

1 (Published in the Topeka Metro News \_\_\_\_\_)

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3 ORDINANCE NO. \_\_\_\_\_

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5 AN ORDINANCE introduced by Councilmember Sylvia Ortiz, 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 Camping on or under public infrastructure such as bus shelters, bridges,  
13 overpasses and flood control works endangers such infrastructure because of fires,  
14 obstructions and the accumulation of personal property. Camping in areas that include  
15 retail businesses, restaurants, hotels, private residences and event spaces developed  
16 to attract residents and tourists adversely affects such areas and impedes economic  
17 development. Accordingly, the purpose of this chapter is to protect public infrastructure  
18 and designated areas by regulating camping and the storage of personal property.

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

22 **Definitions.**

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

26 “Camp” means to use property for living accommodation purposes, such as  
27 sleeping activities or making preparations to sleep (including the laying down of bedding

28 for the purpose of sleeping); or storing personal property (including, but not limited to,  
29 clothing, sleeping bags, bedrolls, blankets, sheets, luggage, backpacks, kitchen  
30 utensils, cookware, and similar material); or making any fire, regularly cooking meals,  
31 using any tents, or living in a parked vehicle. These activities constitute camping when it  
32 reasonably appears, in light of all the circumstances, that a person(s) is using such  
33 property as a living accommodation.

34 “Flood control works” means the system comprised of levees, flood walls, relief  
35 wells, closure structures, pump stations and ponding areas that serve to protect the City  
36 from flooding.

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

41 “Public infrastructure” means bus shelters, bridges, overpasses and flood control  
42 works.

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

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

48 Section 3. That The Code of the City of Topeka, Kansas, is hereby amended  
49 by adding a section, to be numbered 9.45.360, which said section reads as follows:  
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51           **Unlawful camping.**

52           It is unlawful and a public nuisance for any person to camp in the following areas:

53           (a)     Public infrastructure;

54           (b)     Within ten (10) feet of any doorway, loading dock, stairway or fire escape;

55           (c)     Within an area bounded by Topeka Boulevard from SW 10<sup>th</sup> Avenue to  
56 NW Crane Street; Madison Street from SE 10<sup>th</sup> Avenue to NE Crane Street; Crane  
57 Street from Topeka Boulevard to NE Madison Street; and 10<sup>th</sup> Avenue from Topeka  
58 Boulevard to SE Madison Street; and

59           (d)     Within an area bounded by Topeka Boulevard from NW Curtis Street to  
60 NE Quincy Street; NE Quincy Street from NE Curtis Street to NE Morse Street; NE  
61 Morse Street from NE Quincy Street to NW Topeka Boulevard; and Curtis Street from  
62 NE Quincy Street to NW Topeka Boulevard.

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

65           **Storage of personal property.**

66           (a)     It shall be unlawful to fail to remove attended stored personal property  
67 located in areas identified in TMC 9.45.360 within 24 hours of receiving written notice  
68 pursuant to this section.

69           (b)     All stored personal property in an area covered by this chapter may be  
70 impounded by the city in accordance with this section.

71           (c)     Personal property placed in an area covered by this chapter shall be  
72 deemed to be stored personal property if it has not been removed within 24 hours of  
73 service of written notice, requiring such removal. Moving personal property to another

74 area covered by this chapter or returning personal property to the same area on a daily  
75 or regular basis shall not be considered to be removing the personal property. A law  
76 enforcement officer may remove and impound such stored personal property after  
77 providing 24 hours written notice.

78 (d) Personal property placed in an area covered by this chapter that has a  
79 clearly posted closure time may be removed and impounded after the closure time,  
80 without prior notice. Post-removal notice shall be provided as set forth in TMC  
81 9.45.380.

82 (e) In the event personal property placed in an area covered by this chapter  
83 poses an immediate threat to the health or safety of the public, it may be removed  
84 without prior notice and discarded. For purposes of this Section, "immediate threat"  
85 shall include, but not necessarily limited to, personal property that has been tainted with  
86 blood or other bodily fluids, feces, urine, bed bug, fleas or other pests.

87 (f) Evidence of a crime or contraband may be removed from any area  
88 covered by this chapter without prior notice.

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

91 **Notice.**

92 (a) Pre-removal notice. The written notice required by TMC 9.45.370 shall be  
93 deemed to have been served if a written notice is served on the person storing the  
94 personal property, or is posted conspicuously on or near the personal property. The  
95 written notice shall contain the following:  
96

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

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

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

(4) A statement that the personal property will be impounded if not removed within 24 hours.

(5) A statement that moving stored personal property to another area covered by this chapter shall not be considered to be removing personal property.

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

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

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

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

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

(3) A statement that the personal property was stored in violation of TMC 9.45. 370.

(4) The location where the removed personal property will be located, including a telephone number and internet website of the city through which a

120 person may receive information as to impounded personal property.

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

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

125 **Storage and disposal.**

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

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

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

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

140 Section 7. That The Code of the City of Topeka, Kansas, is hereby amended  
141 by adding a section, to be numbered 9.45.400, which said section reads as follows:  
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**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 passage, approval and publication in the official City newspaper.

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

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

PASSED AND APPROVED by the City Council on \_\_\_\_\_.

CITY OF TOPEKA, KANSAS

\_\_\_\_\_  
Michelle De La Isla, Mayor

ATTEST:

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Brenda Younger, City Clerk