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ORDINANCE NO. _____

AN ORDINANCE CREATING SECTIONS 06.05.01, 06.05.02, 06.05.03, 06.05.04, 06.05.05, 06.05.06, 06.05.07, 06.05.08, 06.05.09, 06.05.10, 06.05.11, 06.05.12, 06.05.13, OF THE CODE OF THE CITY OF BEL AIRE, KANSAS PERTAINING TO ILLEGAL CAMPING.

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

Article 5. Camping on Public Property

SECTION 1. Section 06.05.01 of the Code of the City of Bel Aire is hereby created to read as follows: **Preamble.**

WHEREAS, the City of Bel Aire has an important governmental interest in ensuring the streets and public areas within the city are readily accessible and available to the public at large; and

WHEREAS, the use of these areas for camping purposes interferes with the rights of others to use the areas for which they were intended; and

WHEREAS, the use of these areas for camping purposes can constitute a public health and safety hazard which adversely impacts commercial areas and neighborhoods; and

WHEREAS, the purpose of this Chapter is to maintain streets, parks and other public property and areas within the City of Bel Aire in a clean, sanitary and accessible condition and to adequately protect the health, safety and public welfare of the community, while recognizing that, subject to reasonable conditions, camping and camping activities associated with special events can be beneficial to the cultural and educational climate in the city; and

WHEREFORE, the City of Bel Aire enacts the following ordinances prohibiting camping upon property within the city.

SECTION 2. Section 06.05.02 of the Code of the City of Bel Aire is hereby created to read as follows: **Definitions.**

As used in this Chapter:

(a) “Camp” means to use property for living accommodation purposes. Camping activities include, but are not limited to:

1. Sleeping activities or preparing to sleep including the laying down of bedding for the purpose of sleeping;
2. Storing or utilizing personal property used for camping, including, but not limited to, clothing, sleeping bags, bedrolls, blankets, sheets, luggage, backpacks, kitchen utensils, cookware, tarpaulin, or other similar materials;
3. Making any fire or cooking meals; and
4. Using any tent or camping in a parked operable or inoperable vehicle, camper, recreational vehicle, trailer or other such mode of transportation.

These activities constitute camping when it reasonably appears, in light of the circumstances, that a person or persons are using such property, location or vehicle as a living accommodation.

(b) “Flood control works” means the system comprised of flood walls, pump stations and ponding areas that serve to protect the city from flooding.

(c) “Personal Property” means any and all tangible property, and includes, but is not limited to, goods, materials, buckets, furniture, merchandise, tents, tarpaulins, bedding, sleeping bags, huts, lean-tos, hammocks, personal items such as luggage, backpacks, clothing,

wagons, trailers, shopping carts, campers, documents and medication, and other household items or any other shelter or structure.

(d) "Private Property" means all property that is located within the boundaries of the city, except for property that is owned, leased or controlled by the City of Bel Aire.

(e) "Public Property" means any publicly owned property, including but not limited to streets, sidewalks, alleys, golf courses, bike paths, walking trails, parks, parking lots, parking garages, easements, improved or unimproved land, or any buildings or physical structures owned, leased, or managed by the City or other governmental agency.

(f) "Public Right-of-Way" means the entire width of the area from property line to property line including all area intended, designed or used for vehicular or pedestrian traffic and the area between the roadway and the abutting private property line. For the purposes of this Chapter, such area shall include, but not be limited to the area and the portion of the property between the sidewalk and curb, whether such area is paved or unpaved.

(g) "Temporarily Camp" means camping for a period not exceeding seventy-two (72) consecutive hours.

SECTION 3. Section 06.05.03 of the Code of the City of Bel Aire is hereby created to read as follows: **Temporary Camping Permits – Issued by the City Manager.**

The City Manager or the City Manager's designee, may issue a temporary permit to allow camping on public property, or storage of personal property on public property in connection with a special event. A special event is intended to include, but not be limited to, programs operated by the departments of the city, youth or school events, marathons or other sporting events, scouting activities, historical reenactments or

community events, as that term is defined in Section 3.11.020 of this Code.

The City Manager or the City Manager's designee shall adopt rules and regulations governing the criteria for the application for, and review and approval of such temporary camping and storage permits and is further empowered to ascertain that the operation or maintenance of any temporary camp or campsite or storage of personal property to which these permits will apply, will in no way jeopardize the public health, safety or welfare. For this purpose, the City Manager or the City Manager's designee is also empowered to implement additional rules and regulations as necessary, pertaining to all aspects of the temporary camping or storage permits, including the revocation of such permits issued pursuant to this section if the City Manager or the City Manager's designee becomes satisfied that the maintenance or continuing operation of the camp or campsite or the storage of personal property is adverse to the public health, safety, and welfare.

SECTION 4. Section 06.05.04 of the Code of the City of Bel Aire is hereby created to read as follows: **Unlawful Camping – Notice to Vacate Property within 8 Hours.**

(a) It is unlawful and a public nuisance for any person or persons to Camp in or upon any public property or public right-of-way, unless such person or persons have been granted a temporary camping permit allowing such activity as set forth in Section 06.05.03. Unless otherwise specified by this Chapter, a person found camping on Public Property or Public Right-of-Way shall be given a notice to vacate property within 8 hours. Such notice shall be served on such person, if present, or be posted near the camp property or upon the camp property in a visible location. A change in location of the Camp and/or Personal Property within the line of sight from the Camping location will not require a new notice to vacate property within 8 hours,

to be given.

(b) A person may be cited with violation of this Section if the individual refuses to leave and/or remove all Personal Property within the period contained in the notice or has previously been provided notice that Camping on such Public Property or Public Right-of-Way is prohibited.

SECTION 5. Section 06.05.05 of the Code of the City of Bel Aire is hereby created to read as follows: **Unlawful Camping- Immediate Removal.**

(a) In order to protect the health, safety and welfare of the citizens of Bel Aire and its visitors, Camping in areas which pose health and safety concerns or where Camping directly adversely affects the economic development of such area may be immediately abated as set forth below.

(b) It is unlawful and a public nuisance for any person to Camp on Public Property or on Public Right-of-Way at the locations listed below. Any such person violating this section may be removed, along with their Personal Property, immediately without prior notice. These areas include:

1. In or under bridges, overpasses, and/or highways;
2. Within 50 feet of bus shelters, medians, roadways, highways, traffic circles, roundabouts, railways, bike paths, walking trails, wastewater delivery systems, water delivery systems, electric substations, or communication transmission systems;
3. Within 20 feet of any doorway, loading dock, elevator, stairway or fire escapes located on public or private property;
4. Any land deemed dangerous by virtue of contamination;

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124 5. Any land used for flood control;

125 6. Within 500 feet of playground equipment, schools or childcare facilities, whether
126 such playground equipment, school and childcare facilities are located on Public or
127 Private Property;

128 7. Within 500 feet of a public or private swimming pool, splash pad, private or public
129 golf course, or cemetery;

130 8. Inside or within 100 feet of park pavilions, community centers or park shelters; or

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132 9. Inside or within 100 feet of a public restroom.

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134 (c) A person may be cited with violation of this Section if the individual refuses to leave
135 and/or remove all Personal Property immediately or has previously been provided notice
136 that camping on such Public Property or Public Right-of-Way is prohibited.

137 SECTION 6. Section 06.05.06 of the Code of the City of Bel Aire is hereby created to read
138 as follows: **Unlawful Camping— Private Property.**

139 (a) Unless such person is the owner, lessee or tenant of such property, it is unlawful and a public
140 nuisance for any person to Camp on Private Property.

141 (b) It is unlawful and a public nuisance for any person to Camp or sleep on Private Property
142 in any vacant or unoccupied barn, garage, shed, shop or other accessory structure.

143 (c) A person may be allowed to Temporarily Camp on Private Property with the written
144 permission of the owner or person entitled to possession. Such permission must include the
145 name, address and phone number of the person giving such authorization. It is unlawful for a
146 person to Camp or Temporarily Camp on Private Property without authorization of the owner

or occupant. Such person may be removed, along with their Personal Property immediately without prior notice.

(d) It is unlawful for any person to Camp on Private Property in any operable or inoperable automobile, truck, camper, recreational vehicle or other trailer or other such mode of transportation.

1. This section shall not apply to individuals who Temporarily Camp in such vehicles which are located on Private Property with the written permission of the owner. Such written permission must include the Name, Address and Phone Number of the person giving such authorization.

~~2.~~ This section shall not apply to individuals who Temporarily Camp on commercial properties with permission of the property owner. Permission may be inferred if the property is commercial property and is posted in such a manner that overnight parking is allowed.

(e) A person may be cited with a violation of this Section if the individual refuses to leave and/or remove all Personal Property immediately or has been provided prior notice that Camping on such Private Property is prohibited. Signage which is clearly visible stating that the property is private or that no trespassing is allowed constitutes sufficient notice that Camping is not allowed on such private property.

SECTION 7. Section 06.05.07 of the Code of the City of Bel Aire is hereby created to read as follows: **Impounding of Personal Property.**

(a) It shall be unlawful for any person to fail to remove Personal Property located on property as described in Section 06.05.04 after 8 hours that the notice to vacate property within 8 hours

was given.

(b) All such Personal Property which is not removed following the required notice may be impounded by the City in accordance with the provisions set forth below.

(c) In the event Personal Property 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” includes, but is not limited to, Personal Property that has been tainted with blood or other bodily fluids, feces, urine, bed bugs, fleas or other pests, soiled, wet or mildewed, or property that blocks the ingress and egress to buildings, sidewalks, bike paths, walking trails or walkways.

(d) Evidence of a crime, contraband, explosives, firearms, weapons, fireworks or other flammable materials may be removed without prior notice.

(e) Personal Property may be immediately removed without prior notice for violations of Section 06.05.04 and 06.05.05 of the Code of the City of Bel Aire.

SECTION 8. Section 06.05.08 of the Code of the City of Bel Aire is hereby created to read as follows: **Notice of Removal.**

(a) The notice required by Section 06.05.03 of this Chapter shall be deemed to have been served if a notice is served on the person in possession of or claiming ownership of the Personal Property or posted conspicuously on or near the Personal Property prior to removal of such property. The notice shall contain the following:

1. A statement that Personal Property is to be removed.
2. The location, date and time the notice was posted.
3. General description of the Personal Property to be removed.

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195 4. A statement that the Personal Property will be discarded or impounded if not
196 removed within 8 hours.

197 5. A statement that moving Personal Property to another area shall not be removing
198 Personal Property as required by the notice, within the City of Bel Aire.

199 6. Agency information for the individual to contact to retrieve impounded Personal Property.

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201 7. Contact information for services for the homeless including WPD Homeless
202 Outreach Program, the Multi-Agency Center, and United Way.

203 8. A statement that impounded Personal Property may be discarded or otherwise disposed
204 of, if not claimed within 30 days after impoundment.

205 (b) Following removal of Personal Property without prior notice, a notice consistent with
206 the provisions above will be posted in a visible location on the property from which the
207 Personal Property was removed.

208 SECTION 9. Section 06.05.09 of the Code of the City of Bel Aire is hereby created
209 to read as follows: **Disposition of Impounded Property.**

210 (a) Personal identifiable property such as identification documents, firearms, and prescription
211 medication in its original container should be impounded as Personal Property and retained
212 by the City of Bel Aire for 120 days pursuant to Section 02.04.06, et. seq.

213 (b) Items that are soiled, have been exposed to the elements, or of a de minimis monetary value
214 shall be destroyed. The property site, including Personal Property, should be photographed
215 prior to removal by the city employee or other person authorized by the City of Bel Aire to

remove or impound such property.

(c) The City shall maintain a record of photographs of the items removed, the date(s)

any Personal Property was impounded, released, discarded and/or disposed of.

(d) The owner or any other person entitled to the retained Personal Property may retrieve 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. Section 06.05.10 of the Code of the City of Bel Aire is hereby created to read as follows: **Enforcement of Provisions of Code.**

The Bel Aire Police Department is authorized to enforce and issue complaints for violations of this Chapter. Any other department or individual designated and authorized by the City Manager by Administrative Regulation, are authorized to enforce all other provisions of this Code.

All departments or other designated individuals shall complete all necessary training as recommended by the Chief of Police prior to enforcement of the provisions of this Code.

SECTION 11. Section 06.05.11 of the Code of the City of Bel Aire is hereby created to read as follows: **Violations—Penalty.**

Any person who is convicted of a violation of any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and shall be punished by a fine not to exceed \$200.00, or by imprisonment for not more than 30 days, or by both such fine and imprisonment. Provided, however, that if it be shown to the Court that the person convicted is indigent, the Court may, in its discretion, order that such person, in lieu of the payment of any fine imposed herein and/or

court costs mandated by Chapter 5.02 of this Code for a violation of this Chapter, be allowed to perform public service to satisfy the payment of such fine and/or costs. The Court shall make a finding of indigency and shall note the same upon the court disposition sheet resulting from the violation, along with the number of public service hours to be performed by such person. In addition to the penalties set forth herein, the City Attorney may institute civil actions to abate a public nuisance under this Chapter.

SECTION 12. Section 06.05.12 of the Code of the City of Bel Aire is hereby created to read as follows: **Violations Not Exclusive.**

Violations of this Code are in addition to any other violation enumerated within the ordinances of the Code of the City of Bel Aire. This Code in no way limits the penalties, actions or abatement procedures which may be taken by the city for a violation of this Chapter which is also a violation of any other ordinance of the city or statute of the State of Kansas.

SECTION 13. Section 06.05.13 of the Code of the City of Bel Aire is hereby created to read as follows: **Severability.**

If any Section, Subsection or Clause of this ordinance shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected.

SECTION 14. This ordinance shall be included in the Code of the City of Bel Aire, Kansas, and shall be effective upon its passage and publication once in the official city paper.

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PASSED by the Governing Body of the City of Bel Aire, Kansas, on the _____ day of March, 2025.

APPROVED by the Mayor on the _____ day of March, 2025.

CITY OF BEL AIRE, KANSAS

Jim Benage, Mayor

ATTEST:

Melissa Krehbiel, City Clerk

APPROVED AS TO FORM ONLY:

Maria A. Schrock, City Attorney