



CITY OF TOPEKA

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To: Honorable Mayor Michael A. Padilla
Topeka City Council Members
From: Irma Faudoa, Housing Navigator
Date: August 18, 2023
Re: Proposed Home Rule Resolution

On August 17th, the Shawnee Board of Commissioners presented a Home Rule Resolution to Prohibit Unlawful Camping. This resolution is designed to equip staff and law enforcement with additional tools to address unlawful camping. Below are the key takeaways from the presentation.

Existing Regulation: At this time, the County has an existing regulation in place that stipulates the closure of all parks from 11pm to 6am. Due to this, if an individual were to call, law enforcement or park police are able to respond.

Proposed Prohibitions: If this resolution is to be adopted the following things are prohibited:

- a. Camping on County property except in designated areas (i.e. campgrounds)
- b. Placing obstructions on County property or rights of way except in designated spaces
- c. Starting a fire on County property except in designated spaces; and
- d. Running electricity to or affixing signs, banners, etc., on County property except in designated spaces

Notice Provision: The proposed resolution includes a notice provision:

- a. A 7 day notice is required before property can be impounded
- b. Impounded property will be stored, for 90 days, and later discarded if not claimed
- c. The notice will provide information on how to contact the County to claim impounded property

During the presentation of this resolution, it was stressed that this a resolution that authorizes a civil process and civil remedies. It not only provides staff and law enforcement with additional tools to address the issue at hand, but it also provides individuals with due process before removal of property. It is important to note that this resolution is **not** a criminal process.

This resolution seeks to strike a balance between addressing unlawful camping and ensuring individual rights and due process. It is a civil remedy for a specific issue without impacting routine daily activities on public property. Action on the resolution is possible next week, but no definitive indication was given.



Office of the County Counselor
James M. Crowl
Shawnee County Counselor
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Topeka, Kansas 66603
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MEMORANDUM

TO: Board of Shawnee County Commissioners

FROM: James M. Crowl, Shawnee County Counselor

DATE: August 14, 2023

RE: Proposed Home Rule Resolution to Prohibit Unlawful Camping

Please place this item on the Thursday, August 17, 2023 Regular Agenda for its first reading as a Home Rule Resolution.

The attached Home Rule Resolution is intended to provide County staff additional tools to address unlawful camping on County property. Specifically, the Resolution prohibits camping and the storing of other personal property on County property except in areas designated for such activity. This Resolution also provides due process to owners of such property by requiring notice of removal and storage of materials for a period of time following impoundment. This Resolution in its current form is similar to the process used by the City of Topeka for similar circumstances so that there is less confusion for law enforcement and other staff in the field.

Again, this is a first reading of a proposed Home Rule Resolution. Unless the normal process is waived, the first opportunity to adopt this Resolution would be after a second reading. If you have any questions or concerns, please feel free to contact me.

JMC/tdp

HOME RULE RESOLUTION NO. 2023 - 2

A RESOLUTION CONCERNING CAMPING AND OTHER ACTIVITY ON PUBLIC PROPERTY

SPONSORED BY COMMISSIONER RIPHAHN

WHEREAS the Board of County Commissioners of Shawnee County, Kansas, is authorized by K.S.A. 19-101, et seq., to adopt Resolutions to promote the public health, safety, and welfare of the citizens of Shawnee County, Kansas;

WHEREAS the Board of County Commissioners of Shawnee County, Kansas, may transact all county business and perform all powers of local legislation and administration it deems appropriate, subject to the limitations, restrictions, or prohibitions in K.S.A. 19-101a(a);

WHEREAS the Board of County Commissioners of Shawnee County, Kansas finds the County has a significant governmental interest in protecting the health, safety, and welfare of the general public and preserving public order;

WHEREAS the Board of County Commissioners of Shawnee County, Kansas finds the County has a significant governmental interest in maintaining the aesthetics, cleanliness, and proper sanitation of County property;

WHEREAS the Board of County Commissioners of Shawnee County, Kansas finds the County has a significant governmental interest in maintaining the safety of persons who use County property; and

WHEREAS the Board of County Commissioners of Shawnee County, Kansas finds the County has a significant governmental interest in reducing the risk of liability arising from the use of County property.

NOW, THEREFORE, the Board of County Commissioners of Shawnee County, Kansas, meeting in regular session on this day of , 2023, and intending to exercise its powers of home rule pursuant to K.S.A. 19-101a, does hereby resolve as follows:

SECTION 1.

DEFINITIONS

(A) Unless the particular provision or context clearly indicates a different meaning, the following words, terms and phrases, when used in this Resolution, shall have the meanings ascribed to them in this Section.

“Camp” or “camping” means the use of County property for living accommodation purposes such as sleeping, or making preparations to sleep (including the laying down of bedding for the purpose of sleeping), or storing personal property or placing any tent, temporary shelter, or parked vehicle or camper on County property for living accommodation purposes.

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

“Public property” means County owned property not restricted to any one individual’s use or possession.

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

“Temporary shelter” means tents, tarps, or any type of structure or cover that provides partial shelter from the elements.

SECTION 2.

CAMPING AND OTHER ACTIVITY PROHIBITED ON PUBLIC PROPERTY

(A) Except as permitted elsewhere in the Shawnee County Code, it shall be unlawful for anyone to camp on any County owned property, including public rights-of-way and sidewalks.

(B) Except as permitted elsewhere in the Shawnee County Code, camping, as defined in this Resolution, is deemed a public nuisance and the County may remove any temporary shelter, parked vehicle or camper, bedding, or stored personal property as provided in Section Three (3).

- (C) Except as permitted elsewhere in the Shawnee County Code, it shall be unlawful for anyone to light or use a fire, campfire, or bonfire on any public street, avenue, highway, public property or public right-of-way unless expressly allowed by a permit.
- (D) Except as permitted elsewhere in the Shawnee County Code, it shall be unlawful for any person, other than governmental employees in the performance of their duty, to place any instrument, tripod, bipod or other pole, or object, with the intent to obstruct pedestrian or vehicular movement, on a public road, public sidewalk, public right-of-way, or entrance or exit to public property or any other area open to the public.
- (E) Except as permitted elsewhere in the Shawnee County Code, it shall be unlawful for anyone to hang, fasten, or attach any rope, wire, chain, sign, banner, electrical device, or power cord to any public property, including, but not limited to, buildings, bridges, overpasses, vehicles, construction equipment, memorials, utility poles, or artwork, unless express permission is granted by the County.

SECTION 3.

REMOVAL OF ITEMS FROM PUBLIC PROPERTY

- (A) Any temporary shelter, parked vehicle or camper, bedding, or stored personal property located on public property, including public rights-of-way and sidewalks, in violation of this Resolution, may be removed and impounded by the County in accordance with this Section.
- (B) Personal property located on public property, including public rights-of-way and sidewalks, shall be deemed to be stored personal property if it has not been removed within twenty-four (24) hours of service of pre-removal notice requiring such removal. Moving personal property to another area of public property or returning personal property to the same area on a daily or regular basis shall not be considered removing the personal property.
- (C) Any law enforcement officer, or other authorized County personnel, may remove and impound any temporary shelter, parked vehicle or camper, bedding, or stored personal property in the following circumstances:
 - (1) After providing pre-removal notice, in accordance with Section Four (4) of this Resolution, of the intent to remove and impound any temporary shelter, parked vehicle or camper, bedding, or stored personal property at least twenty-four (24) hours prior to removal.

- (2) When the public property, including public rights-of-way and sidewalks, has a clearly posted closure time any temporary shelter, parked vehicle or camper, bedding, or personal property may be removed and impounded after the closure time without prior notice, so long as post-removal notice is provided in accordance with Section Four (4).
- (3) If the temporary shelter, parked vehicle or camper, bedding, or personal property located on public property, including public rights-of-way and sidewalks, poses an immediate threat to the health and safety of the public, such item or items may be removed without notice and discarded. For purposes of this subsection, "immediate threat to the health and safety of the public" shall include, but not necessarily be limited to, any item which contains or has been tainted with garbage, trash, animal parts or fluids, manure, urine, feces or other organic waste products, bed bugs, fleas or other pest, or any other substance that is harmful, destructive, foul, or offensive to human beings.
- (4) Evidence of a crime or contraband located on public property, including public rights-of-way and sidewalks, may be removed without notice.

SECTION 4.

NOTICE

- (A) A pre-removal notice shall be deemed to have been served if a written notice is served on the person camping on public property, or is posted conspicuously on or near the location of the item to be removed and impounded. The pre-removal notice shall be in writing and contain the following:
 - (1) A general description of the item(s) to be removed;
 - (2) The location from which the item(s) will be removed;
 - (3) The date and time the notice was served/posted;
 - (4) A statement that the item(s) will be removed and impounded if not removed within seven (7) days;
 - (5) A statement that moving the item(s) to another area of public property or returning the item to the same area on a daily or regular basis shall not be considered removing the item;

- (6) The location where the item(s) will be stored, including a telephone number and the internet website of the County through which an individual may receive information as to impounded item(s); and
- (7) A statement that impounded item(s) may be discarded or otherwise disposed of if not claimed within ninety (90) days after impoundment.

(B) A post-removal notice shall be in writing and be conspicuously placed in the area from which the item was removed. The post-removal notice shall contain the following:

- (1) A general description of the item(s) removed;
- (2) The date and approximate time the item(s) was removed;
- (3) A statement that the item(s) was stored in violation of this Resolution;
- (4) The location where the item(s) will be impounded, including a telephone number and internet website of the County through which an individual may receive information as to the impounded item(s); and
- (5) A statement that impounded item(s) may be discarded or otherwise disposed of if not claimed within ninety (90) days after impoundment.

SECTION 5.

STORAGE AND DISPOSAL

- (A) Except as specified herein, items impounded pursuant to this Resolution shall be moved to a place of storage.
- (B) Except as specified herein, items impounded pursuant to this Resolution shall be stored by the County for ninety (90) days, after which time, if not claimed, may be discarded or otherwise disposed of. The County shall not be required to undertake any search for, or return, any impounded items stored for longer than ninety (90) days.
- (C) The County shall maintain a record of the date any impounded item(s) was received and/or disposed of.
- (D) The owner or any other person entitled to the impounded item(s) may claim the item, prior to its disposal, upon submitting satisfactory proof of ownership. An individual may establish proof of ownership by, among other methods, describing the location and date when the item(s) was impounded and providing a reasonably specific

detailed description of the item(s). For automobiles, campers, or other similar items impounded pursuant to this Resolution, an individual may be required to submit proof of valid registration and/or ownership of the item(s).

(E) The County may require payment of all reasonable costs associated with the impoundment of the item(s), including transportation and storage fees, prior to the release of the item(s).

SECTION 6.

ENFORCEMENT

(A) In addition to any payment required by Section 5, the County Counselor may seek, in a civil action governed by the Kansas Code of Civil Procedure, a declaratory judgment, an injunction, a writ of mandamus, a writ of quo warranto, and/or other appropriate relief, against any person for committing any act or practice that violates this Resolution.

SECTION 7. This Resolution shall take effect upon publication in the official County newspaper.

SECTION 8. This Resolution shall supersede all resolutions or rules, or portions thereof, which are in conflict with the provisions of this resolution.

SECTION 9. Should any section, clause, or phrase of this resolution be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of this resolution as a whole, or any part thereof, other than the part declared to be invalid.

BOARD OF COUNTY COMMISSIONERS
SHAWNEE COUNTY, KANSAS

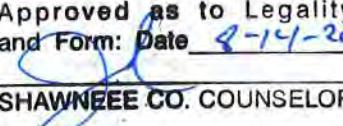
William D. Riphahn, Chair

Kevin J. Cook, Vice-Chair

Aaron D. Mays, Member

ATTEST:

Cynthia A. Beck, Shawnee County Clerk

Approved as to Legality
and Form: Date 8-14-2023

SHAWNEE CO. COUNSELOR