

ORDINANCE NO. 2800NS

AN ORDINANCE AMENDING ARTICLE I OF CHAPTER 20 OF THE SHAWNEE CITY CODE BY ENACTING A NEW SECTION 20-47 PROHIBITING SITTING OR LYING DOWN ON PUBLIC SIDEWALKS AND SLEEPING OUTDOORS IN THE DOWNTOWN SHAWNEE AREA; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR CODIFICATION.

BE IT ORDAINED BY THE COMMISSIONERS OF THE CITY OF SHAWNEE:

SECTION 1. ENACTMENT. A new Section in Article I of Chapter 20 of the Shawnee City Code, Section 20-47 - Prohibiting Sitting or Lying Down on Public Sidewalks and Sleeping Outdoors, is hereby enacted as follows:

(A) **DISABILITY** means having a physical or mental impairment which substantially limits one of more major life activities.

(1) **PHYSICAL OR MENTAL IMPAIRMENT** means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(2) **MAJOR LIFE ACTIVITIES** means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, learning, breathing and working.

(B) The City Commission finds that the City has a compelling interest in:

- (1) encouraging and preserving vital, pedestrian-friendly public areas;
- (2) assuring that public areas remain accessible to individuals with disabilities and compliant with the provisions of the Americans with Disabilities Act;
- (3) promoting tourism and business; and
- (4) preserving the quality of life and protecting its citizens from intimidating behavior.

(C) The City Commission finds that individuals sitting or lying in the pedestrian right-of-way:

- (1) contributes to a sense of fear, intimidation, and disorder;
- (2) is disruptive to residents, businesses, and customers;
- (3) discourages, blocks, or inhibits the free passage of pedestrians; and
- (4) contributes to the loss of access to and enjoyment of public places.

(D) This section applies to the downtown area of the City of Shawnee, whose boundaries are Highland Street, 7th Street, Harrison Street, and Kickapoo Street.

(E) A person commits an offense if, after having been notified by a law enforcement officer that the conduct violates this section:

- (1) the person is asleep outdoors; or
- (2) the person sits or lies down in the right-of-way between the roadway and the abutting property line or structure, or an object placed in that area.

(F) This section does not apply to a person who:

- (1) sits or lies down because of a medical emergency;
- (3) participates in or views a parade, festival, performance, rally, demonstration, or similar event;
- (4) sits on a chair or bench that is supplied by a public agency or by the abutting private property owner; or
- (5) is waiting in a line for goods, services, or a public event.

(G) It is an affirmative defense to prosecution if a person sits or lies down as the result of a physical manifestation of a disability, not limited to visual observation.

(H) A culpable mental state is not required, and need not be proven, for an offense under this section.

SECTION 2. REPEALER. All sections, subsections, clauses, and sentences of existing law in conflict with this ordinance are repealed.

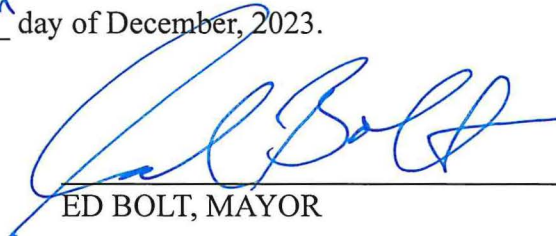
SECTION 3. SEVERABILITY. The provisions of this Ordinance are severable and, if any sentence, provision, or other part of this Ordinance shall be held invalid, the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this Ordinance.

SECTION 4. CODIFICATION. This Ordinance shall be codified in the Shawnee City Code, and the codifier is authorized to set out the ordinance as appropriate.

PASSED AND APPROVED this 18th day of December, 2023.

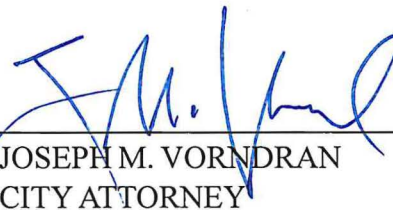


ATTEST:
(SEAL)


ED BOLT, MAYOR


KACIE ECK, CMC, SR. DEPUTY CITY CLERK

Approved as to form and legality this 18th day of December, 2023.


JOSEPH M. VORNDRAN
CITY ATTORNEY