

CITY OF KALAMAZOO, MICHIGAN

ORDINANCE NO. 1844

**AN ORDINANCE TO AMEND CHAPTER 18B,
KALAMAZOO TRANSPORTATION CENTER ORDINANCE OF THE CITY OF
KALAMAZOO**

THE CITY OF KALAMAZOO ORDAINS:

Section 1. Sections 18B-1 through 18B-3 of the Kalamazoo City Code are repealed.

Section 2. Sections 18B-1 through 18B-3 of the Kalamazoo City Code are reenacted and Sections 18B-4 and 18B-5 are added to read as follows:

“Sec. 18B-1. Name

This Chapter shall be known as the “Kalamazoo Transportation Center Ordinance of the City of Kalamazoo.

Sec. 18B-2. Definitions

- A. “City Manager” means City Manager of the City of Kalamazoo or the designee of the City Manager.
- B. “Dangerous Weapon” means a loaded or unloaded firearm, whether operable or inoperable, a knife with a blade over 3 inches in length, a knife opened by a mechanical device, brass knuckles, and similar objects or devices.
- C. “Director of the KTC” means the person holding that title, and any other person in charge of the day-to-day operations of the KTC, or their designees.
- D. “Intracity bus” means a bus that operates only in Kalamazoo County.
- E. “Intercity bus” means a common carrier, such as Greyhound or Indian Trails;
- F. “Kalamazoo Transportation Center” (“KTC”) means the premises and grounds located at 459 N. Burdick Street, Kalamazoo, Michigan; for the purposes of this ordinance it shall more specifically include the area within the following boundaries:

1. On the east and west, inside the existing sidewalks;
 2. On the north, south of the existing building that lies immediately to the north of the railroad tracks; and
 3. On the south, within the existing fencing or, where there are gaps in the fencing, the imaginary line between the existing fencing.
- G. "Smoke" means the possession by a person of a lighted cigar, cigarette, pipe or other lighted smoking device."

Sec. 18B-3. Prohibitions and Consequences

- A. No person shall be or remain upon the KTC premises unless:
1. intending to depart on a train or a intercity or intracity bus, scheduled to depart within sixty minutes, in which case said person shall depart on the next departing train or bus for the destination of interest;
 2. waiting for a passenger on an arriving train or intercity bus scheduled to arrive within the next sixty minutes;
 3. accompanying a person intending to depart on a train or intercity bus scheduled to depart within the next sixty minutes; or
 4. using one of the businesses found within the KTC building, in which case said person must conduct their business in a reasonable time, then depart the KTC building as soon the business transaction is concluded, (unless allowed to remain at the KTC by other provisions of this Chapter, such as departing on a train, etc).
- B. Upon request from a Kalamazoo Public Safety Officer, having probable cause to believe that a violation of this Chapter or other City ordinance has occurred, a person upon the KTC premises shall provide information establishing that their presence complies with this ordinance. Persons unable or unwilling to provide such information may be directed by the Public Safety Officer to leave the premises. Failure to immediately leave the KTC premises as directed by a Public Safety Officer is a misdemeanor.

- C. Persons otherwise lawfully upon the KTC premises shall not:
1. obstruct entrances and exits to the KTC building or rooms within the building;
 2. operate any sound-producing or sound amplifying device unless headphones are used;
 3. be barefooted or shirtless;
 4. possess a dangerous weapon unless in possession of a permit to do so, or otherwise permitted by law;
 5. sleep or lie down on benches, chairs or the floor;
 6. ride a bicycle, cause a bicycle to be inside the KTC building, or cause a bicycle to remain at the KTC premises for more than twenty-four hours; bicycles that remain at the KTS premises in excess of twenty-four hours shall be deemed abandoned and may be removed by the City;
 7. use the restroom facilities for other than for customary restroom purposes, which purposes do not include, among others, the use of sinks, toilets or other sources of water for bathing or the washing of clothing;
 8. smoke;
 9. consume or possess alcoholic beverages for which the container's seal has been broken;
 10. use or occupy an area in violation of a posted sign regarding permitted or prohibited uses of said area;
 11. leave a bag or similar container of personal belongings outside their immediate control and possession;
 12. Solicit money or objects of value in any manner, including but not limited to as addressed in section 22-18 of the Kalamazoo City Code, or offer to others goods or services, including entertainment, whether or not compensation or donation is sought;
 13. Fight, quarrel or create a disturbance, as addressed in sections 22-30 and 22-50 of the Kalamazoo City Code;

14. be accompanied by any animal except for leader dogs for the blind, hearing dogs for the deaf, service dogs for disabled persons, or when secured in a transportable cage.
 15. Distribute literature or solicit signatures unless outside and to the south of the KTC building and more than 15 feet from any door to the KTC building or to any bus.
- D. The KTC Director or any Public Safety Officer who has probable cause to believe that a person has, within the preceding year, violated one of more of the provisions of this Chapter, or that a person, while on KTC premises or on a bus or train that stops at the KTC, has violated any other criminal ordinance or statute, may issue to the person a written statement indicating that the person is banned from the KTC premises and or a City bus;
- E. Any person who violates one or more of the provisions above shall be deemed guilty of a misdemeanor. In the event that a person is convicted of a violation of any provision of this Chapter, the court may, as part of any sentence imposed for such an offense, prohibit the person from being upon the KTC premises.

Sec. 18B-4. Hearings and Appeals.

- A. The following process shall apply to the banning of a person from the KTC premises:
1. A written ban shall be provided to the affected person, specifying the ban's duration and describing the nature of the violation;
 2. The duration of a ban imposed by the Director of the KTC or a Public Safety Officer shall not be for more than one year.
 3. Unless otherwise indicated, a ban shall not bar the person from riding an intracity bus, only from being upon the KTC premises;
- B. A person who has received a ban from a Public Safety Officer may request a hearing before the Director, and a person who has received a ban from the Director may request a hearing before the City Manager, subject to the following provisions:

1. the request for a hearing shall be in writing, filed during either the duration of the ban or within fourteen days of the issuance of the ban, whichever period is shorter, at the office of the Director;
 2. said hearing shall occur within five business days of said filing;
 3. the hearing officer shall admit evidence of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs;
 4. the party requesting the hearing may be represented by an attorney and, in the case of a minor, he or she shall be represented by an attorney or his or her parent or legal guardian;
 5. the burden of proof shall lie with the Public Safety Officer to show by substantial evidence that the person banned from the KTC violated a provision of this Chapter;
 6. within three business days of the hearing, the hearing officer shall issue a written decision affirming, reversing or modifying the ban;
- C. A person aggrieved by the hearing officer's decision upon the appeal of a ban imposed by a Public Safety Officer, or of a ban imposed by the Director, may appeal to the Kalamazoo County Circuit Court anytime within twenty-one days of the ban or decision. The circuit court shall review the record and decision to ensure that the decision:
1. complies with the Constitution and laws of the state;
 2. complies with the requirements of this Chapter;
 3. is supported by competent, material, and substantial evidence on the record; and
 4. represents the reasonable exercise of discretion granted by this Chapter to the hearing officer.
- D. If the court finds the record inadequate to make the review required by this Chapter or finds that additional material evidence exists that with good reason was not presented, the court shall order further proceedings on conditions that the court considers

proper. The hearing officer may modify his or her findings and decision as a result of the new proceedings or may affirm the original decision. The supplementary record and decision shall be filed with the court. The court may affirm, reverse, or modify the decision.

- E. A person prohibited to be on the KTC premises by either a ban or a court order shall not be upon said premises for the duration of the ban or court order.

Sec. 18B-5. Designation as a Non-Public Forum

The KTC is intended to accommodate and provide security for the traveling public. Access to the KTC by other persons is restricted to further those purposes. In light of these purposes, the City designates the KTC as a non-public forum with the intention of limiting, consistent with applicable First Amendment jurisprudence, expressive activity and other conduct permitted on the premises.

Section 3. Repealer.

All former ordinances or parts of ordinances conflicting or inconsistent with the provisions of this ordinance are hereby repealed.

Section 4. 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 5. Effective Date.

Pursuant to Section 13(a) of the City Charter, this ordinance shall take effect from and after 10 days from 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 July 21, 2008. 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.