure enclosure must be at least ~~three~~six feet from any public sidewalk  
77 or street. The secure enclosure, other than a residence, must be locked with a key or  
78 combination lock when animals are within the enclosure. If the secured enclosure is a  
79 residence, then all doors, windows or other means of egress shall be secured in a  
80 manner to prevent an animal from escaping. All secure enclosures must comply with all  
81 zoning and building regulations of the city. All secure enclosures must be adequately  
82 lighted and ventilated and kept in a clean and sanitary condition.

83 (h) "Supervision" means within visual and auditory range of the owner.

84 (i) "Tether." When used as a verb, "tether" or "tethering" shall mean  
85 fastening a dog or cat to a stationary object, pulley run line or a stake. When used as a  
86 noun, "tether" or "tethers" shall mean a chain, leash, rope, cable, chain, string, leather  
87 or nylon strap, or any other material used to fasten a dog or cat to a stationary object,  
88 pulley run line or a stake.

89 (fj) "Vicious" means a cross, ferocious or dangerous disposition or a habit,  
90 tendency or disposition to snap, attack or bite any person or ~~other~~ domestic animal.

91 Section 2. That section 6.05.020, Violations of title, mandatory minimum  
92 punishment, of The Code of the City of Topeka, Kansas, is hereby amended to read as  
93 follows:

94 **Violations of title, mandatory minimum punishment.**

95 The judge of the municipal court of the city shall, upon a conviction of any section  
96 in this title, other than TMC ~~6.05.080~~ and ~~6.25.050~~, sentence the owner, harborer or  
97 possessor of such animal as follows:

- 98 (a) Fine. A fine of not less than \$1.00 or more than \$499.00; or  
99 (b) Imprisonment. Imprisonment in the city jail for not more than 179 days; or  
100 (c) Both Fine and Imprisonment. Both fine and imprisonment not to exceed  
101 subsections (a) and (b) of this section.

102 Section 3. That section 6.05.040, Cruelty to animals, of The Code of the City  
103 of Topeka, Kansas, is hereby amended to read as follows:

104 **Cruelty to animals.**

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

106 (1) ~~Intentionally k~~Kill, injure, maim, torture, burn or mutilate any animal,  
107 ~~except for the hunting of wild or undomesticated animals under the provisions of~~  
108 ~~TMC 6.05.070;~~

109 (2) Abandon or leave any animal in any place without ~~making~~ ensuring  
110 provisions for its proper care;

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

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

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

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

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

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

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

142 (i) ~~Shelter from Sunlight. When sunlight is likely to cause~~  
143 ~~overheating, serious bodily injury or death of the animal, sufficient shade~~  
144 ~~shall be provided to allow the vertebrate animals kept outdoors to protect~~  
145 ~~themselves from the direct rays of the sun.~~

146 (ii) ~~Shelter from Cold Weather. Housing facilities shall be~~  
147 ~~provided for all dogs and cats kept outdoors when the atmospheric~~  
148 ~~temperature falls below 40 degrees Fahrenheit. Such structure shall be~~  
149 ~~provided with a sufficient quantity of suitable bedding materials, consisting~~  
150 ~~of hay, straw, cedar shavings or the equivalent, to provide insulation and~~  
151 ~~protection against cold and dampness and promote retention of body heat.~~  
152 ~~Such shelter shall be so constructed to keep the animal dry and retain~~  
153 ~~sufficient body heat to prevent serious bodily injury or death of the animal;~~  
154 ~~or Knowingly leave any animal confined in a vehicle for more than five (5)~~  
155 ~~minutes in extreme weather conditions, defined as more than eighty (80)~~  
156 ~~degrees Fahrenheit or less than thirty (30) degrees Fahrenheit as the heat~~  
157 ~~or cold index taken in the vehicle shall create a legal, rebuttable~~  
158 ~~presumption of violation of this act;~~

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

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

163 (7) Cause any physical injury other than the acts described in  
164 subsection (a)(1).

165           (5b)(i) It shall be unlawful for any person to Attach chains or other tethers,  
166 restraints or implements directly to a dog or cat without the proper use of a collar,  
167 harness, or other device designed for that purpose and made from a material that  
168 prevents injury to the animal. No person shall:

169                           (ii) ~~No person shall:~~

170                   (A1) Continuously tether a dog or cat for more than fifteen (15) minutes  
171 without supervision; ~~Continuously tether a dog for more than one continuous~~  
172 hour, except that tethering of the same dog may resume after a hiatus of three  
173 continuous hours, for up to three hours total time on tether per day; provided, that  
174 for the purpose of tethering a dog, a chain, leash, rope or tether shall be at least  
175 10 feet in length; or

176                   (B2) Use a tether or any assembly or attachments thereto to tether a  
177 dog or cat that shall weigh more than one-eighth of the animal's body weight, or  
178 due to weight, inhibit the free movement of the animal within the area tethered; or

179                   (C3) Tether a dog or cat on a choke chain or in such a manner as to  
180 cause injury, strangulation, or entanglement of the dog on fences, trees, or other  
181 manmade or natural obstacles; or

182                   (D4) Tether a dog or cat without access to shade when sunlight is likely  
183 to cause overheating, or appropriate shelter to provide insulation and protection  
184 against cold and dampness when the atmospheric temperature falls below 40  
185 degrees Fahrenheit, or to tether a dog without securing its water supply so that it  
186 cannot be tipped over by the tether; or

187 (E5) Tether a dog or cat in an open area where it can be teased by  
188 persons or an open area that does not provide the dog or cat protection from  
189 attack by other animals; or

190 (F6) Tether ~~an animal~~ a dog or cat in an area where bare earth is present  
191 and no steps have been taken to prevent the surface from becoming wet and  
192 muddy in the event of precipitation.

193 ~~(iii) The following definitions apply to words used in this section:~~

194 ~~(A) When used as a verb, "tether" or "tethering" shall~~  
195 ~~mean fastening a dog to a stationary object, pulley run line or a~~  
196 ~~stake.~~

197 ~~(B) When used as a noun, "tether" or "tethers" shall mean~~  
198 ~~a chain, leash, rope, cable, string, leather or nylon strap, or any~~  
199 ~~other material used to fasten a dog to a stationary object, pulley run~~  
200 ~~line or a stake.~~

201 (bc) Any public health officer, law enforcement officer or licensed veterinarian,  
202 or any officer or agent of any duly incorporated humane society, animal shelter or other  
203 appropriate facility, may take into custody any animal, upon either private or public  
204 property, which clearly shows evidence of cruelty to animals, as defined in subsection  
205 (a) of this section and subsections thereto. Such officer, agent or veterinarian may  
206 inspect, care for or treat such animal or place such animal in the care of a duly  
207 incorporated humane society or licensed veterinarian for treatment, boarding and other  
208 care or, if it appears, as determined by an officer of such humane society or by such

209 veterinarian, that the animal is diseased or disabled beyond recovery for any useful  
210 purpose, the humane killing thereof.

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

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

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

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

226 (1) Normal or accepted veterinary practices;

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

230                   (3)   Killing, attempting to kill, trapping, catching or taking of any animal  
231 in accordance with the provisions of Chapter 32 or Chapter 47 of the Kansas  
232 Statutes Annotated;

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

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

242                   (6)   With respect to farm animals, normal or accepted practices of  
243 animal husbandry including the normal and accepted practices for the slaughter  
244 of such animals for food or by-products and the careful or thrifty management of  
245 one's herd or animals, including animal care practices common in the industry or  
246 region;

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

251                   (8)   An animal control officer trained by a licensed veterinarian in the  
252 use of a tranquilizer gun, or trained police officer or animal control officer using a

253 electronic control device, when such animal is vicious or could not be captured  
254 after reasonable attempts using other methods;

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

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

258 (11) Accepted practices of animal husbandry pursuant to regulations  
259 promulgated by the United States department of agriculture for domestic pet  
260 animals under the animal welfare act, public law 89-544, as amended and in  
261 effect on July 1, 2006; or

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

265 Section 4. That section 6.05.080, Vicious animals, of The Code of the City of  
266 Topeka, Kansas, is hereby amended to read as follows:

267 **Vicious animals**~~Vicious animals~~**Dangerous dogs.**

268 (a) ~~The animal control officer shall investigate each case of any animal~~  
269 ~~reported as being vicious and, if probable cause exists to believe the animal is vicious,~~  
270 ~~shall seize and impound such animal unless the owner agrees to impound the animal at~~  
271 ~~the owner's expense at any veterinarian in the city until the conclusion of any pending~~  
272 ~~municipal court charge regarding the animal. Impoundment expenses shall be assessed~~  
273 ~~as court costs against a convicted owner.~~

274           ~~(b) — The owner shall report immediately to the public health officer any animal~~  
275 ~~which has actually bitten or scratched any person, regardless of the circumstances~~  
276 ~~involved.~~

277           ~~(c) — Prohibited. It is unlawful for any owner, harborer, keeper or possessor who~~  
278 ~~keeps any animal within the city limits to allow the following, and the same are declared~~  
279 ~~to be public nuisances and prohibited:~~

280                   ~~(1) — To permit such animal to attack or bite any person or animal that is~~  
281 ~~not upon the premises of the owner, harborer, keeper or possessor.~~

282                   ~~(2) — To permit such animal to attack or bite any person or animal that is~~  
283 ~~upon the premises of the residence of such owner, harborer, keeper or~~  
284 ~~possessor. It shall be an affirmative defense to this subsection (c)(2) of this~~  
285 ~~section that the use of such animal to attack or bite any person was necessary to~~  
286 ~~prevent or apprehend a person engaged in committing an act of violence,~~  
287 ~~robbery, criminal trespass or theft upon such property.~~

288                   ~~(3) — To permit such animal kept by such owner, harborer, keeper or~~  
289 ~~possessor within or upon the premises of any business establishment to attack or~~  
290 ~~bite any person or animal upon such premises. It is an affirmative defense to this~~  
291 ~~subsection (c)(3) of this section that the use of such animal to attack or bite any~~  
292 ~~person was necessary to prevent or apprehend a person engaged in committing~~  
293 ~~an act of violence, robbery, criminal trespass or theft upon such property.~~

294           ~~(d) — Exceptions. The provisions of subsection (c) of this section shall not apply~~  
295 ~~to any law enforcement officer who uses or employs an animal while engaged in law~~  
296 ~~enforcement activities, nor to any owner, harborer, keeper or possessor of any animal~~

297 ~~which attacks or bites a person engaged in physically attacking or striking such owner,~~  
298 ~~harborer, keeper or possessor.~~

299 ~~(e) — Complaint and Notice to Appear.~~

300 ~~(1) — Any person who witnesses or has other personal knowledge that an~~  
301 ~~act made unlawful by the provisions of this section has been committed in~~  
302 ~~violation of such provisions may sign a complaint against the alleged violator.~~

303 ~~(2) — Any police officer, reserve police officer or animal control officer of~~  
304 ~~the city is authorized to issue a uniform complaint and notice to appear to any~~  
305 ~~person when such officer personally observes a violation of the provisions of this~~  
306 ~~section or when information is received from any person who has personal~~  
307 ~~knowledge that an act or acts which are made unlawful by the provisions of this~~  
308 ~~section have occurred.~~

309 ~~(f) — Ex Parte Hearings and Court Orders. The municipal court of the city is~~  
310 ~~empowered to hold ex parte hearings to determine whether there are reasonable~~  
311 ~~grounds to believe that an animal may constitute a danger to any person if not~~  
312 ~~impounded. After such hearing, if the court finds such reasonable grounds to exist, the~~  
313 ~~court is empowered to enter orders, either on its own motion or on the motion of the city~~  
314 ~~attorney, the city attorney's authorized representative, any police officer, reserve police~~  
315 ~~officer or animal control officer, to seize and impound, or continue the impoundment of~~  
316 ~~such animal until the completion of all trial and legal proceedings held in the municipal~~  
317 ~~court of the city to determine whether there has been a violation of this section. If an~~  
318 ~~animal is ordered to be impounded pursuant to this subsection, the person who owns,~~  
319 ~~harbors, keeps or possesses such animal shall be entitled to a hearing in the municipal~~

320 court within 14 days of such order to review the propriety of such impoundment. Costs  
321 of such impoundment shall be assessed to the owner, harborer, keeper or possessor of  
322 such animal.

323 (g) — Punishment. Upon a first conviction of a violation of this section, a person  
324 shall be fined not less than \$250.00 nor more than \$499.00. The person convicted must  
325 pay at least \$250.00 before the person is granted suspension or reduction of sentence.  
326 On a second or subsequent conviction of a violation of this section within seven years of  
327 the most recent conviction, a person shall be sentenced to not less than five days'  
328 imprisonment nor more than 30 days' imprisonment, and shall be fined not less than  
329 \$350.00 nor more than \$499.00. The person convicted must serve at least five days'  
330 imprisonment and pay at least \$350.00 before the person is granted suspension or  
331 reduction of sentence.

332 (h) — Destruction of Animal. Upon an initial conviction of a violation of this  
333 section, the judge of the municipal court of the city may order the owner, harborer,  
334 keeper or possessor of such vicious animal to destroy such animal. Upon a second or  
335 subsequent conviction, the judge shall order the owner, harborer, keeper or possessor  
336 to destroy the animal.

337 (i) — Confinement of Animal. Upon conviction of a violation of this section, the  
338 judge of the municipal court shall order the owner, harborer, keeper or possessor of  
339 such vicious animal to confine such animal in a secure enclosure as defined in TMC  
340 [6.05.010\(e\)](#). If the owner, harborer, keeper or possessor takes the vicious animal off the  
341 property, the judge shall order the animal to be under the direct physical control of some  
342 person by use of a chain, leash or similar device, and the animal shall be muzzled by a

343 caged muzzle. Failure to comply with any such order shall be deemed a violation of this  
344 section and subject the violator to the penalties set forth in subsection (g) of this section.

345 (j) ~~Microchipping of Animal. Upon conviction of a violation of this section, the~~  
346 ~~judge of the municipal court shall order the owner, harborer, keeper or possessor of~~  
347 ~~such animal to have an identification microchip implanted in such animal by the humane~~  
348 ~~society or a licensed veterinarian no later than 15 calendar days after the conviction.~~  
349 ~~The owner, harborer, keeper or possessor shall file proof of microchipping, acceptable~~  
350 ~~to the municipal court, with the clerk of the municipal court no later than 20 calendar~~  
351 ~~days after conviction. Upon receipt, the clerk of the municipal court shall provide a copy~~  
352 ~~of such proof to the city attorney's office. Failure of the owner, harborer, keeper or~~  
353 ~~possessor of such animal to have the microchip implanted in the animal or to file~~  
354 ~~acceptable proof of microchipping with the clerk of the municipal court within 20 days~~  
355 ~~after conviction shall be punished as contempt of court. Upon the commencement of~~  
356 ~~contempt proceedings against the owner, harborer, keeper or possessor of such animal,~~  
357 ~~the municipal court shall issue an ex parte order directing animal control officers to~~  
358 ~~seize the animal, which shall be held and shall not be released until the conclusion of~~  
359 ~~the contempt proceedings.~~

360 (a) In the event that an animal control officer or law enforcement officer has  
361 probable cause to believe that a dog is dangerous, as defined by section 6.05.010, the  
362 animal control officer or law enforcement officer may seize and impound such animal at  
363 the Humane Society unless the owner agrees to impound the animal at the owner's  
364 expense at any veterinarian in the city until the conclusion of any pending municipal  
365 court charge regarding the animal. If an animal is ordered to be impounded pursuant to

366 this subsection, the person who owns, harbors, keeps or possesses such animal shall  
367 be entitled to a hearing in the municipal court within 14 days of such impoundment to  
368 review the propriety of such impoundment and whether a bond may be posted.  
369 Impoundment expenses shall be assessed as court costs against a convicted owner  
370 and any bond may be applied to such costs.

371 (b) Dogs seized in connection with dog fighting shall be housed in a secure  
372 enclosure with proper exercise and care and held as evidence in the case until the  
373 conclusion of the case and order from the court on the disposition of the dogs.  
374 Disposition and release of dogs is determined in accordance to K.S.A. §§ 21-4311, 21-  
375 4316 and any amendments thereto.

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

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

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

387 (i) Registration and microchipping. The owner shall annually  
388 register the dangerous dog with the City, on such forms designated by the

389 Police Chief, and shall have a microchip inserted into the dog by the Humane  
390 Society. The microchip shall detail the dangerous dog registration and such  
391 other information as may be appropriate to determine the ownership of the  
392 dog. The owner shall pay a \$50.00 annual registration fee and shall pay all  
393 costs associated with the microchip procedure and registration of the dog.  
394 The owner shall be responsible for maintaining with the Police Department  
395 the address of the owner and the dangerous dog. The owner shall notify the  
396 Police Department within seven (7) days of a change in address for the owner  
397 and dangerous dog.

398 (ii) Confinement. All dangerous dogs shall be confined in a  
399 secured enclosure. It shall be unlawful for any owner to maintain a  
400 dangerous dog upon any premises that does not have a secured  
401 enclosure. It shall be unlawful for any owner to allow a dangerous dog to  
402 be outside of the dwelling of the owner or outside the secured enclosure  
403 unless it is necessary for the owner to obtain veterinary care for the  
404 dangerous dog or for the limited purposes of allowing said dangerous dog  
405 to urinate or defecate or to sell or give away the dangerous dog or  
406 respond to such orders of law enforcement officials as may be required. In  
407 such event, the dangerous dog shall be securely muzzled and restrained  
408 with a leash not exceeding four (4) feet in length, and shall be under the  
409 direct control and supervision of the owner of the dangerous dog. The  
410 muzzle shall be made and used in a manner that will not cause injury to

411 the dog or interfere with its vision or respiration, but shall prevent it from  
412 biting any human or animal.

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

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

426 (e) Dangerous Dog At-Large. Any dog that has been found to be a  
427 dangerous dog, or vicious dog under the previous Topeka City Code 18-8 or 6.05.080,  
428 that is not confined or registered as required pursuant to this Article shall be impounded  
429 by an animal control officer or a law enforcement officer. Upon conviction, in addition to  
430 all costs for impoundment, the owner or keeper shall pay a fine of at least two hundred  
431 fifty dollars (\$250.00) but not more than four hundred and ninety nine dollars (\$499.00).  
432 For a second offense within twenty-four (24) months, in which the dog is not confined or  
433 registered as required pursuant to this Section, in addition to all costs for impoundment,

434 the owner or keeper shall pay a four hundred ninety-nine dollars (\$499.00) fine and the  
435 animal control officer or law enforcement officer is empowered to impound the dog, and  
436 the dog shall be destroyed. The Municipal Judge shall have no authority to suspend the  
437 fine or any portion thereof.

438 (f) Dangerous Dog - Attack on Human. If any dangerous dog or vicious dog  
439 under the previous Topeka City Code 18-8 or 6.05.080, shall attack, assault, wound,  
440 bite, or otherwise injure or kill, or assist in such injury or killing, a human being, upon  
441 conviction the owner shall pay a fine of at least four hundred and ninety nine dollars  
442 (\$499.00) and not more than one thousand dollars \$(1000.00) and the animal control  
443 officer or law enforcement officer is empowered to impound the dog, and the dog shall  
444 be destroyed. The Municipal Judge shall have no authority to suspend the fine or any  
445 portion thereof.

446 (g) Dangerous Dog - Attack on other animal. If any dangerous dog or vicious  
447 dog under the previous Topeka City Code 18-8 or 6.05.080, shall kill or wound, or assist  
448 in killing or wounding, any domestic animal, upon conviction the owner shall pay a two  
449 hundred fifty dollar (\$250.00) fine, and the animal control officer or law enforcement  
450 officer is empowered to impound the dog, and the dog shall be destroyed. The judge  
451 shall have no authority to suspend the fine or any portion thereof.

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

455 (i) The impounded dog shall not be destroyed pending any appeals of  
456 convictions under the above sections (e), (f) and (g). The dog shall remain impounded

457 pending the determination of the complaint. If the court shall find that there shall not  
458 have been a violation, such dog shall be released to the custody of the owner. In  
459 addition to the fines provided in this Section, the Municipal Judge shall have the  
460 authority to sentence the person adjudicated guilty of this Article to serve up to a  
461 maximum of six (6) months in jail.

462 (j) Notwithstanding any other provision of this Article to the contrary and  
463 irrespective of whether the dog has been declared dangerous pursuant to this Article,  
464 the Municipal Judge may order any dog destroyed if the Municipal Judge determines  
465 that the dog is an immediate threat to public health and safety and that confinement and  
466 registration of the dog by the owner or keeper of the dog as provided in this Article will  
467 not adequately protect public health and safety. No person shall harbor, own, or  
468 possess a dog that is an immediate threat to public health and safety. In making such  
469 determination the Municipal Judge may consider the severity of the attack and such  
470 other relevant information. The Municipal Judge shall have the authority to sentence the  
471 person adjudicated guilty of this section to serve up to a maximum of six (6) months in  
472 jail and to pay a fine not to exceed \$1,000.00.

473 Section 5. That section 6.25.010, Definitions, of The Code of the City of  
474 Topeka, Kansas, is hereby repealed.

475 **Definitions.**

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

479 "Pit bull dog" means and includes:

- 480           ~~(a) The Staffordshire bull terrier breed of dogs;~~  
481           ~~(b) The American Staffordshire terrier breed of dogs;~~  
482           ~~(c) The American pit bull terrier breed of dogs;~~  
483           ~~(d) Dogs which have the appearance and characteristics of being predominantly~~  
484 ~~of the breeds of dogs known as Staffordshire bull terrier, American pit bull terrier or~~  
485 ~~American Staffordshire terrier.~~

486           ~~The registration of a dog with a kennel or dog association at any time as a pit bull~~  
487 ~~or any of the dogs listed under this definition shall constitute prima facie evidence the~~  
488 ~~animal is regulated by this chapter.~~

489           Section 6.   That section 6.25.020, Exemptions, of The Code of the City of  
490 Topeka, Kansas, is hereby repealed.

491           ~~**Exemptions.**~~

492           ~~The provisions of this chapter shall not apply to the transportation of pit bull dogs~~  
493 ~~through this city when such transporter has taken adequate safeguards to protect the~~  
494 ~~public and has notified the local law enforcement agency of the proposed route of~~  
495 ~~transportation and the time thereof.~~

496           Section 7.   That section 6.25.030, Failure to comply with chapter – Penalty, of  
497 The Code of the City of Topeka, Kansas, is hereby repealed.

498           ~~**Failure to comply with chapter – Penalty.**~~

499           ~~It shall be unlawful for the owner, keeper or harbinger of a pit bull dog to fail to~~  
500 ~~comply with the requirements and conditions set forth in this chapter. Any dog found to~~  
501 ~~be the subject of a violation of this chapter shall be subject to immediate seizure and~~  
502 ~~impoundment. In addition, failure to comply will result in the revocation of the license of~~

503 ~~such animal and the permit providing for the keeping of such animal, resulting in the~~  
504 ~~immediate removal of the animal from the city.~~

505 Section 8. That section 6.25.040, Prohibition, of The Code of the City of  
506 Topeka, Kansas, is hereby repealed.

507 **~~Prohibition.~~**

508 ~~Except as provided in this chapter, no person shall own, keep or harbor any pit~~  
509 ~~bull dog in the city.~~

510 Section 9. That section 6.25.050, Penalty for violation of division, of The Code  
511 of the City of Topeka, Kansas, is hereby repealed.

512 **~~Penalty for violation of chapter.~~**

513 ~~Any person violating or permitting the violation of any provision of this chapter~~  
514 ~~shall, upon conviction in the municipal court, be fined a sum not less than \$200.00 and~~  
515 ~~not more than \$499.00. In addition to the fine imposed, the court may sentence the~~  
516 ~~defendant to imprisonment in the county jail for a period not to exceed 179 days. In~~  
517 ~~addition, the court shall order the registration and permit for the subject pit bull revoked~~  
518 ~~and the dog removed from the city. Should the defendant refuse to remove the dog from~~  
519 ~~the city, the municipal court judge shall find the defendant owner in contempt and order~~  
520 ~~the immediate confiscation and impoundment of the animal. Each day that a violation of~~  
521 ~~this chapter continues shall be deemed a separate offense. In addition to the foregoing~~  
522 ~~penalties, any person who violates this chapter shall pay all expenses, including shelter,~~  
523 ~~food, handling, veterinary care and testimony necessitated by the enforcement of this~~  
524 ~~chapter.~~

525            Section 10. That section 6.25.060, Costs to be paid by responsible persons, of  
526 The Code of the City of Topeka, Kansas, is hereby repealed:

527            ~~**Costs to be paid by responsible persons.**~~

528            ~~Any reasonable costs incurred by the animal control officer in seizing,  
529 impounding, confining or disposing of any pit bull dog, pursuant to the provisions of  
530 TMC [6.25.070](#), [6.25.080](#), [6.25.200](#) or [6.25.240](#), shall be charged against the owner,  
531 keeper or harborer of such animal and shall be collected by the city treasurer.~~

532            Section 11. That section 6.25.070, Notice of keeping dangerous animals, of  
533 The Code of the City of Topeka, Kansas, is hereby repealed.

534            ~~**Notice of keeping dangerous animals.**~~

535            ~~Upon the written complaint of any person that a person owns or is keeping or  
536 harboring a pit bull dog in violation of this chapter in the city, the animal control officer,  
537 hereinafter ACO, or his authorized designee shall cause the matter to be investigated;  
538 and if, after investigation, the facts indicate that such person named in the complaint is  
539 in fact the owner or is keeping or harboring any such pit bull dog in the city, the ACO  
540 shall forthwith send written notice to such person requiring such person to safely  
541 remove the dog from the city within five days of the date of the notice. Notice as  
542 provided in this section shall not be required where such pit bull dog has previously  
543 caused serious physical harm or death to any person or has escaped and is at large, in  
544 which case the ACO shall cause the dog to be immediately seized and impounded,  
545 according to the provisions of TMC [6.25.080](#), or killed if seizure and impoundment are  
546 not possible without risk of serious physical harm or death to any person.~~

547            Section 12. That section 6.25.080, Seizure and impounding, of The Code of the  
548 City of Topeka, Kansas, is hereby repealed.

549            **~~Seizure and impounding.~~**

550            ~~(a) The ACO or his authorized designee shall forthwith cause to be seized and~~  
551 ~~impounded any pit bull dog where the person owning, keeping or harboring such animal~~  
552 ~~has failed to comply with the notice sent pursuant to TMC [6.25.070](#). Upon its seizure~~  
553 ~~and impoundment, the animal shall be delivered to a place of confinement, which may~~  
554 ~~be with any organization which is authorized by law to accept, own, keep or harbor pit~~  
555 ~~bull dogs.~~

556            ~~(b) If, during the course of seizing and impounding a pit bull dog, the animal~~  
557 ~~poses a risk of serious physical harm or death to any person, such person when~~  
558 ~~authorized by the ACO may render the dog immobile by means of tranquilizers or other~~  
559 ~~safe drugs; or, if that is not safely possible, then the animal may be killed.~~

560            Section 13. That section 6.25.090, Appeals—Fee – Notice, of The Code of the  
561 City of Topeka, Kansas, is hereby repealed.

562            **~~Appeals—Fees—Notice.~~**

563            ~~(a) Any person aggrieved by or dissatisfied with any of the following decisions,~~  
564 ~~rulings, actions or findings may, within 10 days thereafter, file a written notice or~~  
565 ~~statement of appeal from such decision, ruling, action or finding to the municipal court~~  
566 ~~for an administrative hearing thereon:~~

567            ~~(1) The determination that an animal is a pit bull dog under TMC [6.25.010](#) and~~  
568 ~~[6.25.040](#).~~

569            ~~(2) The denial of a permit under TMC [6.25.210](#).~~

570 (3) ~~The denial of a renewal of a previously issued permit under TMC [6.25.270](#).~~

571 (4) ~~The revocation of a previously issued permit under TMC [6.25.280](#).~~

572 (5) ~~The temporary suspension of any permit or portion thereof under TMC~~  
573 ~~[6.25.280](#).~~

574 (b) ~~An administrative fee of \$10.00 shall be paid to the municipal court clerk and~~  
575 ~~is required for each appeal to the municipal court under this section, and no appeal shall~~  
576 ~~be set for hearing until such fee has been paid.~~

577 (c) ~~The filing of an appeal under this section shall not stay any action taken~~  
578 ~~pursuant to this chapter.~~

579 Section 14. That section 6.25.100, Appeals—Administrative hearing, of The  
580 Code of the City of Topeka, Kansas, is hereby repealed.

581 **~~Appeals – Administrative hearing.~~**

582 ~~The hearing on the appeal provided for in TMC [6.25.090](#) shall be conducted by a~~  
583 ~~municipal court judge who will sit as an administrative judge for purposes of this~~  
584 ~~chapter. The sole issue for determination shall be whether decisions, rulings, actions or~~  
585 ~~findings of the ACO and/or the city treasurer were within the scope of their authority,~~  
586 ~~supported by substantial evidence, and not arbitrary or capricious in nature. The court~~  
587 ~~shall make specific findings of fact and conclusions of law in each case.~~

588 Section 15. That section 6.25.110, Subpoena power, of The Code of the City of  
589 Topeka, Kansas, is hereby repealed.

590 **~~Subpoena power.~~**

591 ~~Pursuant to its role as administrative judge, the court is empowered to hold~~  
592 ~~hearings, subpoena witnesses, take the testimony of any person under oath and, in~~

593 connection therewith, to require the production of any evidence relating to any matter  
594 being heard. In the case of the refusal of any person to comply with any subpoena  
595 issued under this section or to testify in any matter regarding which the person may be  
596 lawfully questioned, the court may order such person to comply with such subpoena  
597 and testify; and failure to obey the court's order may be punished by the court as  
598 contempt.

599 Section 16. That section 6.25.120, Appeal of decision of municipal court judge -  
600 District court, of The Code of the City of Topeka, Kansas, is hereby repealed.

601 **~~Appeal of decision of municipal court judge - District court.~~**

602 Any aggrieved party may appeal the decision and findings of the municipal court  
603 judge pursuant to K.S.A. 60-2101(d). However, the filing of an appeal under this section  
604 shall not stay any action taken pursuant to this chapter.

605 Section 17. That section 6.25.130, Leash and muzzle, of The Code of the City  
606 of Topeka, Kansas, is hereby repealed.

607 **~~Leash and muzzle.~~**

608 No person shall permit a pit bull dog to go outside its kennel or pen unless such  
609 dog is securely leashed with a leash no longer than four feet in length. No person shall  
610 permit a pit bull dog to be kept on a chain, rope or other type of leash outside its kennel  
611 or pen unless a person is in physical control of the leash. Such dogs may not be  
612 leashed to inanimate objects such as trees, posts or buildings. In addition, all pit bull  
613 dogs on leash outside the animal's kennel must be muzzled by a muzzling device  
614 sufficient to prevent such dog from biting persons or other animals.

615            Section 18. That section 6.25.140, Confinement—Generally, of The Code of the  
616 City of Topeka, Kansas, is hereby repealed.

617            **~~Confinement—Generally.~~**

618            ~~All pit bull dogs shall be securely confined indoors or in a secure and locked pen,~~  
619 ~~kennel, or structure, except when leashed and muzzled as provided in TMC [6.25.130](#).~~  
620 ~~Such pen, kennel or structure must have secure sides and a secure top attached to the~~  
621 ~~sides. All structures used to confine registered pit bull dogs must be locked with a key or~~  
622 ~~combination lock when such animals are within the structure. Such structure must have~~  
623 ~~a secure bottom or floor attached to the sides of the pen or the sides of the pen must be~~  
624 ~~embedded in the ground no less than two feet. All structures erected to house pit bull~~  
625 ~~dogs must comply with all zoning and building regulations of the city. All such structures~~  
626 ~~must be adequately lighted and ventilated and kept in a clean and sanitary condition.~~

627            Section 19. That section 6.25.150, Confinement – Indoors, of The Code of the  
628 City of Topeka, Kansas, is hereby repealed.

629            **~~Confinement—Indoors.~~**

630            ~~No pit bull dog may be kept on a porch, patio or in any part of a house or~~  
631 ~~structure that would allow the dog to exit such building on its own volition. In addition, no~~  
632 ~~such animal may be kept in a house or structure when the windows are open or when~~  
633 ~~screen windows or screen doors are the only obstacle preventing the dog from exiting~~  
634 ~~the structure.~~

635            Section 20. That section 6.25.160, Signs, of The Code of the City of Topeka,  
636 Kansas, is hereby repealed.

637            **~~Signs.~~**

638 All owners, keepers or harborers of pit bull dogs within the city shall display in a  
639 prominent place on their premises a sign easily readable by the public using the words  
640 "Beware of Dog." In addition, a similar sign is required to be posted on the kennel or  
641 pen of such animal.

642 Section 21. That section 6.25.170, Microchipping – Destruction of dog, of The  
643 Code of the City of Topeka, Kansas, is hereby repealed.

644 **~~Microchipping – Destruction of dog.~~**

645 (a) In addition to any other requirements, it shall be unlawful to own, harbor, keep  
646 or possess a pit bull dog in the city unless a microchip is implanted in the dog identifying  
647 the owner thereof. The owner, harborer, keeper or possessor of any pit bull dog shall  
648 have an identification microchip implanted in the dog by the humane society or a  
649 licensed veterinarian no later than 10 weeks after the dog is born in the city, or, for dogs  
650 exceeding 10 weeks of age, no later than 15 calendar days after the animal is brought  
651 into the city. This microchipping requirement shall apply regardless of whether the  
652 owner, harborer, keeper or possessor of the dog has obtained a permit for the dog  
653 pursuant to TMC [6.25.200](#). If a pit bull is sold or given away, the new owner, harborer,  
654 keeper or possessor of dog shall comply with this section.

655 (b) The owner, harborer, keeper or possessor shall file proof of microchipping  
656 acceptable to the animal control manager with animal control no later than 20 calendar  
657 days after the microchip is implanted in the animal. Failure to comply with this provision  
658 shall constitute a misdemeanor. Upon the commencement of a proceeding for violation  
659 of this subsection, the municipal court shall issue an ex parte order directing animal  
660 control officers to seize the dog, which shall be held and shall not be released until the

661 ~~conclusion of the proceedings. The cost of any transportation, impoundment or~~  
662 ~~microchipping of the dog shall be assessed to the owner, harborer, keeper or possessor~~  
663 ~~of the dog. No animal shall be released from confinement until a microchip has been~~  
664 ~~implanted.~~

665 ~~(c) Notwithstanding the provisions of TMC [6.05.080](#)(h), if the owner, harborer,~~  
666 ~~keeper or possessor of a pit bull dog is convicted of violating TMC [6.05.080](#)(c) involving~~  
667 ~~the dog, the judge shall order the owner, harborer, keeper or possessor to destroy the~~  
668 ~~dog within 15 days of the conviction, and to file proof of the destruction of the dog,~~  
669 ~~acceptable to the municipal court, with the clerk of the municipal court no later than 15~~  
670 ~~days after conviction. Failure of the owner, harborer, keeper or possessor to file~~  
671 ~~acceptable proof shall be punished as contempt of court.~~

672 Section 22. That section 6.25.180, identification photographs, of The Code of  
673 the City of Topeka, Kansas, is hereby repealed.

674 **~~Identification photographs.~~**

675 ~~All owners, keepers or harborers of pit bull dogs must provide to the city~~  
676 ~~treasurer two color photographs of the animal clearly showing the color and~~  
677 ~~approximate size of the animal.~~

678 Section 23. That section 6.25.190, Reporting requirements, of The Code of the  
679 City of Topeka, Kansas, is hereby repealed.

680 **~~Reporting requirements.~~**

681 ~~All owners, keepers or harborers of pit bull dogs must, within 10 days of the~~  
682 ~~incident, report the following information in writing to the city treasurer, as applicable:~~

683 ~~(a) The removal from the city or death of a pit bull dog.~~

684 ~~(b) The birth of offspring of a registered pit bull dog.~~

685 ~~(c) The new address of the pit bull dog owner should the owner move within the~~  
686 ~~city limits.~~

687 Section 24. That section 6.25.200, Required – Impoundment of nonpermitted  
688 dogs, of The Code of the City of Topeka, Kansas, is hereby repealed.

689 **~~Required – Impoundment of nonpermitted dogs.~~**

690 ~~(a) No person harboring or having the charge, custody or possession of any pit~~  
691 ~~bull dog shall allow such dog to remain within the city unless and until he has first~~  
692 ~~secured a permit so to do and complies with all terms and conditions of such permit;~~  
693 ~~and, in addition thereto, such dog shall at all times be so confined, controlled and~~  
694 ~~restrained in such manner that the life, limb or property of any person lawfully entering~~  
695 ~~such premises shall not be endangered.~~

696 ~~(b) Failure to obtain a permit when required by subsection (a) of this section after~~  
697 ~~written notification by the animal control officer or his authorized designee shall be~~  
698 ~~adequate grounds for the officer to impound the pit bull dog until a permit is obtained. If~~  
699 ~~no permit is obtained within 10 days, the pit bull dog will be subject to summary~~  
700 ~~destruction.~~

701 ~~(c) The provisions of this section shall not apply to persons in possession of pit~~  
702 ~~bull dogs otherwise prohibited by city ordinance or regulation.~~

703 ~~(d) The permit required by this section shall be in addition to any other permits or~~  
704 ~~licenses required of the person or pit bull dog by city ordinance or state or federal law.~~

705            Section 25. That section 6.25.210, Keeping without a permit prohibited –  
706 Restrictions to issuance, of The Code of the City of Topeka, Kansas, is hereby  
707 repealed.

708            ~~**Keeping without a permit prohibited – Restrictions to issuance.**~~

709            ~~Except as provided in this subdivision, no person shall have, keep, maintain,~~  
710 ~~possess or control within the city any pit bull dog described without first applying to and~~  
711 ~~receiving a permit from the city treasurer; provided, that no permit shall be granted~~  
712 ~~except with such conditions attached as shall, in the opinion of the person approving~~  
713 ~~such permit, reasonably ensure the public health, safety and general welfare, and, in~~  
714 ~~any event, no permit shall be granted for any animal at any particular location except~~  
715 ~~upon an explicit finding by the ACO or his authorized designee that the issuance thereof~~  
716 ~~will not be contrary to the public health, safety and general welfare.~~

717            Section 26. That section 6.25.220, Application, of The Code of the City of  
718 Topeka, Kansas, is hereby repealed.

719            ~~**Application.**~~

720            ~~An application for any permit required pursuant to this chapter shall be made to~~  
721 ~~the city treasurer in writing and upon a form furnished by the city treasurer. The~~  
722 ~~application shall be verified by the person who desires to have, keep, maintain, possess~~  
723 ~~or control, in the city, the pit bull dog for which a permit is required, and shall set forth~~  
724 ~~the following:~~

725            ~~(a) Name, address and telephone number of the applicant.~~

726            ~~(b) The applicant's interest in such pit bull dog.~~

727 ~~(c) The proposed location, and the name, address and telephone number of the~~  
728 ~~owner of such location, and of the lessee, if any.~~

729 ~~(d) The number and general description of all pit bull dogs for which the permit is~~  
730 ~~sought.~~

731 ~~(e) Any information known to the applicant concerning vicious or dangerous~~  
732 ~~propensities of all such pit bull dogs.~~

733 ~~(f) The housing arrangements for all such pit bull dogs with particular details as to~~  
734 ~~safety of structure, locks, fencing, etc.~~

735 ~~(g) Safety precautions proposed to be taken.~~

736 ~~(h) Noises or odors anticipated in the keeping of such pit bull dogs.~~

737 ~~(i) Prior history of incidents involving the public health or safety involving any of~~  
738 ~~the pit bull dogs.~~

739 ~~(j) Proof of insurance as provided by this chapter to cover those who may be~~  
740 ~~injured or killed by the pit bull dog.~~

741 ~~(k) A statement, signed by the applicant, indemnifying the city and its agents and~~  
742 ~~employees for any and all injuries that may result from the pit bull dog.~~

743 ~~(l) Any additional information required by the ACO at the time of filing such~~  
744 ~~application or thereafter.~~

745 Section 27. That section 6.25.230, Fee, of The Code of the City of Topeka,  
746 Kansas, is hereby repealed.

747 **Fee.**

748 ~~The fee for a permit application shall be \$20.00 for one pit bull dog, plus an~~  
749 ~~additional \$5.00 for two or more pit bull dogs. The total fee shall not exceed \$25.00 for~~

750 any one permit application and is nonrefundable. Such fee shall be payable to the city  
751 treasurer at the time of filing the permit application. Accretions by natural birth shall not  
752 require additional permits during the period of a valid permit.

753 Section 28. That section 6.25.240, Temporary permits – Powers of animal  
754 control officer, of The Code of the City of Topeka, Kansas, is hereby repealed.

755 **~~Temporary permits – Powers of animal control officer.~~**

756 ~~The animal control officer may, following application for a permit and pending~~  
757 ~~final disposition of such application, grant a temporary permit for the maintenance within~~  
758 ~~the city of any such pit bull dog upon such conditions as the ACO shall, in the ACO's~~  
759 ~~sole discretion, require when, in the ACO's opinion, there is no reasonable doubt as to~~  
760 ~~the consistency thereof with the public health, safety and general welfare; but no such~~  
761 ~~pit bull dog shall be otherwise kept or maintained within this city or permitted to occupy~~  
762 ~~any premises within this city except while such a regular or temporary permit is in full~~  
763 ~~force and effect. Provided, however, that any law enforcement officer or the ACO, or~~  
764 ~~authorized deputy, shall take possession of any dog described under TMC [6.25.010](#) for~~  
765 ~~which a permit has not been issued and keep such dog until the proper permit has been~~  
766 ~~secured by the owner or keeper and all fees and costs have been paid and all laws and~~  
767 ~~permit conditions complied with.~~

768 Section 29. That section 6.25.250, Term and renewal, of The Code of the City  
769 of Topeka, Kansas, is hereby repealed.

770 **~~Term and renewal.~~**

771 ~~No permit required by this chapter shall be granted for a period in excess of one~~  
772 ~~year. An application for renewal of any permit shall be made not less than 45 days prior~~

773 to the expiration thereof, and shall be accompanied by the same fee as required upon  
774 making the original application.

775 Section 30. That section 6.25.260, Inspections for renewal, of The Code of the  
776 City of Topeka, Kansas, is hereby repealed.

777 **~~Inspections for renewal.~~**

778 ~~Prior to the annual renewal of any permit issued under this chapter and at least~~  
779 ~~once not more than six months after the issuance of any such permit or after its~~  
780 ~~renewal, the animal control officer or his designated representative shall inspect the~~  
781 ~~premises subject to such permit to determine whether the person to whom it has been~~  
782 ~~issued is continuing to comply with all of the conditions specified in this chapter. If the~~  
783 ~~AGO determines during any such inspection that any of the conditions therein specified~~  
784 ~~are being violated, the AGO shall recommend denial of a renewal of any such permit, or~~  
785 ~~shall recommend revocation of such permit if such violation is not corrected within the~~  
786 ~~period of time directed.~~

787 Section 31. That section 6.25.270, Revocation, of The Code of the City of  
788 Topeka, Kansas, is hereby repealed.

789 **~~Revocation.~~**

790 ~~The city treasurer, upon recommendation of the animal control officer, may, for~~  
791 ~~good cause, revoke any permit or modify any terms or provisions thereof and may, if it~~  
792 ~~is reasonably necessary to protect against an immediate threat or danger to the public~~  
793 ~~health or safety, suspend any permit or portion thereof, without hearing, for a period not~~  
794 ~~to exceed 30 days. Failure to comply with any of the provisions of this chapter shall be~~  
795 ~~sufficient grounds for revocation.~~

796            Section 32. That section 6.25.280, Commercial establishments, of The Code of  
797 the City of Topeka, Kansas, is hereby repealed.

798            **Commercial establishments.**

799            ~~(a) A commercial establishment possessing pit bull dogs for the purpose of sale  
800 or display may replace such dogs with others of the same kind, but the number of each  
801 shall not be in excess of the number thereof allowed by the terms of its permit. Such  
802 establishments may, in the discretion of the animal control officer, be granted a permit  
803 for those such numbers which do not exceed the maximum number such establishment  
804 estimates will be maintained by it in this city at any one time during the period of the  
805 permit. Such permit shall require the immediate notification of the ACO upon the  
806 acquisition of any pit bull dog having a prior history of any incident involving the public  
807 health or safety, or resulting in any bodily injury or property damage.~~

808            ~~(b) Upon the sale of any pit bull dog, the commercial establishment shall  
809 immediately send notification of the sale along with the name and address of the buyer,  
810 the method of transporting the dog, the path of travel of such transportation, and the  
811 destination of such dog to the ACO.~~

812            Section 33. That section 6.30.010, Definitions, of The Code of the City of  
813 Topeka, Kansas, is hereby amended to read as follows:

814            **Definitions.**

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

818            “Cat” means any domestic or wild cat.

819 “Ear-tipped feral cat” means a cat that is unsocialized to humans and has a  
820 temperament of extreme fear or resistance to contact with humans that exhibits a  
821 straight-line cutting of the tip of its left ear to indicate that it has been sterilized and  
822 vaccinated against rabies.

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

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

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

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

833 “Veterinary hospital” means any establishment maintained and operated by a  
834 licensed veterinarian for the diagnosis and treatment of diseases and injuries of cats.

835 Section 34. That section 6.30.050, Required, of The Code of the City of  
836 Topeka, Kansas, is hereby amended to read as follows:

837 **Required.**

838 No person shall own, keep or harbor within the corporate limits of this city any cat  
839 over six months of age without first obtaining a permit therefor from the ~~city~~  
840 ~~treasurer~~chief of police, or agent authorized by the ~~city treasurer~~chief of police, who

841 may issue such permit when proper application is made in writing. This permit  
842 requirement shall not apply to ear-tipped feral cats.

843 Section 35. That section 9.05.080, Uniform Public Offense Code, of The Code  
844 of the City of Topeka, Kansas, is hereby amended to read as follows:

845 **Uniform public offense code.**

846 There is hereby incorporated by reference for the purpose of regulating public  
847 offenses within the corporate limits of the city of Topeka, Kansas, that certain code  
848 known as the “Uniform Public Offense Code,” Edition of 2006, prepared and published  
849 in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except  
850 Sections 4.3 (“Prostitution”), 4.4 (“Promoting Prostitution”), ~~and~~ 4.5 (“Patronizing A  
851 Prostitute”), and 11.11 (“Cruelty to Animals”) which are specifically deleted and omitted.  
852 No fewer than three copies of said Uniform Public Offense Code shall be marked or  
853 stamped “Official Copy as adopted by Ordinance No. 18821,” with all sections or  
854 portions thereof intended to be omitted or changed clearly marked to show any such  
855 omission or change and to which shall be attached a copy of Ordinance No. 18821 and  
856 filed with the city clerk to be open to inspection and available to the public at all  
857 reasonable hours.

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

860 Exception: Operation of a bow and arrow is permitted in accordance with the  
861 provisions set forth in TMC [6.05.070](#).

