

AN ORDINANCE AMENDING CHAPTER 9.16, "OFFENSES BY OR AGAINST PUBLIC OFFICERS AND GOVERNMENT," OF THE CODE OF THE CITY OF NORTH KANSAS CITY, MISSOURI, BY CREATING A NEW SECTION 9.16.025, PROHIBITING ESCAPES AND WALKAWAYS WHILE IN LAWFUL CUSTODY.

WHEREAS, the City of North Kansas City, Missouri (the "**City**") is a body corporate, a third class city and political subdivision of the State of Missouri, duly created, organized and validly existing under and by virtue of the Constitution and laws of the State of Missouri; and

WHEREAS, the Legislature of the State of Missouri has in MO. REV. STAT. § 77.590, authorized local governmental units, including the City, to enact any ordinance to maintain the peace and welfare of the City and, therefore, this statutory grant of authority allows the City to exercise general police powers and to pass ordinances for the welfare and safety of its citizens; and

WHEREAS, the City Council desires to prohibit escapes and walkaways of those individuals who are in lawful custody.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH KANSAS CITY, MISSOURI, AS FOLLOWS:

Section 1. Chapter 9.16, "Offenses By or Against Public Officers and Government," of Title 9, "Public Peace, Morals and Welfare," of the Code of the City of North Kansas City, Missouri (the "**City Code**"), is hereby amended by adding a new section thereto, which shall read and provide as follows:

9.16.025 Escapes, walkaways and failures to return.

A. *Definitions.* For purposes of this section, the following terms shall have the meanings given in this subsection:

1. Escape means the unauthorized departure of a prisoner, in lawful custody, from a correctional facility compound, or in transit to the compound.

2. Walkaways and failure to return mean the unauthorized departure of a prisoner from any supervised or unsupervised assignment outside the correctional facility, or failure to return from any authorized absence from the correctional facility, *i.e.*, work release, hospital visit and outside work activity.

B. If any person, in lawful custody, shall escape, walk away, fail to return, or attempt to escape, walk away or fail to return, it shall be deemed *prima facie* evidence of an ordinance violation.

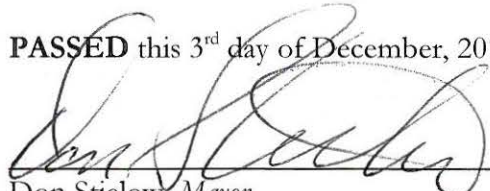
C. If any person shall assist, or attempt to assist, the escape, walk away or failure to return of a prisoner, in lawful custody, shall be prima facie evidence of an ordinance violation and may be arrested without warrant by the police.

Section 2. **Severability.** The sections, paragraphs, sentences, clauses and phrases of this ordinance shall be severable. In the event that any such section, paragraph, sentence, clause or phrase of this ordinance is found by a court of competent jurisdiction to be invalid, the remaining portions of this ordinance are valid, unless the court finds the valid portions of this ordinance are so essential to and inseparably connected with and dependent upon the void portion that it cannot be presumed that the City has enacted the valid portions without the void ones, or unless the court finds that the valid portions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

Section 3. **Governing Law.** This Ordinance shall be governed exclusively by and construed in accordance with the applicable laws of the State of Missouri.

Section 4. **Effective Date.** This Ordinance shall be in full force and effect, after compliance with all governing laws, rules and regulations, upon passage by the City Council and approval by the Mayor.

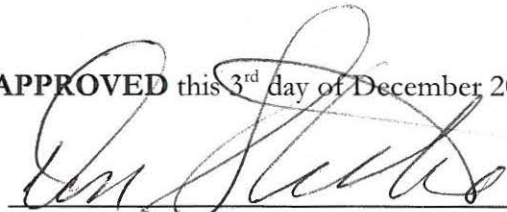
PASSED this 3rd day of December, 2019.


Don Stielow, Mayor

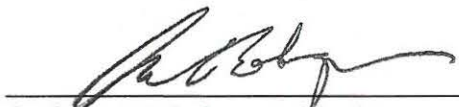
ATTEST:


Crystal Doss, City Clerk

APPROVED this 3rd day of December 2019.


Don Stielow, Mayor

APPROVED AS TO FORM:


Anthony W. Bologna, City Attorney


Thomas E. Barzee, Jr., City Counselor

MEMORANDUM



TO: Mayor Stielow and City Council

FROM: Chief Steve Beamer

DATE: December 3, 2019

RE: Ordinance - Escapes, Walkaways, Failures to Return

An issue has been identified that needs to be addressed. There has been an increase in recent months in the number of individuals who, after being arrested and transported to the North Kansas City Police detention facility, suddenly claim they have some illness and need to go to the hospital. While some of these may be legitimate illnesses, the majority are subjects who see the hospital as an option to avoid jail.

There are circumstances where the police will remain with the prisoner until the medical evaluation is complete. However, due to staffing limitations and the time that it may take to have a prisoner/patient evaluated in the emergency room, normal protocol is to place hold on the subject with the hospital security staff and then leave. There is then a likelihood that the prisoner will just walk out of the hospital. When we are notified in a timely manner, we will look for the subject and take them back into custody if they are located.

Currently, the City does not have an ordinance that addresses escape from custody in the jail environment or situations like the one described in this memo. City staff has prepared an ordinance for the Council's consideration that will allow additional charges to be filed against a subject who leaves a facility without authorization and fails to return to the detention facility. Staff recommends that the ordinance be adopted.