

CITY OF KALAMAZOO, MICHIGAN

ORDINANCE NO. 2078

AN ORDINANCE TO AMEND ARTICLE VIII, “EMERGENCY HOUSING OF CHAPTER 9,
“BUILDINGS AND BUILDING REGULATIONS” OF THE KALAMAZOO CITY CODE

THE CITY OF KALAMAZOO ORDAINS:

Section 1. Article VIII, “Emergency Housing” of Chapter 9, “Buildings and Building Regulations” of the Kalamazoo City Code is amended to reads as follows:

§ 9-351 Purpose.

- A. The City Commission recognizes that homelessness is an ongoing problem within the City due to the rise in the number of homeless individuals in the Kalamazoo area, the lack of housing options for homeless individuals, and a lack of safe temporary or transitional housing until more permanent options can be found. As a result, a need exists for places where persons experiencing homelessness can go for emergency shelter.
- B. Nonprofit, religious, and other service providers within the City have demonstrated a willingness to provide temporary shelters to address this emergency need. To ensure that temporary emergency shelters provide a safe environment for those using them, certain fire and life safety matters must be addressed when providing or operating a temporary emergency shelter.
- C. The City, other governmental units and agencies, religious and nonprofit organizations, and homeless service providers need to work together to ensure that both those who are experiencing homelessness and utilizing temporary emergency shelters, and those property owners and residents neighboring a temporary emergency housing facility are safe, and potential negative effects are limited.

§ 9-352 Definitions.

“*Cooking facilities*” means facilities for the storage, preparation, and cooking of food, including fixtures, appliances, counters, cabinets, sinks, plumbing or wiring integrated and used for the installation of such facilities that are included as part of a temporary emergency shelter in its manufacture or construction. “Cooking facilities” shall also include an electric kettle that can only be used for heating water and a coffee maker. “Cooking facilities” do not include small appliances such as toaster ovens, electric fry pans, hot plates, electric rice cookers, crock pots, electric woks, and electric grills and griddles, camping or other portable stoves, or grills and barbeques.

“*Governmental unit or agency*” means a governmental unit or agency engaged in aiding and assisting homeless persons.

“*Homeless services provider*” means a charitable organization whose primary objectives are aiding and assisting homeless persons.

“*Lot*” means that term as it is defined in Section 12.3 of Appendix A, “Zoning Ordinance”.

“*Nonprofit organization*” means a charitable or other legal entity organized and operated for a collective, public, or social benefit that assists disadvantaged or homeless persons in obtaining housing.

“*Property Owner*” means the owner of property where a temporary housing facility is, or is proposed to be, located.

“*Religious organization*” means churches, mosques, synagogues, temples, nondenominational ministries, interdenominational and ecumenical organizations, mission organizations, faith-based social agencies, and other entities whose principal purpose is the study, practice, or advancement of religion, as well as engaging in charitable purposes including but not limited to aiding homeless persons.

“*Service amenities*” means restrooms, handwashing stations, shower and bathing or other amenities that are provided by the service provider as required or permitted by § 9-356(E).

“*Service provider*” means a nonprofit organization, religious organization, governmental unit or agency, or homeless service provider as those terms are defined in this Article.

“*Temporary emergency shelter*” or “*shelter*” means a small, enclosed structure, other than a tent, vehicle, recreational vehicle, or camping trailer, for the occupancy of one or more persons that meets the provisions of § 9-356, and which provides temporary living space that is capable of being dismantled or moved and is not permanently affixed to the ground or connected to the municipal water or sewer system through a connection other than a permitted temporary connection.

“*Temporary emergency housing facility*” or “*facility*” means 1 or more lots, within the City upon which is located one or more temporary emergency shelters by a service provider that complies with § 9-356 and is consistent with all other provisions of this Article.

“*Temporary service structure*” means a structure that is capable of being dismantled and moved and is not permanently affixed to the ground or connected to the municipal water or sewer system through a connection other than a permitted temporary connection in which are provided service amenities. Service structure does not include a building that existed at the time a temporary housing facility is established and that is used to provide service amenities.

§ 9-353 Permits

- A. *Permit required.* Any service provider desiring to establish or operate a temporary emergency housing facility shall obtain a permit from the City.
- B. *Application process.* Permit applications shall be submitted on forms provided by the Department of Community Planning and Economic Development.
- C. *Facility plan.* Applications shall be accompanied by a plan that includes a sketch or drawing of the proposed temporary emergency housing facility per the permit application requirements.
- D. *Cost of permit.* There shall be no cost for review of the facility plan, nor for permits issued under this emergency ordinance. Costs may be assessed for other permits required under this Code of Ordinances.

- E. *Permit Review and approval.* The Director of the Department of Community Planning and Economic Development or their designee will review the permit application and accompanying materials and approve, approve with conditions, or deny the permit within 30 days of receipt of a complete permit application. Approvals are subject to:
- (1) *Memorandum of understanding.* The service provider, the property owner, and the City entering a memorandum of understanding that complies with § 9-355.
 - (2) *Other permits.* The service provider obtaining all building, mechanical, electrical, plumbing, or other permits that may be required by this Code of Ordinances.
 - (3) *Informational meeting.* The service provider will hold a public informational meeting as part of the permit review process. The meeting must be advertised at least seven (7) days in advance of the date by the following methods:
 - (a) Notice to the Neighborhood Association (if one exists) where the proposed facility will be located.
 - (b) Notice to adjacent property owners and occupants within 300' of the proposed facility. Public Meeting Notice may be hand delivered or mailed.
- F. *Appeal of permit denial.* A service provider may appeal the denial of a permit to the City Manager by filing a written notice of appeal within 10 business days of the date of denial of a permit. The City Manager or their designee shall address the appeal within 10 business days from the date of receipt of the notice of appeal. The notice of appeal shall identify the reason or reasons for reversal of the permit denial. The City Manager will consider the appeal and make a decision affirming, rejecting, or modifying the denial being appealed. In considering any such appeal, the City Manager may consider the recommendations of City staff and the written comments of other persons having knowledge of the matter. In considering all such appeals, the City Manager may grant a variance from the terms of this Article to provide relief, in whole or in part from the action being appealed, but only upon finding that the following requirements are satisfied:
- (1) The application of the provisions of this Article being appealed will present or cause unreasonable difficulties for the provider of the proposed temporary emergency housing facility; and
 - (2) The granting of the relief requested will substantially achieve the goals and purposes sought to be accomplished by this Article.

§9-354 Final Inspection Prior to Opening.

Final Inspection and Certificate of Completion. Before a temporary housing facility may open and begin operation, the Director of the Department of Community Planning and Economic Development or their designee shall conduct a final inspection of the facility to ensure that the facility is in compliance with this Article and Code of Ordinances prior to issuing a Certificate of Completion.

§9-355 Memorandum of understanding.

- A. *Memorandum required.* The service provider seeking a permit under this Article and, if the service provider does not own the property, the owner of the property where the emergency housing facility is proposed to be located shall enter a memorandum of understanding with the City before a permit is issued and at the beginning of construction and/or operation of the temporary emergency housing facility. The memorandum of understanding will address issues that will protect the public health and safety of both the residents of the temporary emergency housing facility and the residents of the City.

- B. *Minimum Requirements.* At a minimum, the memorandum of understanding must include information regarding:
 - (1) *Number of Facility Occupants.* The maximum number of occupants permitted at a facility at any one time will be agreed to through the memorandum of understanding. In reviewing the proposed number of occupants, the following factors will be considered.
 - (a) Facility location.
 - (b) Level of on-site and/or 24-hour staffing.
 - (c) Facility layout.
 - (d) Access to transit and adjacent services and/or daily needs.
 - (e) Capacity of service provider.
 - (f) Phasing details. If a phased approach to occupancy or development is planned, each phase must be detailed in the facility plan, and the needed capacity of the service provider (budget, staff, etc.) for each phase detailed.
 - (g) All other provisions of the memorandum of understanding regarding management, operations, and community living guidelines.
 - (2) How the residents will be able to access social services on the site of the facility.
 - (3) Contact information for the person responsible for managing the temporary emergency housing facility. The service provider shall immediately update the Director of the Department of Community Planning and Economic Development with this information in the event the manager or their contact information changes.
 - (4) A plan for management, operations, and community living guidelines of the facility, including the following:
 - (a) Minimum/maximum length of stay.
 - (b) Termination of occupancy policy.

- (c) Warning and infraction policy.
 - (d) Code of conduct.
 - (e). Community agreement.
 - (f) Bicycle or Vehicle allowance and parking.
 - (g) Pet allowances, including type and number permitted, pet registration, and veterinary care.
 - (h) Quiet hours.
 - (i) The security measures that will be implemented at the facility, including but not limited to 24-hour staffing, secured entrances, or controlled access management.
 - (j) How the shelters and the immediate space surrounding each shelter will be maintained between occupants, including but not limited to cleaning and review of all mechanical equipment and other elements to ensure that the equipment and elements are in a safe and operable condition.
 - (k) How the shelters and the immediate space surrounding each shelter will be maintained when occupants are not turning over, including but not limited to the interval for cleaning and/or review of mechanical equipment and other elements to ensure safe and operable condition.
 - (l) How the facility will be maintained through inclement weather to ensure emergency access.
 - (m) A plan for the collection and sharing of incidents/accident reports and resulting action plan(s) to mitigate future incidents and accidents.
 - (n) How the residents can directly interact with the service provider, including how residents can express concerns regarding the management of the facility to the service provider.
- (5) An acknowledgement that the service provider work with the local agencies administering the homeless client management information system.
 - (6) An acknowledgement that the service provider will not refuse to host any resident or prospective resident because of age, sex, marital status, sexual orientation, race, creed, color, gender identity, national origin, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a service animal by a person with a disability

- (7) An acknowledgement of the termination date of this Article set forth at § 9-357 and a plan for removing the temporary emergency shelters, service amenity structures, other infrastructure, and refuse, junk, and debris from the facility.
- (8) An acknowledgement that the management and operation of the temporary housing facility will be made consistent with Chapter 18 "Nondiscrimination" of this Code of Ordinances.
- (9) An acknowledgment that the Director of Community Planning and Economic Development or their designee may from time to time inspect the temporary housing facility to ensure compliance with this Article and Code of Ordinances consistent with § 9-356(L).
- (10) An acknowledgement by the service provider that it will be solely responsible for the management and operation of the temporary emergency housing facility, will assume all liability in connection with the management and operation of the temporary emergency housing facility, and will indemnify and hold the City of Kalamazoo harmless from all liability, expense, judgement, suit, cause of action, or demand for personal injury, death, or damage to property caused by the service provider, its employees, agents, assignees, or occupants of the temporary housing facility, or that otherwise arise in connection with the management and operation of the temporary housing facility.
- (11) An acknowledgement by the property owner that the property owner will indemnify and hold the City of Kalamazoo harmless from all liability, expense, judgement, suit, cause of action, or demand for personal injury, death, or damage to property caused by the property owner, its employees, agents, and assignees.
- (12) An acknowledgment that the service provider owns and controls the property where the proposed temporary emergency housing facility is to be located with documentation verifying that acknowledgement attached to the memorandum of understanding. Alternatively, an acknowledgement by the service provider and the property owner that the service provider is authorized to locate and operate a temporary emergency housing facility on the property where the proposed temporary housing facility is proposed to be located with documentation verifying that acknowledgement attached to the memorandum of understanding.
- (13) An acknowledgement by the service provider and the property owner that in all respects in connection with the construction, operation, and management of the temporary emergency housing facility the service provider and property will comply with the Kalamazoo City Code.
- (14) Memorandum of Understanding Approval.
 - (a) The memorandum of understanding must be signed by an authorized representative of the service provider and the property owner, and the Kalamazoo City Manager or the designee of the City Manager.

- (b) For all facilities with more than twenty (20) shelters, staff will present the memorandum of understanding for informational purposes to the City Commission.

§ 9-356 Temporary emergency housing facilities and temporary emergency shelters.

The following provisions apply to temporary emergency housing facilities and temporary emergency shelters:

- A. *Location.* Temporary emergency housing facilities and temporary emergency shelters must be located on property owned or controlled by a service provider granted a permit under this Article.
- B. *Quantity of Units & Phasing.* Any temporary emergency housing facilities planned to have more than twenty (20) shelters will take a phased approach to occupancy or development.
 - (1) Phasing plans for shelter residents, service amenities, and/or other improvements will be detailed in the initial Facility Plan and MOU, including the proposed budget and staffing capacity of the service provider for each additional phase.
 - (2) The initial phase may include up to twenty (20) shelter occupants.
 - (3) Each subsequent phase after the initial phase may include up to another twenty (20) shelters occupants, the quantity per phase will be detailed in the MOU.
 - (4) *Timing for Additional Phases.*
 - (a) The second phase may be installed after one (1) passed inspection (see N. Inspections below) and a period of no less than 180 days.
 - (b) Each additional phase may be installed after one (1) passed inspection and an additional period of not more than 180 days.
 - (5) Address identification shall be provided in approved locations to facilitate emergency response.
- C. *Construction and compliance with Codes.* Temporary emergency shelters shall have a means of heating the shelter and the shelter must be constructed or installed, and any utilities and cooking facilities provided to the shelter must be connected, consistent with the building, mechanical, electrical, and fire codes of this Code of Ordinances.
- D. *Improved Surface.* A temporary emergency housing facility will provide improved surfaces for ingress and egress, and for parking areas and walkways within the facility.
- E. *Distance between shelters and structures.* If a shelter or structure is under 200 square feet in area, a separation distance of 10' will be required between the shelter or structure and another shelter or structure. The distance between shelters or structures 200 square feet or larger and another shelter or structure shall be determined as provided in the

Building Code. Shelters and structures shall be setback at least 20 feet from the property line of the lot upon which they are located.

- F. *Shelter Occupancy.* The permitted occupancy of each shelter will be based upon manufacturer or design specifications.
- G. *Doors, windows, and locks.* Doors and windows of the temporary emergency shelter must be included and be lockable. The service provider shall possess keys to each temporary emergency shelter and temporary service structure. These keys must be kept in a knoxbox or other secured key vault with access provided to the Kalamazoo Department of Public Safety.
- H. *Fire Extinguisher.* Every temporary emergency structure and shelter shall have its own fire extinguisher and smoke detector.
- I. *Cooking.* Cooking within a shelter is prohibited unless the shelter is equipped with cooking facilities and has approved temporary connections to municipal water, sewer, and electrical utilities. An electric kettle that can only be used for the heating of water and a coffee maker are permitted.
- J. *Outdoor Storage of Personal Items.* Outdoor storage of personal items is not permitted, except for personal vehicles or bicycles which are permitted in designated parking areas.
- K. *Temporary Service structures and service amenities.* If the temporary emergency shelters in the temporary housing facility are not connected to a municipal water and sewer system the service provider shall make available service amenities including restrooms, handwashing stations, shower and bathing facilities, and potable running water, including accommodations for black water, sufficient for the number of persons that may be accommodated by the temporary housing facility. Adequate service amenities may be inside a temporary service structure or an existing structure onsite, or may be portable facilities, provided that those facilities are available at all times of day and night.
- L. *Temporary Service Structures for Social Services.* The service provider may utilize a temporary service structure or portion of an existing structure on site for the provision of social services to residents of the temporary emergency housing facility.
- M. *Legal limitations of property owners and individuals seeking temporary shelter.* Nothing in the Article shall be construed as:
 - (1) Authorizing a continuing nonconforming use under City zoning ordinance; the use of property for a temporary emergency housing facility is authorized under the City's police powers and does not grant the property owner any future right to maintain the use otherwise in violation of the City Zoning Code,
 - (2) Granting a person using and occupying a temporary emergency shelter a right of tenancy; the use of shelter under this Article is a revocable license and does not grant any property or tenancy rights.

N. *Inspections.* The Building Official, City Planner, and/or their designee will inspect the temporary emergency housing facility, temporary emergency shelters, and temporary service structures to ensure compliance with the Memorandum of Understanding, this Article, and Code of Ordinances.

- (1) Inspections will occur at intervals no greater than 180 days.
- (2) Notice of the need to schedule inspections will be given to the person responsible for managing the temporary housing facility via email and telephone using the contact information provided by the service provider.
- (3) A new Certificate of Completion will be granted to the service provider with each inspection passed.

§ 9-357 Termination or Revocation.

This Article will terminate and no longer remain in effect after April 30, 2029. Upon termination of this Article, or revocation of a permit pursuant to § 9-358, any person or entity operating a temporary emergency housing facility shall immediately remove all temporary emergency shelters, temporary support structures, support amenities and related infrastructure, along with all refuse, junk, and debris from the premises where the temporary emergency housing facility is situated. The removal of any building or structure that existed prior to the establishment of the temporary housing facility will not be required. Failure to remove such items as required by this section shall be deemed a public nuisance. The provisions of this section notwithstanding, the temporary emergency housing facility may continue operation upon the termination of this Article if then authorized by another provision of this code.

§ 9-358 Penalties.

Any violation of this Article, including a failure to carry out any of the terms and provisions of the memorandum of understanding, will be grounds for revocation by the Director of the Department of Community Planning and Economic Development of a permit issued pursuant to § 9-353, and is a municipal civil infraction punishable by a fine of \$500.00 which may be levied against the service provider and property owner, and/or any owner, president, legal representative, director, board member, or manager of the service provider or property owner. Each day of unlawful operation constitutes a new and separate offense.

Section 2. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, said portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 3. Effective Date.

Pursuant to Section 13(b) of the City Charter, upon an affirmative of 5 votes of the City Commission this emergency ordinance shall take immediate effect on the date of its passage.

CERTIFICATE

The foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Kalamazoo at a regular meeting held on October 16, 2023. Public notice was given, and the meeting was conducted in full compliance with the Open Meetings Act, (PA 267,1976). Minutes of the meeting will be available as required by the Act, and the ordinance was duly recorded, posted, and authenticated by the Mayor and City Clerk as required by the Charter of said City.

David F. Anderson, Mayor

Scott A. Borling, City Clerk