

(150004) Published in the Wichita Eagle on March 12, 2010

ORDINANCE NO. 48-635

AN ORDINANCE AMENDING THE SECTIONS LISTED BELOW OF THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE (JULY 9, 2009 EDITION), AS ADOPTED BY REFERENCE IN THE CITY OF WICHITA CODE SEC. 28.04.010 BY ORDINANCE NO. 48-451, IN SECTION II-B.4.1, SECTION II-B.9.b, SECTION II-B.13.c -k, SECTION III-B.12.b(3); SECTION III-B.14.b(3), SECTION III-B.16.b(3), SECTION III-B.19.b(3), SECTION III-B.20.b(3), and SECTION III-B.21.b(3); SECTION III-C.1.c(3), SECTION III-C.6.b; SECTION III-D USE REGULATION SCHEDULE, SECTION III-D.6.w, SECTION III-E.1.e.(1)(a), AND SECTION III-E.1.e.(1)(b), PERTAINING TO ENTERTAINMENT ESTABLISHMENT IN THE CITY, EVENT CENTER IN THE CITY AND TEEN CLUB IN THE CITY, TO AMEND DISTANCE REQUIREMENTS FROM 200 TO 300 FEET FOR TAVERNS, DRINKING ESTABLISHMENTS, NIGHTCLUBS IN THE CITY AND ENTERTAINMENT ESTABLISHMENTS IN THE CITY WHEN CONSIDERED NIGHTCLUBS AND TO ESTABLISH DISTANCE REQUIREMENTS OF 200 FEET FOR ENTERTAINMENT ESTABLISHMENTS NOT CONSIDERED NIGHTCLUBS IN THE CITY, EVENT CENTERS OR TEEN CLUBS, TO SCREENING AND FENCING IN SETBACKS AND MINOR CORRECTIONS.

WHEREAS, under the authority of K.S.A. 12-741, et seq., the City of Wichita desires to adopt amendments to the Wichita-Sedgwick County Unified Zoning Code to amend regulations for certain districts, including Entertainment Establishments in the City, Event Center in the City, Teen Club in the City, Tavern and Drinking Establishments, to amend landscape, fencing and screening features allowed within certain setbacks and to make minor corrections; and

WHEREAS, by K.S.A. 12-770, the City of Wichita may adopt reasonable regulations for the development and operation of these uses and features allowed within setbacks; and

WHEREAS, the governing body of the City of Wichita finds and determines that the regulations set forth in this ordinance are reasonable regulations for the development of these uses and features allowed within setbacks;

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA:

SECTION 1. Section II-B.4.1 of the Wichita-Sedgwick County Unified Zoning Code (July 9, 2009 Edition) as adopted by reference in Code Section 28.04.010 by Ordinance No. 48-451, is hereby amended as follows:

Entertainment Establishment(s) in the City means any Event Center or any person or entity that provides entertainment as defined by Chapter 3.30 of the Code of the City of Wichita or any person or entity that provides a venue for any such entertainment. For purposes of this Code, Entertainment Establishment(s) in the City where the establishment is licensed to sell alcoholic liquor or cereal malt beverage or if alcoholic liquor or cereal malt beverage will be offered, consumed or served on the premises shall be considered a Nightclub in the City.

SECTION 2. Section II-B.9.b of the Wichita-Sedgwick County Unified Zoning Code (July 9, 2009 Edition) as adopted by reference in Code Section 28.04.010 by Ordinance No. 48-451, is hereby amended as follows:

Nightclub in the City means an establishment located in the City that provides entertainment, which may include the provision of dancing by employees or patrons, and where cereal malt beverage or alcoholic liquor are offered, consumed or served to the public or its members, and which may or may not serve food. When the Nightclub in the City qualifies as an "Adult Entertainment Establishment" under Chapter 3.05 of the Code of the City of Wichita, its Uses shall be governed in this Code by the requirements for "Sexually Oriented Businesses in the City."

SECTION 3. Section II-B.13.c-k of the Wichita-Sedgwick County Unified Zoning Code (July 9, 2009 Edition) as adopted by reference in Code Section 28.04.010 by Ordinance No. 48-451, is hereby amended to read as follows:

- c. **Teen Club in the City** means any building or part or other enclosed place where a teen dance is held or teen dancing is permitted as defined in Sec. 3.30.020 of the Code of the City of Wichita.
- d. **Trailer** means every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a Motor Vehicle.
- e. **Transfer Station** means any enclosed facility where solid wastes are transferred from one vehicle or rail car to another or where solid wastes are stored and consolidated before being transported for disposal elsewhere.
- f. **Transient Guest** means a person who occupies a room for a period of less than one week at a time.
- g. **Underlying District** means the existing base zoning district classification that is applied to land in an Overlay District.
- h. **University or College** means an institution of higher education (post High School) offering undergraduate or graduate degrees in higher learning, including seminaries.
- i. **Use** means the purpose for which land or a Building is arranged, designed or intended, or for which either land or a Building is or may be occupied or maintained.
- j. **Utility, Major** means generating plants; electrical switching facilities and primary substations; water and wastewater treatment plants; water tanks; and radio, television and microwave transmission towers; and similar facilities of agencies that are under public franchise or ownership to provide the general public with electricity, gas, heat, steam, communication, rail transportation, water, sewage collection or other similar service. The term Utility, Major shall not be construed to include corporate or general offices; gas or oil processing; manufacturing facilities; postal facilities, communication switching facilities that are accompanied by office uses, telecommunication carrier with transmission equipment for long-distance calls and high-speed Internet connections with one or more telecommunication carrier located within a Building, or other uses defined in this section.

- k. **Utility, Minor** means services and facilities of agencies that are under public franchise or ownership to provide services that are essential to support development and that involve only minor Structures, such as poles and lines, and Structures not exceeding 150 cubic feet in size and six feet in height that do not generate discernable noise, odor or vibration within any nearby residential District, and that comply with the Setback requirements of the District in which they are located.

SECTION 4. Section III-B.12.b(3) of the Wichita-Sedgwick County Unified Zoning Code (July 9, 2009 Edition) as adopted by reference in Code Section 28.04.010 by Ordinance No. 48-451, is hereby amended as follows:

Automated Teller Machine

SECTION 5. Section III-B.14.b(3) of the Wichita-Sedgwick County Unified Zoning Code (July 9, 2009 Edition) as adopted by reference in Code Section 28.04.010 by Ordinance No. 48-451, is hereby amended to add as follows:

Entertainment Establishment in the City, subject to Sec. III-D.6.w
Event Center in the City, subject to Sec. III-D.6.w
Teen Club in the City, subject to Sec. III-D.6.w

SECTION 6. Section III-B.16.b(3) of the Wichita-Sedgwick County Unified Zoning Code (July 9, 2009 Edition) as adopted by reference in Code Section 28.04.010 by Ordinance No. 48-451, is hereby amended to add as follows:

Entertainment Establishment in the City, subject to Sec. III-D.6.w
Event Center in the City, subject to Sec. III-D.6.w
Teen Club in the City, subject to Sec. III-D.6.w

SECTION 7. Section III-B.19.b(3) of the Wichita-Sedgwick County Unified Zoning Code (July 9, 2009 Edition) as adopted by reference in Code Section 28.04.010 by Ordinance No. 48-451, is hereby amended to add as follows:

Entertainment Establishment in the City, subject to Sec. III-D.6.w
Event Center in the City, subject to Sec. III-D.6.w
Teen Club in the City, subject to Sec. III-D.6.w

SECTION 8. Section III-B.20.b(3) of the Wichita-Sedgwick County Unified Zoning Code (July 9, 2009 Edition) as adopted by reference in Code Section 28.04.010 by Ordinance No. 48-451, is hereby amended to add as follows:

Entertainment Establishment in the City, subject to Sec. III-D.6.w
Event Center in the City, subject to Sec. III-D.6.w
Teen Club in the City, subject to Sec. III-D.6.w

SECTION 9. Section III-B.21.b(3) of the Wichita-Sedgwick County Unified Zoning Code (July 9, 2009 Edition) as adopted by reference in Code Section 28.04.010 by Ordinance No. 48-451, is hereby amended to add as follows:

| | | ZONING DISTRICTS | | | | | | | | | | | | | | | | | | | |
|-------------------------|---|------------------|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|------------|
| USE TYPE | | S | S | | | M | M | | | | | | | | | | | | | | |
| | | F | F | S | T | F | F | | | | | | | | I | | | | | A | |
| | | R | 2 | 1 | F | F | 1 | 2 | | M | N | G | N | L | | P | | C | L | F | |
| | R | 0 | 0 | 5 | 3 | 8 | 9 | B | H | O | O | R | C | W | C | A | P | D | I | I | B |
| | | | | | | | | | | | | | | | | | | | | | conditions |
| Teen Club in the City | | | | | | | | | | | | | | P | P | | | P | P | P | P |
| Vehicle Repair, General | | | | | | | | | | | | | | | P | | | P | P | P | P |

SECTION 13. Section III-D.6.w of the Wichita-Sedgwick County Unified Zoning Code (July 9, 2009 Edition) as adopted by reference in Code Section 28.04.010 by Ordinance No. 48-451, is hereby amended as:

Taverns and Drinking Establishments; clubs, Nightclubs in the City and Entertainment Establishments in the City. Although listed as permitted Uses in some Districts, Taverns, Drinking Establishments, clubs, Nightclubs in the City and Entertainment Establishments in the City, when considered Nightclubs in the City, shall be considered Conditional Uses and subject to Sec. V-D (Conditional Use review procedures) when located within 300 feet of a Church or Place of Worship, public Park, public or parochial School or residential zoning District. Event Centers in the City, Teen Clubs in the City and Entertainment Establishments, when not considered as Nightclubs in the City, shall be considered Conditional Uses and subject to Sec. V-D (Conditional Use review procedures) when located within 200 feet of a Church or Place of Worship, public Park, public or parochial School or residential zoning District. These distances shall be measured from the nearest Lot Line of the Church or Place of Worship, public Park, public or parochial School or residential zoning District to the nearest Lot Line of the premises on which the Tavern, Drinking Establishment, club, Nightclub, Entertainment Establishment, Event Center or Teen Club is located or of any Parking Area designated to be used by the patrons of such businesses, whichever is closest. For purposes of this measurement, the required Parking Spaces for such a business located within a multi-tenant Structure or shopping center are those located nearest the public entrance to the business. "Establishment" of any Tavern, Drinking Establishment, club Nightclub business, Entertainment Establishment, Event Center or Teen Club shall be deemed to include the opening of such a business as a new business, the relocation of such businesses or the conversion of an existing business location to any such business use, or any expansion of such a business beyond the existing square footage of the premises. Nightclubs in the City that qualify as Sexually Oriented Businesses in the City shall be permitted Uses in those districts that allow Sexually Oriented Businesses in the City, if the location of the operation is no less than 500 feet from a Church or Place of Worship, School, public Park, licensed Day

Care center, the boundary of any residential District, the boundary of the OT-O District, or any other Sexually Oriented Business.

SECTION 14. Section III-E.1.e(1)(a) of the Wichita-Sedgwick County Unified Zoning Code (July 9, 2009 Edition) as adopted by reference in Code Section 28.04.010 by Ordinance No. 48-451, is hereby amended as:

Trees, shrubbery or other features of natural growth; except that, within the City and those portions of the County along urban standard roads (curbs and gutters), when shrubbery or other features of natural growth have more than 80 percent opacity, the maximum height along the side Lot Line shall not exceed three feet within 20 feet of its intersection with the street right-of-way line, and further that along any Lot Line within 20 feet of the intersection of the street right-of-way with an ingress/egress driveway, the maximum height shall not exceed three feet.


SECTION 15. Section III-E.1.e(1)(b) of the Wichita-Sedgwick County Unified Zoning Code (July 9, 2009 Edition) as adopted by reference in Code Section 28.04.010 by Ordinance No. 48-451, is hereby amended as:

Fences or Screening Walls that do not exceed eight feet in height as measured on the side of the Fence with the least vertical exposure above finished grade, except that, within the City and in those portions of the County along urban standard roads (curbs and gutters), for Fences or Screening Walls with more than 80 percent opacity, the maximum height along the side Lot Line shall not exceed three feet within 20 feet of its intersection with the street right-of-way line, and further that along any Lot Line within 20 feet of the intersection of the street right-of-way with an ingress/egress driveway, the maximum height shall not exceed three feet.


SECTION 16. This ordinance shall be included in the Code of the City of Wichita and shall be effective upon its adoption and publication once in the official City newspaper.


PASSED AND ADOPTED by the governing body at Wichita, Kansas,
this 9 day of March, 2010.




Carl Brewer, Mayor

ATTEST:


Karen Sublet, City Clerk


Gary E. Rebenstorf, City Attorney

AFFIDAVIT

STATE OF KANSAS \
- SS.
County of Sedgwick /

Mark Fletchall, of lawful age, being first duly sworn, deposeth and saith: That he is Record Clerk of The Wichita Eagle, a daily newspaper published in the City of Wichita, County of Sedgwick, State of Kansas, and having a general paid circulation on a daily basis in said County, which said newspaper has been continuously and uninterruptedly published in said County for more than one year prior to the first publication of the notice hereinafter mentioned, and which said newspaper has been entered as second class mail matter at the United States Post Office in Wichita, Kansas, and which said newspaper is not a trade, religious or fraternal publication and that a notice of a true copy is hereto attached was published in the regular and entire Morning issue of said The Wichita Eagle for 1 issues - weeks, that the first publication of said notice was

3023577

made as aforesaid on the 12th of

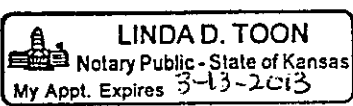
March A.D. 2010, with subsequent publications being made on the following dates:

And affiant further says that he has personal knowledge of the statements above set forth and that they are true.

Mark Fletchall

Subscribed and sworn to before me this

12th day of March, 2010



Linda D. Toon

Notary Public Sedgwick County, Kansas

Printer's Fee : \$288.00

LEGAL PUBLICATION

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SECTION 1. Section II-B.4.I of the Wichita-Sedgwick County Unified Zoning Code (July 9, 2009 Edition) as adopted by reference in Code Section 28.04.010 by Ordinance No. 48-451, is hereby amended as follows:

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SECTION 2. Section II-B.9.b of the Wichita-Sedgwick County Unified Zoning Code (July 9, 2009 Edition) as adopted by reference in Code Section 28.04.010 by Ordinance No. 48-451, is hereby amended as follows:

Nightclub in the City means an establishment located in the City that provides entertainment, which may include the provision of dancing by employees or patrons, and where cereal malt beverage or alcoholic liquor are offered, consumed or served to the public or its members, and which may or may not serve food. When the Nightclub in the City qualifies as an "Adult Entertainment Establishment" under Chapter 3.05 of the Code of the City of Wichita, its Uses shall be governed in this Code by the requirements for "Sexually Oriented Businesses in the City."

SECTION 3. Section II-B.13.c-k of the Wichita-Sedgwick County Unified Zoning Code (July 9, 2009 Edition) as adopted by reference in Code Section 28.04.010 by Ordinance No. 48-451, is hereby amended to read as follows:

- c. Teen Club in the City means any building or part or other enclosed place where a teen dance is held or teen dancing is permitted as defined in Sec. 3.30.020 of the Code of the City of Wichita.
d. Trailer means every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a Motor Vehicle.
e. Transfer Station means any enclosed facility where solid wastes are transferred from one vehicle or rail car to another or where solid wastes are stored and consolidated before being transported for disposal elsewhere.
f. Transient Guest means a person who occupies a room for a period of less than one week at a time.
g. Underlying District means the existing base zoning district classification that is applied to land in an Overlay District.
h. University or College means an institution of higher education (post High School) offering undergraduate or graduate degrees in higher learning, including seminaries.
i. Use means the purpose for which land or a Building is arranged, designed or intended, or for which either land or a Building is or may be occupied or maintained.
j. Utility, Major means generating plants; electrical switching facilities and primary substations; water and wastewater treatment plants; water tanks; and radio, television and microwave transmission towers; and similar facilities of agencies that are under public franchise or ownership to provide the general public with electricity, gas, heat, steam, communication, rail transportation, water, sewage collection or other similar service. The term Utility, Major shall not be construed to include corporate or general offices; gas or oil processing; manufacturing facilities; postal facilities, communication switching facilities that are accompanied by office uses, telecommunication carrier with transmission equipment for long-distance calls and high-speed internet connections with one or more telecommunication carrier located within a Building, or other uses defined in this section.
k. Utility, Minor means services and facilities of agencies that are under public franchise or ownership to provide services that are essential to support development and that involve only minor structures, such as poles and lines, and structures not exceeding 150 cubic feet in size and six feet in height that do not generate discernable noise, odor or vibration within any nearby residential district, and that comply with the setback requirements of the District in which they are located.

SECTION 4. Section III-B.12.b(3) of the Wichita-Sedgwick County Unified Zoning Code (July 9, 2009 Edition) as adopted by reference in Code Section 28.04.010 by Ordinance No. 48-451, is hereby amended as follows:

Automated Teller Machine
SECTION 5. Section III-B.14.b(3) of the Wichita-Sedgwick County Unified Zoning Code (July 9, 2009 Edition) as adopted by reference in Code Section 28.04.010 by Ordinance No. 48-451, is hereby amended to add as follows:

Entertainment Establishment in the City, subject to Sec. III-D.6.W
Event Center in the City, subject to Sec. III-D.6.W
Teen Club in the City, subject to Sec. III-D.6.W

SECTION 6. Section III-B.16.b(3) of the Wichita-Sedgwick County Unified Zoning Code (July 9, 2009 Edition) as adopted by reference in Code Section 28.04.010 by Ordinance No. 48-451, is hereby amended to add as follows:

Entertainment Establishment in the City, subject to Sec. III-D.6.W
Event Center in the City, subject to Sec. III-D.6.W
Teen Club in the City, subject to Sec. III-D.6.W

SECTION 7. Section III-B.19.b(3) of the Wichita-Sedgwick County Unified Zoning Code (July 9, 2009 Edition) as adopted by reference in Code Section 28.04.010 by Ordinance No. 48-451, is hereby amended to add as follows:

Entertainment Establishment in the City, subject to Sec. III-D.6.W
Event Center in the City, subject to Sec. III-D.6.W
Teen Club in the City, subject to Sec. III-D.6.W

SECTION 8. Section III-B.20.b(3) of the Wichita-Sedgwick County Unified Zoning Code (July 9, 2009 Edition) as adopted by reference in Code Section 28.04.010 by Ordinance No. 48-451, is hereby amended to add as follows:

Entertainment Establishment in the City, subject to Sec. III-D.6.W
Event Center in the City, subject to Sec. III-D.6.W

Teen Club in the City, subject to Sec. III-D.6.W
SECTION 9. Section III-B.21.b(3) of the Wichita-Sedgwick County Unified Zoning Code (July 9, 2009 Edition) as adopted by reference in Code Section 28.04.010 by Ordinance No. 48-451, is hereby amended to add as follows:

Entertainment Establishment in the City, subject to Sec. III-D.6.W
Event Center in the City, subject to Sec. III-D.6.W
Teen Club in the City, subject to Sec. III-D.6.W

SECTION 10. Section III-C.1.c(3) of the Wichita-Sedgwick County Unified Zoning Code (July 9, 2009 Edition) as adopted by reference in Code Section 28.04.010 by Ordinance No. 48-451, is hereby amended as:

The following otherwise applicable zoning standards and regulations may be varied or modified as part of the PUD plan approval and rezoning process, subject to the limitations imposed by Sec. III-C.1.c(2): Lot Area, Building Height, Setbacks, Open Space, off-street Parking and Loading Space, Sign, Screening, Landscaping and compatibility standards.

SECTION 11. Section III-C.6.b(2) and (3) of the Wichita-Sedgwick County Unified Zoning Code (July 9, 2009 Edition) as adopted by reference in Code Section 28.04.010 by Ordinance No. 48-451, is hereby amended as:

- (2) decreasing the number or average density of Dwelling Units that may be constructed on the Site;
(3) Increasing minimum Lot Area or Lot Width

SECTION 12. Section III-D Use Regulations Schedule of the Wichita-Sedgwick County Unified Zoning Code (July 9, 2009 Edition) as adopted by reference in Code Section 28.04.010 by Ordinance No. 48-451, is hereby amended to add the following uses:

Table with columns for ZONING DISTRICTS (SS, MM, FF, etc.) and rows for USE TYPE (Commercial, etc.)

Table showing zoning district permissions for Commercial uses like Entertainment Establishment and Event Center.

SECTION 13. Section III-D.6.W of the Wichita-Sedgwick County Unified Zoning Code (July 9, 2009 Edition) as adopted by reference in Code Section 28.04.010 by Ordinance No. 48-451, is hereby amended as:

Table with columns for ZONING DISTRICTS (SS, MM, FF, etc.) and rows for USE TYPE (Commercial, etc.)

Table showing zoning district permissions for Teen Club and Vehicle Repair, General.

Taverns and Drinking Establishments, clubs, Nightclubs in the City and Entertainment Establishments in the City. Although listed as permitted Uses in some Districts, Taverns, Drinking Establishments, clubs, Nightclubs in the City and Entertainment Establishments in the City, when considered Nightclubs in the City, shall be considered Conditional Uses in the City, and subject to Sec. V-D (Conditional Use review procedures) when located within 300 feet of a Church or Place of Worship, public Park, public or parochial School or residential zoning District. Event Centers in the City, Teen Clubs in the City and Entertainment Establishments, when not considered as Nightclubs in the City, shall be considered Conditional Uses and subject to Sec. V-D (Conditional Use review procedures) when located within 200 feet of a Church or Place of Worship, public Park, public or parochial School or residential zoning District.

SECTION 14. Section III-E.1.e(1)(a) of the Wichita-Sedgwick County Unified Zoning Code (July 9, 2009 Edition) as adopted by reference in Code Section 28.04.010 by Ordinance No. 48-451, is hereby amended as:

Trees, shrubbery or other features of natural growth; except that, within the City and those portions of the County along urban standard roads (curbs and gutters), when shrubbery or other features of natural growth have more than 80 percent opacity, the maximum height along the side Lot Line shall not exceed three feet within 20 feet of its intersection with the street right-of-way line, and further that along any Lot Line within 20 feet of the intersection of the street right-of-way with an ingress/egress driveway, the maximum height shall not exceed three feet.

SECTION 15. Section III-E.1.e(1)(b) of the Wichita-Sedgwick County Unified Zoning Code (July 9, 2009 Edition) as adopted by reference in Code Section 28.04.010 by Ordinance No. 48-451, is hereby amended as:

Fences or Screening Walls that do not exceed eight feet in height as measured on the side of the Fence with the least vertical exposure above finished grade, except that, within the City and in those portions of the County along urban standard roads (curbs and gutters), for Fences or Screening Walls with more than 80 percent opacity, the maximum height along the side Lot Line shall not exceed three feet within 20 feet of its intersection with the street right-of-way line, and further that along any Lot Line within 20 feet of the intersection of the street right-of-way with an ingress/egress driveway, the maximum height shall not exceed three feet.

SECTION 16. This ordinance shall be included in the Code of the City of Wichita and shall be effective upon its adoption and publication once in the official City newspaper.

PASSED AND ADOPTED by the governing body at Wichita, Kansas, This 9th day of March, 2010.

ATTEST: Karen Sublet, City Clerk
Carl Brewer, Mayor