ORDINANCE NO. _____________

AN ORDINANCE introduced by Brent Trout City Manager, 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.**

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

(b) Personal property stored on public property. The unauthorized use of public areas for the storage of personal property interferes with the rights of other members of the public to use public areas for their intended purposes and can create a 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.
“Public property” means public parks and all property that is owned, managed or maintained by the City, including but not limited to streets, sidewalks, alleys, easements, and public right-of-way.

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

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

“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 The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 9.45.360, which said section reads as follows:

Unlawful camping.

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

(1) Any public property; or

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

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

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

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

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

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

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

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

Disposition of personal property.

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

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

(c) Personal property placed on public property shall be deemed to be stored personal property if it has not been removed within 24 hours of service of written notice, requiring such removal. Moving personal property to another public property location or returning personal property to the same block on a daily or regular basis shall not be considered to be removing the personal property from public property. A law enforcement officer may remove and impound such stored personal property after providing 24 hours written notice.
(d) Personal property placed on public property located within ten feet of any entrance, exit, driveway or loading dock may be removed and impounded at any time without prior notice. Post-removal notice shall be provided as set forth in TMC 9.45.390.

(e) Personal property placed on public property which has a clearly 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 9.45.390.

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

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

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

Notice.

(a) Pre-removal notice. The written notice required by TMC 9.45.380 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 from public areas within 24 hours.

(5) A statement that moving stored personal property to another location on public property shall not be considered to be removing personal property from public 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 on public property in violation of TMC 9.45.380.

(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 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 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 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
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

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Michelle De La Isla, Mayor

ATTEST:

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Brenda Younger, City Clerk