AN ORDINANCE introduced by Councilmember John Alcala relating to shelter from weather, amending § 18-1, Definitions and § 18-4, Cruelty to animals and repealing said original sections.

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

Section 1. City of Topeka Code § 18-1, Definitions, is hereby amended to read as follows:

Definitions.

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

Animal shelter means any premises designated by city administrative authority for the purpose of impounding and caring for animals held under authority of this chapter.

Exposed to rabies means an animal which has been bitten by or subjected to danger, attack or harm by any creature known to have been infected with rabies.

Housing facilities means any structure, building or housing intended to house animals.

Humane society means the Helping Hands Humane Society in the city.

Owner means any person owning, keeping, possessing or harboring any animal, or any person operating a kennel.
Vicious means a cross, ferocious or dangerous disposition or a habit, tendency
or disposition to snap, attack or bite any person or other animal.

Section 2. City of Topeka Code § 18-4, Cruelty to animals, is hereby
amended to read as follows:

Cruelty to animals.

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

(1) Intentionally kill, injure, maim, torture or mutilate any animal;

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

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

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

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

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

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

(c) The owner of an animal killed pursuant to subsection (b) of this section shall not be entitled to recover damages for the killing of such animal unless the owner proves that such killing was unwarranted.
(d) Expenses incurred for the care, treatment or boarding of any animal taken into custody pursuant to subsection (b) of this section, pending prosecution of the owner of such animal for the crime of cruelty to animals, as defined in subsection (a), shall be assessed to the owner as a cost of the case if the owner or custodian is adjudicated guilty of such crime.

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

Section 3. That original City of Topeka Code §§ 18-1 and 18-4 are hereby specifically repealed.

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

Passed and approved by the City Council

[Signature]

ATTEST:

[Signature]

[Stamp]

Iris E. Walker, City Clerk

APPROVED AS TO FORM AND LEGALITY

DATE 1/15/02 BY [Stamp]

TO BE CODIFIED [ ]

[Stamp]

NOT TO BE CODIFIED [ ]