

1 (Published in the Topeka Metro News _____)

2
3 ORDINANCE NO. _____

4
5 AN ORDINANCE introduced by Brent Trout City Manager, creating Article III of
6 Chapter 9.45 of the Topeka Municipal Code concerning Camping.

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

9 Section 1. That The Code of the City of Topeka, Kansas, is hereby amended
10 by adding a section, to be numbered 9.45.340, which said section reads as follows:

11 **Purpose.**

12 (a) Camping on public and private property. The streets and public areas
13 within the city should be readily accessible and available to residents and the public at
14 large for their intended uses. The use of these areas for camping purposes or storage of
15 personal property interferes with the rights of others to use the areas for which they
16 were intended. Such activity can constitute a public health and safety hazard which
17 adversely impacts neighborhoods and commercial areas. Camping on private property
18 without the consent of the owner, proper sanitary measures and for other than a
19 minimal duration adversely affects private property rights as well as the public health,
20 safety, and welfare of the residents of the city. The purpose of this chapter is to maintain
21 streets and other public and private areas within the city in a clean, sanitary and
22 accessible condition and to adequately protect the health, safety and public welfare of
23 the community.

24 (b) Personal property stored on public property. The unauthorized use of
25 public areas for the storage of personal property interferes with the rights of other
26 members of the public to use public areas for their intended purposes and can create a
27 public health or safety hazard that adversely affects residential and commercial areas.

The purpose of this chapter is to maintain public areas in clean, sanitary and accessible condition to prevent the misappropriation of public areas for personal use, and to promote the public health and safety by ensuring that public areas remain readily accessible for their intended uses.

Section 2. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 9.45.350, which said section reads as follows:

Definitions.

Unless the particular provisions or the context otherwise requires, the definitions contained in this section shall govern the construction, meaning, and application of words and phrases used in this section.

“Camp” means to reside in or use any public or private property for one or more nights for living accommodation purposes, such as sleeping activities or making preparations to sleep (including the laying down of bedding for the purpose of sleeping); or storing personal property (including, but not limited to, clothing, sleeping bags, bedrolls, blankets, sheets, luggage, backpacks, kitchen utensils, cookware, and similar material); or making any fire, regularly cooking meals, using any tents, or living in a parked vehicle. These activities constitute camping when it reasonably appears, in light of all the circumstances, that a person(s) is using public or private property as a living accommodation.

“Personal property” means any and all tangible property, and includes, but is not limited to, goods, materials, merchandise, tents, tarpaulins, bedding, sleeping bags, hammocks, personal items such as luggage, backpacks, clothing, documents and medication, and household items.

51 “Public property” means public parks and all property that is owned, managed or
52 maintained by the City, including but not limited to streets, sidewalks, alleys,
53 easements, and public right-of-way.

54 “Store, stored or storing” means to put aside or accumulate for use when
55 needed, to keep for safekeeping, and/or to place or leave in a location.

56 “Street” includes every highway, avenue, lane, alley, court, place, parkway,
57 curbs, bikeway or other public way which is open to public use.

58 “Tent” includes any tarp, cover, structure or shelter, made of any material that is
59 not open on all sides and which hinders an unobstructed view behind or into the area
60 surrounded by the tarp, cover, structure or shelter.

61 Section 3. That The Code of the City of Topeka, Kansas, is hereby amended
62 by adding a section, to be numbered 9.45.360, which said section reads as follows:

63 **Unlawful camping.**

64 (a) It is unlawful and a public nuisance for any person to camp in the following
65 areas:

66 (1) Any public property; or

67 (2) Any private property without the consent, in writing, of the property
68 owner.

69 (b) Nothing in this chapter is intended to prohibit or make unlawful, activities
70 of an owner of property that are normally associated with, and incidental to, the use of
71 the property.

72 Section 4. That the Code of the City of Topeka, Kansas, is hereby amended
73 by adding a section, to be numbered 9.45.370, which said section reads as follows:

74 **Enforcement.**

75 A law enforcement officer shall not issue a citation or make an arrest unless all of
76 the following conditions apply:

77 (a) The person fails to comply with the officer's order to leave the
78 property immediately and remove the person's personal property.

79 (b) The person is not in need of medical or human services assistance.

80 (c) Upon a determination by the officer that the person may be in need
81 of medical or human services assistance, the person declines the opportunity to
82 be transported to either a hospital or public shelter.

83 Section 5. That The Code of the City of Topeka, Kansas, is hereby amended
84 by adding a section, to be numbered 9.45.380, which said section reads as follows:

85 **Disposition of personal property.**

86 (a) It shall be unlawful to fail to remove attended stored personal property
87 within 24 hours of receiving written notice pursuant to this section.

88 (b) All stored personal property on public property may be impounded by the
89 city in accordance with this section.

90 (c) Personal property placed on public property shall be deemed to be stored
91 personal property if it has not been removed within 24 hours of service of written notice,
92 requiring such removal. Moving personal property to another public property location or
93 returning personal property to the same block on a daily or regular basis shall not be
94 considered to be removing the personal property from public property. A law
95 enforcement officer may remove and impound such stored personal property after
96 providing 24 hours written notice.

97 (d) Personal property placed on public property located within ten feet of any
98 entrance, exit, driveway or loading dock may be removed and impounded at any time
99 without prior notice. Post-removal notice shall be provided as set forth in TMC
100 9.45.390.

101 (e) Personal property placed on public property which has a clearly posted
102 closure time may be removed and impounded after the closure time, without prior
103 notice. Post-removal notice shall be provided as set forth in TMC 9.45.390.

104 (f) In the event personal property placed on public property poses an
105 immediate threat to the health or safety of the public, it may be removed without prior
106 notice and discarded.

107 (g) Evidence of a crime or contraband may be removed from public property
108 without prior notice.

109 Section 6. That The Code of the City of Topeka, Kansas, is hereby amended
110 by adding a section, to be numbered 9.45.390, which said section reads as follows:

111 **Notice.**

112 (a) Pre-removal notice. The written notice required by TMC 9.45.380 shall be
113 deemed to have been served if a written notice is served on the person storing the
114 personal property, or is posted conspicuously on or near the personal property. The
115 written notice shall contain the following:

116 (1) A general description of the personal property to be removed.

117 (2) The location from which the personal property will be removed.

118 (3) The date and time the notice was posted.

119 (4) A statement that the personal property will be impounded if not

120 removed from public areas within 24 hours.

121 (5) A statement that moving stored personal property to another
122 location on public property shall not be considered to be removing personal
123 property from public property.

124 (6) The location where the removed personal property will be stored,
125 including a telephone number and the internet website of the city through which a
126 person may receive information as to impounded personal property.

127 (7) A statement that impounded personal property may be discarded or
128 otherwise disposed of if not claimed within 90 days after impoundment.

129 (b) Post-removal notice. Upon removal of stored personal property, written
130 notice shall be conspicuously placed in the area from which the personal property was
131 removed. The written notice shall contain the following:

132 (1) A general description of the personal property removed.

133 (2) The date and approximate time the personal property was
134 removed.

135 (3) A statement that the personal property was stored on public
136 property in violation of TMC 9.45. 380.

137 (4) The location where the removed personal property will be located,
138 including a telephone number and internet website of the city through which a
139 person may receive information as to impounded personal property.

140 (5) A statement that impounded personal property may be discarded or
141 otherwise disposed of if not claimed within 90 days after impoundment.

142 Section 7. That The Code of the City of Topeka, Kansas, is hereby amended

by adding a section, to be numbered 9.45. 400, which said section reads as follows:

Storage and disposal.

(a) Except as specified herein, impounded personal property shall be moved to a place of storage.

(b) Except as specified herein, impounded personal property shall be stored by the city for 90 day after which time, if not claimed, it may be discarded or otherwise disposed of. The city shall not be required to undertake any search for, or return, any impounded personal property stored for longer than 90 days.

(c) The city shall maintain a record of the date any impounded personal property was received and discarded or disposed of.

(d) The owner or any other person entitled to the impounded personal property may repossess the personal property prior to its disposal upon submitting satisfactory proof of ownership. A person may establish proof of ownership by, among other methods, describing the location and date when the personal property was impounded from the public property, and providing a reasonably specific and detailed description of the personal property.

Section 8. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 9.45.410, which said section reads as follows:

Penalty.

Any person who violates the provisions of this article is guilty of a misdemeanor. Upon conviction, a person shall be sentenced to a fine not to exceed four hundred and ninety-nine dollars (\$499) and/or imprisonment not to exceed thirty (30) days.

Section 8. This ordinance shall take effect and be in force from and after its

166 passage, approval and publication in the official City newspaper.

167 Section 9. This ordinance shall supersede all ordinances, resolutions or rules,
168 or portions thereof, which are in conflict with the provisions of this ordinance.

169 Section 10. Should any section, clause or phrase of this ordinance be declared
170 invalid by a court of competent jurisdiction, the same shall not affect the validity of this
171 ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

172 PASSED AND APPROVED by the City Council on _____.

173
174 CITY OF TOPEKA, KANSAS

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177 _____
178 Michelle De La Isla, Mayor

179 ATTEST:

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183 Brenda Younger, City Clerk