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2
3 **ORDINANCE NO. 18830**

4
5 AN ORDINANCE introduced by Councilmember Clark Duffy concerning the
6 movement of buildings and other structures on City right-of-way,
7 amending City of Topeka Code §§ 26-582, 130-36, and 54-132 and
8 repealing said original sections.
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10 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

11 Section 1. That City of Topeka Code § 26-582, Responsibility of permittee, is
12 hereby amended to read as follows:

13 **Responsibility of permittee.**

14 Any permittee under this article when moving any building or structure over or
15 along any street, avenue, alley or public grounds within the city shall comply with the
16 provisions of this article. Failure by the permittee to comply with the provisions of this
17 article shall result in revocation of the permit. Any permittee found guilty of violating any
18 of the provisions of this chapter shall be deemed guilty of a misdemeanor and punished
19 as provided in Section 1-7.

20 Section 2. That City of Topeka Code § 130-36, Unlawful obstructions;
21 exceptions, is hereby amended to read as follows:

22 **Unlawful obstructions; exceptions.**

23 It shall be unlawful for any person to obstruct any sidewalk, street, avenue, alley,
24 street parkings or other public ground in the city, with any kind of vehicle, engine, car,
25 building, chicken coop, box, lumber, wood, building or structure (including a building or
26 structure on a trailer) or any other thing, except in such manner and at such times as
27 may be permitted by other provisions of the Code or other ordinances of the city or as
28 may be authorized by the city council. Any person found guilty of violating any provision

29 of this chapter shall be deemed guilty of a misdemeanor and punished as provided in
30 Section 1-7 (including a building or structure on a trailer).

31 Section 3. That City of Topeka Code § 54-132, Criminal nuisances, is hereby
32 amended to read as follows:

33 **Criminal nuisances.**

34 (a) *Maintenance prohibited.* Maintaining a public nuisance is, by act or by
35 failure to perform a legal duty, intentionally causing or permitting a condition to exist
36 which injures or endangers the public health, safety or welfare. For purposes of this
37 section, "public nuisance" shall mean and include any brothel, bawdyhouse, house of
38 prostitution, house of assignation, gambling house, gaming room, open saloon, any
39 place in which lewd, indecent, lascivious or obscene films, pictures, books or
40 paraphernalia are exhibited, any building or structure that prevents, interrupts or
41 obstructs the travel, free passage, or access by the public upon any public sidewalk,
42 street or alley or any other place usually included within the meaning of a public
43 nuisance.

44 (b) *Liability.* Any person who uses, occupies, establishes or conducts a public
45 nuisance or aids or abets therein, and the owner, agent or lessee of any interest in such
46 premises together with the persons employed in or in control of any such premises is
47 guilty of maintaining a public nuisance and shall be enjoined as provided in this section.

48 (c) *Notice.* Upon the filing of a complaint, under oath, the municipal judge
49 shall, within 48 hours after the filing of such complaint, issue a notice directed to the
50 defendant in the action and to the record title owner or owners of the premises, directing
51 the defendant to appear at a time and place fixed by the judge, not later than five days

52 from the time of filing the complaint, and show cause, if any, why the public nuisance
53 alleged shall not be abated. The notice shall be served in the same manner as a
54 summons, and a copy of the notice shall be posted on the premises in question. The
55 defendant may file an answer to the complaint as the only other pleading required.

56 (d) *Abatement.* Upon judgment by the municipal court that the place or
57 premises in question is a public nuisance, the judge shall order the chief of police to
58 padlock and fasten all doors, entries and windows into the place or part thereof so that
59 such place or premises may not be used, and such place or premises shall remain
60 closed for a period of not less than three months nor more than two years and until the
61 owner, lessee, tenant or occupant thereof shall give bond with sufficient surety to be
62 approved by the municipal judge in a sum of not less than \$5,000.00, payable to the
63 city, and conditioned that the place shall not be used, kept or maintained as a public
64 nuisance. In addition, the municipal court shall allow reasonable attorney's fees to the
65 city as costs of the action.

66 (e) *Appeal from order.* The city or any defendant may appeal from the
67 judgment of the municipal court on any proceedings under this section to abate a public
68 nuisance in the manner provided by taking an appeal in criminal cases. Any defendant
69 who appeals an order abating a public nuisance must provide a surety, payable to the
70 city, to be approved by the municipal judge, in a sum of not less than \$5,000.00,
71 conditioned that the defendant will prosecute the appeal without unnecessary delay,
72 and if judgment is rendered against the defendant on that appeal, the defendant will
73 satisfy the judgment and costs of the action.

