

ORDINANCE NO. _____

AN ORDINANCE introduced by Interim City Manager Richard U. Nienstedt, concerning camping on public property, amending Article III of Chapter 9.45 of the Topeka Municipal Code and repealing original sections.

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

Section 1. That section 9.45.340, Purpose, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Purpose.

~~Camping on or under public infrastructure such as bus shelters, bridges, overpasses and flood control works endangers such infrastructure because of fires, obstructions and the accumulation of personal property. Camping in areas that include retail businesses, restaurants, hotels, private residences and event spaces developed to attract residents and tourists adversely affects such areas and impedes economic development. Accordingly, the purpose of this article is to protect public infrastructure and designated areas by regulating camping and the storage of personal property. This article is intended to protect the public health, welfare, and safety by reserving open spaces and facilities within the City limits for their intended purposes. Public property within the City should be readily accessible and available to residents and the public at large. The use of these areas for camping purposes or storage of personal property interferes with the rights of others to use the areas for their intended purposes and is deleterious to the public peace, health, safety, and welfare. The use of these areas for camping obstructs the intended uses for the public at large, contributes to blight, and can cause damage to public property. This article is intended to avoid unsafe and potentially disorderly conditions, unsanitary and unhealthful conditions, and the degradation or destruction of~~

open spaces and facilities within the City.

Section 2. That section 9.45.350, Definitions, of The Code of the City of Topeka, Kansas, is hereby amended to read 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 article.

"Camp" or "Camping" means ~~to use~~ residing in or using any public 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 using any tents, or storing personal property belongings (including, but not limited to, clothing, sleeping bags, bedrolls, blankets, sheets, luggage, backpacks, kitchen utensils, cookware, and similar material); or making any fire, using Bunsen burners or other heating items, or 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 ~~such~~ public property as a living accommodation for one or more nights, with the intent to camp.

"Camp facilities" include, but are not limited to, tents, huts, or similar temporary shelters consisting of any material with a top or roof or any other upper covering or that is otherwise enclosed by sides that is of sufficient size for a person to fit underneath or inside while sitting or lying down and includes the use of a tarp or other material tied or affixed to a structure or bush to create an enclosed area.

"Camp paraphernalia" includes, but is not limited to, tarpaulins, cots, beds,

50 sleeping bags, hammocks, shower facilities, cooking or heating facilities and similar
51 equipment.

52 “Camping by necessity” means that there are no beds available at any shelter
53 within the City.

54 "Critical infrastructure" means real property, whether privately or publicly owned,
55 that is vital and integral to the operation or functioning of the City or in need of protection
56 that its damage, incapacity, disruption, or destruction would have a debilitating impact on
57 the public health, safety, or welfare. Critical infrastructure may include, but is not limited
58 to, government buildings, such as fire stations, police stations, jails, or courthouses;
59 hospitals; bridges, roads, train tracks, drainage systems, or flood control works.

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

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

67 “Public infrastructure” means bus shelters, bridges, overpasses and flood control
68 works.

69 "Public property" means any publicly owned property in the City, whether improved
70 or unimproved, including, but not limited to, any of the following: flood control works, public
71 alleyways; public parking lots; public streets; public rights-of-way; publicly owned fences,
72 trees, light poles, or equipment boxes; publicly owned, maintained, or operated open

spaces including, but not limited to, public facilities or buildings of any kind; public sidewalks, curbs, and gutters; or other government owned, maintained, or operated properties located within the City.

"Public utilities" means any outdoor water, sewer, or electrical outlets or fixtures on government owned, maintained, or operated properties located within the City that are not designated for public use.

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

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

Section 3. That section 9.45.360, Unlawful camping, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Unlawful camping.

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

~~(a) Public infrastructure;~~

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

~~(c) Within an area bounded by Topeka Boulevard from SW 10th Avenue to NW Crane Street; Madison Street from SE 10th Avenue to NE Crane Street; Crane Street from Topeka Boulevard to NE Madison Street; and 10th Avenue from Topeka Boulevard to SE Madison Street; and~~

~~(d) Within an area bounded by Topeka Boulevard from NW Curtis Street to NE Quincy Street; NE Quincy Street from NE Curtis Street to NE Morse Street; NE Morse~~

96 ~~Street from NE Quincy Street to NW Topeka Boulevard; and Curtis Street from NE Quincy~~
97 ~~Street to NW Topeka Boulevard.~~

98 It shall be unlawful for any person to camp, occupy camp facilities, use camp
99 paraphernalia, or use public utilities on any public property or critical infrastructure within
100 the City, except as otherwise provided herein

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

103 **Unlawful storage of personal property on public property.**

104 It shall be unlawful for any person to store personal property, including camp
105 facilities and camp paraphernalia, on any public property or critical infrastructure within
106 the City, except as otherwise provided herein.

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

109 **Exemption for necessity.**

110 (a) The provisions of this article shall not apply, except as stated below, to any
111 person who is camping by necessity. If a person is camping by necessity, the following
112 criteria shall apply:

113 (1) No person shall erect, configure, or construct any camp facilities in
114 on public property from 7:00 a.m. to 8:00 p.m. A person must take down, fold, and
115 completely remove or put away any camp facilities erected, configured, or
116 constructed on any public property between the hours of 7:00 a.m. and 8:00 p.m.

117 (2) At no time shall any person obstruct access to a street, sidewalk,
118 public utility, public property, or other public right-of-way open for pedestrian travel

119 or governmental use:

120 (i) By sitting, lying or sleeping, or by storing, using, maintaining
121 or placing personal property in a manner that does not allow for passage as
122 required by the Americans with Disabilities Act of 1990, as amended; or

123 (ii) By sitting, lying or sleeping, or by storing, using, maintaining
124 or placing personal property within ten feet of any doorway, loading dock,
125 stairway or fire escape; or

126 (iii) By creating any barrier with string, wire, rope, or chain, or
127 other attachments or appurtenances upon trees, light poles, fences,
128 equipment or other public facilities.

129 (b) The use of public utilities not designated for public use is prohibited.

130 (c) Camping is prohibited on public property in the following areas:

131 (1) Within an area bounded by Topeka Boulevard from SW 10th Avenue
132 to NW Crane Street; Madison Street from SE 10th Avenue to NE Crane Street;
133 Crane Street from Topeka Boulevard to NE Madison Street; and 10th Avenue from
134 Topeka Boulevard to SE Madison Street;

135 (2) Within an area bounded by Topeka Boulevard from NW Curtis Street
136 to NW Morse Street; NE Quincy Street from NE Curtis Street to NE Morse Street;
137 NE Morse Street from NE Quincy Street to NW Topeka Boulevard; and Curtis
138 Street from NE Quincy Street to NW Topeka Boulevard; and

139 (3) Critical infrastructure.

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

142 **Other exemptions.**

143 The provisions of this article shall not apply in the event of an emergency, including
144 a City declared emergency or natural disaster, such as a tornado, fire or earthquake, nor
145 to any persons participating in programs and activities administered by the Shawnee
146 County Parks & Recreation Department.

147 Section 7. That section 9.45.370, Storage of personal property, of The Code of
148 the City of Topeka, Kansas, is hereby renumbered as 9.45.400 and amended to read as
149 follows:

150 **Storage of personal property.**

151 (a) ~~It shall be unlawful to fail to remove stored personal property located in~~
152 ~~areas identified in TMC 9.45.360 within 24 hours of receiving written notice pursuant to~~
153 ~~this section.~~

154 (b)——All ~~stored~~ personal property in an area covered by this article may be
155 impounded by the City in accordance with this section.

156 (eb) Personal property placed in an area covered by this article shall be ~~deemed~~
157 ~~to be stored personal property if it has not been removed~~ within 24 hours of service of
158 written notice requiring such removal. Moving personal property to another area covered
159 by this article ~~or returning personal property to the same area on a daily or regular basis~~
160 shall not be considered to be removing the personal property. A law enforcement officer
161 may remove and impound such stored personal property after providing 24 hours' written
162 notice.

163 (dc) Personal property placed in an area covered by this article that has a clearly
164 posted closure time may be removed and impounded after the closure time, without prior

notice. Post-removal notice shall be provided as set forth in TMC 9.45.380~~410~~.

(ed) In the event personal property placed in an area covered by this article poses an immediate threat to the health or safety of the public, it may be removed without prior notice and discarded. For purposes of this section, “immediate threat” shall include, but not necessarily be limited to, personal property that has been tainted with blood or other bodily fluids, feces, urine, bed bugs, fleas or other pests.

(fe) Evidence of a crime or contraband may be removed from any area covered by this article without prior notice.

Section 8. That section 9.45.380, Notice, of The Code of the City of Topeka, Kansas, is hereby renumbered as 9.45.410 and amended to read as follows:

Notice.

(a) Pre-Removal Notice. The written notice required by TMC 9.45.370~~400~~ shall be deemed to have been served if a written notice is served on the person storing the personal property, or is posted conspicuously on or near the personal property. The written notice shall contain the following:

- (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 article 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 person may receive information as to impounded personal property.

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

Section 9. That section 9.45.390, Storage and disposal, of The Code of the City of Topeka, Kansas, is hereby renumbered as 9.45.420.

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 days, 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 and providing a reasonably specific and detailed description of the personal property.

Section 10. That section 9.45.400, Penalty, of The Code of the City of Topeka, Kansas, is hereby renumbered as 9.45.430.

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 \$499.00 and/or imprisonment not to exceed 30 days.

Section 11. That original § 9.45.340 through § 9.45.380 of The Code of the City of Topeka, Kansas, are hereby specifically repealed.

Section 12. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 13. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 14. 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

Michael A. Padilla, Mayor

ATTEST:

Brenda Younger, City Clerk