

First Published in The Wichita Eagle on August 31, 2012

ORDINANCE NO. 49-335

AN ORDINANCE AMENDING SECTION 24.04.135, CREATING SECTION 24.04.215 AND REPEALING SECTION 24.04.210 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO ILLEGALLY PLACED TEMPORARY SIGNS ON PUBLIC RIGHT OF WAY.

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

SECTION 1. Sec. 24.04.135 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

**“Appeals.** Any person may appeal the determination of the superintendent of the office of central inspection as set forth in Section 24.04.130 by filing a notice of appeal.

(a) All appeals, except those in subsection (b), shall be referred by the superintendent of central inspection to the board of code standards and appeals for hearing on the matter in dispute.

(b) All appeals on matters arising under Sections 24.04.190, 24.04.191, 24.04.192, 24.04.193, 24.04.194, 24.04.195, 24.04.196, 24.04.197, 24.04.198, 24.04.215, 24.04.221, and 24.04.222 shall be filed with the board of zoning appeals for hearing. The board of zoning appeals is hereby granted jurisdiction to hear such matters in the same manner as all other appeals to such body.”

SECTION 2. Section 24.04.215 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Signs in the right of way or on public property.**

(a) An unauthorized temporary sign in the right of way or on public property is hereby declared to be a nuisance.

(b) The following acts are prohibited:

(1) No person shall place or cause the placement of a temporary sign in the right of way or on public property, including but not limited to any street, sidewalk, park, tree or utility poles. The act of placement will be deemed to continue until such sign is removed.

(2) Any temporary sign placed or installed in the right-of-way will be deemed an unlawful sign and an abandoned sign and will be subject to immediate removal by the City of Wichita, or as authorized in Section (e)(3) herein.

(3) The existence of a temporary sign in the right of way or on public property directing attention to a person is prima facie evidence that such person has caused the placement of such sign in the right of way or on public property.

(4) The existence of a temporary sign in the right of way or on public property directing attention to a business, product or service is prima facie evidence that the owner or the agent for the owner of that business, product or service caused the placement of such sign in the right of way or on public property.

- (5) The existence of a temporary sign in the right of way or on public property directing attention to an event is prima facie evidence that the promoter of that event or the agent for the promoter caused the placement of such sign in the right of way or on public property.
- (c) Exception. Temporary signs installed by any of the following and directly related to the use of the right-of-way or public property, including the control and direction of traffic shall be exempted from the provisions of subsections (a) and (b) :
- (1) City, county or state government entities;
  - (2) Any road construction work;
  - (3) Any public utility with a franchise or other agreement with the City of Wichita; or
  - (4) Any other government entity or person expressly authorized by local, state or federal law or contract to install a sign in the right-of-way.
- (d) Definitions.
- (1) Public property. Any land owned by the city, county, state or federal government.
  - (2) Right of way. The area on, below or above the present and future city streets, alleys, bridges, bikeways, parkways and sidewalks that is owned or controlled by the city, county, state or federal government.
- (e) Enforcement.

(1) Penalties. Any violation of this section may be prosecuted as a misdemeanor in municipal court. The penalty for the first violation of this section shall be fifty (\$50.00) dollars. The penalty for the second or subsequent violation of this section shall be a fine of not less than fifty (\$50.00) dollars but not more than one thousand (\$1,000.00) dollars for each sign.

(2) Other Remedies and Enforcement Powers.

a. The city, or its authorized representative as described herein, may remove any unauthorized sign in the right of way at any time.

b. The City may notify the presumed owner of the sign through the contact information on the sign (or through any other available information) that the owner has seventy-two (72) hours (or three (3) business days) to remove the sign before a citation may be issued. This seventy-two (72) hour (or three (3) business days) enforcement delay will not be offered to any person or business that has previously been notified regarding the sign at issue or any other sign.

c. Any temporary sign removed pursuant to which is six square feet or larger and composed entirely of metal or wood shall be kept by the City or other department designated to remove such sign for a period of twenty (20) days, after which it may be disposed of in any manner deemed appropriate by the city. All other signs removed pursuant to subsection (b) may be disposed of in any manner deemed appropriate by the city.

- d. Any such metal or wooden sign removed pursuant to subsection (b) may be recovered by the owner within twenty (20) days upon payment of a service charge of twenty-five (\$25.00) dollars per sign.

The city may seek such other remedies and use such other enforcement powers as allowed by law.

(3) Citizen enforcement.

- a. For any temporary sign posted in violation of this section, any individual authorized by the supervisor of the office of central inspection, after appropriate training provided by the City of Wichita, may:

- (i) remove the sign; and

- (ii) either:

- (A) discard the sign in an appropriate manner; or


- (B) submit the sign to the supervisor of the office of central inspection for further enforcement proceedings.

- b. A submission to the supervisor of the office of central inspection for further enforcement proceedings must be accompanied by an affidavit, in the form and tenor required by the department, that describes the circumstances of the violation and removal.”


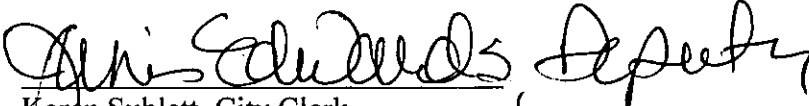
SECTION 3. The originals of Sections 24.04.135 and 24.04.210 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 4. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 28<sup>th</sup> day of August, 2012.

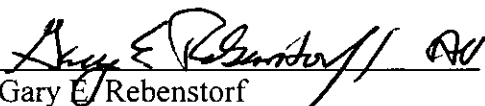
  
Carl Brewer, Mayor

ATTEST:

   
Karen Sublett, City Clerk

Approved as to Form:



  
Gary E. Rebenstorf  
Director of Law

**AFFIDAVIT**

STATE OF KANSAS \
- SS.
County of Sedgwick /

Mark Fletchall, of lawful age, being first duly sworn, deposes 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, that the first publication of said notice was

made as aforesaid on the 31st of

August A.D. 2012, 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

31st day of August, 2012

PENNY L. CASE
Notary Public - State of Kansas
My Appt. Expires 5/28/2014

Penny L Case
Notary Public Sedgwick County, Kansas

Printer's Fee : \$105.00

**LEGAL PUBLICATION**

PUBLISHED IN THE WICHITA EAGLE
ON AUGUST 31, 2012 (3204161)
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SECTION 3. The originals of Sections 24.04.135 and 24.04.210 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 4. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 28th day of August, 2012.

Carl Brewer, Mayor

ATTEST:

Karen Subiett, City Clerk

APPROVED AS TO FORM

Gary E. Rebersdorf
City Attorney