

(Published in the Topeka Metro News December 9, 2019)

ORDINANCE NO. 20224

AN ORDINANCE introduced by Councilmember Sylvia Ortiz, creating Article III of Chapter 9.45 of the Topeka Municipal Code concerning Camping.

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

Section 1. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 9.45.340, which said section reads 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 chapter is to protect public infrastructure and designated areas by regulating camping and the storage of personal property.

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 use property for living accommodation purposes, such as 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:
50

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 10th Avenue to
56 NW Crane Street; Madison Street from SE 10th Avenue to NE Crane Street; Crane
57 Street from Topeka Boulevard to NE Madison Street; and 10th 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 stored personal property located in
67 areas identified in TMC 9.45.360 within 24 hours of receiving written notice pursuant to
68 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

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

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

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

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

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

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

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

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

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

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

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

118 (4) The location where the removed personal property will be located,
119 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 December 3, 2019.

CITY OF TOPEKA, KANSAS

Michelle De La Isla, Mayor

ATTEST:

Brenda Younger, City Clerk