

10/27/2004

Published in the Wichita Eagle November 4, 2004

ORDINANCE NO. 46-396

AN ORDINANCE AMENDING SECTIONS 24.04.185 AND 24.04.222, AND REPEALING THE ORIGINALS OF SAID AMENDED SECTIONS; AND CREATING NEW SECTION 24.04.225, ALL IN THE CODE OF THE CITY OF WICHITA, KANSAS, AND PERTAINING TO THE SIGN CODE OF THE CITY OF WICHITA, KANSAS.

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

SECTION 1. Section 24.04.185 of the Code of the City of Wichita is hereby amended to read as follows:

24.04.185 Classifications and Definitions.

1. Classification of Signs. Signs shall be classified by the superintendent of central inspection in accordance with the following classifications and definitions:
 - a. Sign, Advertising Decoration. Various sign materials used for temporary display and decoration, including streamers, string pennants, pinwheels, bunting and other similar devices on which no advertising copy, logos, symbols or emblems are printed, painted or attached, and that also comply with Section 24.04.230 of this Code.
 - b. Sign, Animated. A sign depicting action, motion, light or color changes through electrical or mechanical means. Although technologically similar to flashing signs, the animated sign emphasizes graphics and artistic display and may include video displays.
 - c. Sign, Banner. An on-site sign on which advertising copy, logos, symbols or emblems may be printed, painted or attached, and which advertises goods or

services sold, produced or conducted on the premises, or a special event as referenced in 24.04.190(8); constructed of fabric or any non-rigid material with no fully enclosing framework; and designed to be attached securely at each end or corner of the banner sign to a wall, canopy, posts or stakes.

d. Sign, Building. An on-site sign attached to or painted onto a wall, awning, canopy, building or structure; or that is attached to, but not painted on, a roof structure or roof surface, the height of which shall not exceed the height of the roof or wall parapet, or of any of the following; (1) the highest point of the coping of a flat roof; (2) the deck line of a mansard roof; (3) the average height between the eaves and ridge line of a gable, hip or gambrel roof or (3) three feet above the finished roof deck if the average height of a gable, hip or gambrel roof is less than three feet above the bottom or lowest edge of the roofline; except that a building or structure that was constructed prior to May 4, 1990 that does not have an area at least three feet tall and twenty feet wide above an unglazed portion of the building elevation, the bottom of which is at least seven feet above grade, may have a building sign which shall not exceed four feet, six inches above the roof or parapet;

e. Sign, Bulletin Board. An on-site sign containing the name of the institution or organization, and may also include names of persons connected with it, announcements of persons, events or activities occurring at the institution. Such sign may also present a greeting or similar message;

f. Sign, Commercial Balloon. An on-site, temporary sign that is inflated and exceeds five square feet in area, designed to advertise a specific product or service sold, produced or conducted on the premises on which advertising copy, logos, symbols or emblems may or may not be printed, painted or attached. Commercial balloons may be tethered or mounted to a structure on the ground.

g. Sign, Commercial Flag or Pennant. An on-site sign on which advertising copy, logos, symbols or emblems may or may not be printed, painted or attached, and which advertises goods or services sold, produced or conducted on the premises, or any of the events referenced in 24.04.190(8); and constructed of fabric or any non-rigid material with no fully-enclosing framework, and designed to be

attached securely to a permanent pole or post.

h. Sign, Construction. A temporary on-site sign indicating the names of architects, engineers, landscape architects, contractors, financier and similar artisans involved in the design and construction of a structure or project during the period of construction;

i. Sign, Directional. A sign containing words or symbols indicating an entrance to, exit from, or location of parking, loading, restrooms and emergency entrances which are for the convenience of the public;

j. Sign, Electronic Message. A variable message sign that utilizes computer-generated messages or some other electronic means of changing copy. These signs include displays using incandescent lamps, LEDs, LCDs or a flipper matrix, and also enable changes to be made to messages from locations other than at the sign. Electronic message signs shall be classified as animated, flashing or moving signs when the rate of copy and/or graphic changes is more than one change per second.

k. Sign, Flashing. A sign with an intermittent or flashing light source. Generally, the sign's message, copy or flashing pattern is constantly repeated.

l. Sign, Ground. A sign placed upon, or supported by, the ground independently of any building or structure on the property.

m. Sign, Identification. An on-site sign which carries only the name and address of a building, business, development or establishment. Such sign may be wholly or partly devoted to a readily recognized symbol;

n. Sign, Menu Board. An on-site sign designed and used for the display of menu items and pictures and/or prices of menu items.

o. Sign, Monument. A detached ground sign for which the width of the widest part of the base or pole or pylon cover of the sign is at least one half the width of the widest part of the sign face, or for which the sign or sign cabinet supports consists of visible poles or pylons supporting a sign cabinet or face that is not more than two feet above the average grade of the ground under the sign face.

p. Sign, Nameplate. A small on-site sign located at any entrance to a building and indicating the name and/or address of an occupant and, where applicable, a professional status;

q. Sign, Off-site. A sign delivering a message or advertisement other than the name, occupation or nature of the activities conducted on the premises or the products sold or manufactured thereon;

r. Sign, Off-Site Billboard. An off-site junior or standard billboard sign. Off-site billboards do not include off-site signs that meet the criteria set forth in Sections 24.04.190.2, 24.04.190.6, 24.04.190.10, 24.04.190.18 or 24.04.251.2.j. of this Code.

s. Sign, Off-Site Junior Billboard. An off-site sign with any sign face equal to or less than three hundred square feet in area, and not exceeding thirty feet in total height above adjoining grade.

t. Sign, Off-Site Standard Billboard. An off-site sign with any sign face greater than three hundred square feet in area, but not exceeding fourteen feet in height and forty-eight feet in length, plus any allowed extensions.

u. Sign, On-site. A sign which carries only a message or advertisement strictly incidental to a lawful use of the premises on which it is located, including signs or sign devices indicating the business transacted, services rendered, goods sold or produced on the premises, the rental or lease of products or building space, name of the person, firm or corporation occupying the premises;

v. Sign, Pole or Pylon. A detached ground sign whose sign face or cabinet is more than two feet above ground level and is supported by poles, pylons or posts;

w. Sign, Political. A sign pertaining to the announcement of an individual being a legally registered candidate for an elective political office, or a sign stating a position regarding any issue that has been placed on a ballot for public vote or referendum. Any such sign exceeding six square feet of gross surface area shall be classified as an off-site sign and regulated accordingly;

x. Sign, Portable. A temporary on-site sign designed in such a manner to be readily movable and not permanently attached to the property; such as, A-frames, trailer signs, signs placed on vehicles, beacon lights and other similar signs. Any such sign shall not exceed a height of ten feet above grade; and shall not exceed sixty square feet per side in gross surface area.

y. Sign, Project Directory. An on-site sign containing the names and locations, in list or map form, of the individual components making up a planned unit development, shopping center or similar project;

z. Sign, Project Title. A sign which carries the overall name of a residential subdivision, shopping center, industrial park, medical complex, planned unit development, mobile home park and similar projects;

aa. Sign, Projecting. An on-site sign suspended from, or supported by, a building or structure and projecting there from a distance exceeding one foot beyond the property line;

bb. Sign, Real Estate. An on-site sign, excluding any portable sign as defined herein, displayed for the purpose of offering real property for sale, lease or rent;

cc. Sign, Roof. A sign erected upon or above the roof of a building or structure that does not meet the definition of a Building Sign;

dd. Sign, Temporary. An on-site sign, excluding any banner, commercial flag or pennant, or construction sign as otherwise defined in this Code, that is limited in the period of time that such sign may remain on a property either by the limitations of these regulations or the conditions of the permit;

ee. Sign, Variable Message. A sign that includes provisions, or the electronic or mechanical means for, message or copy changes. These signs may include changeable message or copy with letters and/or numbers mounted in or on a track system, time and temperature signs, electronic message signs, menu boards, signs with scrolling faces, and signs with rotating sections or panels (i.e., tri-vision and similar type displays).

ff. Sign, Wall. A sign attached to, erected against, or painted onto a wall of a building with the exposed face of the sign in a plane parallel to said wall;

gg. Sign, Window. On-site signs, either temporary or permanent, installed on the window area of a building;

2. Definitions. The definitions set out below are applicable to this chapter:

a. Abutting. Abutting means touching or directly contiguous to.

b. Adjacent. Adjacent means no farther than one hundred fifty linear feet, unless otherwise provided in a specific section of this Code.

c. Institution. The building, group of buildings, or place of confinement or use of an established organization or foundation dedicated to public service, education, or culture, or any church or school.

d. Owner. Owner of a sign includes the property owner of record, manager, lessee, designated agent, or any person exercising control over the sign.

e. Pole or Pylon Cover or Wrap. An enclosure for concealing and/or decorating poles or other structural supports of a ground or pole sign.

f. Sign. Any structure, fixture, banner, flag, pennant, placard or device using text (including letter, word, or numeral), pictorial representation (including illustration, declaration, or figure), emblem (including device, symbol, logo, or trademark), attention attracting device such as strobe lights, flashing lights or beacon lights, or any other thing which is designed, intended, or used to identify, instruct, attract, guide, advertise or inform, any part of which is visible from any adjacent property or public street or highway.

g. Sign Cabinet. The structural frame that encloses one or more sign faces.

h. Sign Structure. A structure of any kind which is built or constructed and supports or is capable of supporting a sign as defined in this chapter. A sign structure shall include the foundation and base, the poles or pylons that support the sign, any structural extensions that support a sign or its cabinet, any structural framework that supports a sign face, or any sign face cabinet.

i. Zoning District or District. Zoning classifications established in the Wichita-Sedgwick County Unified Zoning Code as set forth in Title 28 of the Code of the City of Wichita.

j. Zoning Lot. A parcel of land that is designed by its owner or developer, at the time of applying for a building permit as one lot, all of which is to be used, developed or built upon as a unit under single ownership. As long as it satisfies the

requirement of the above and the requirements of the subdivision rules and regulations, such lot may consist of (1) a single lot of record, (2) a portion of a lot of record, or (3) a combination of complete lots of record, complete lots and portions of lots of record, or portions of lots of record. For purposes of this Code, approved Community Unit Plans, Planned Unit Developments or "P-O" Protective Overlays, as defined in the Wichita-Sedgwick County Unified Zoning Code, shall be considered as a single zoning lot.

To the extent they are not inconsistent with this chapter, the definitions adopted for Title 28 of the Code of the City of Wichita, as amended shall apply to the terms used in this chapter. The use of zoning definitions and reference to the zoning code is for purposes of convenience and shall not be deemed to make the sign ordinance or activities or regulation under the sign ordinance as zoning or zoning regulation.

3. Signs subject to more than one classification. Whenever a sign could be subject to more than one classification, the superintendent of central inspection shall determine the most appropriate classification and apply all applicable regulations.

SECTION 2. Section 24.04.222 of the Code of the City of Wichita is hereby amended to read as follows:

24.04.222 Specific regulations - Off-site signs when permitted in the "LC" Limited Commercial, "GC" General Commercial, "LI" Limited Industrial or "GI" General Industrial districts.

1. Special Review Approval Required. New off-site billboard signs, or replacement off-site billboard signs that increase the height or size of an existing off-site sign, that are closer in distance to residentially-zoned and platted lots on which residential structures may be legally erected or to residential structures or uses than set forth in Section 24.04.222.4.d, must obtain a Special Review Approval as outlined in Section 24.04.225 of this Code.

2. Number permitted. The number of off-site signs, facing a direction of travel

within any designated mile, shall be determined by the linear measurement in feet, along the centerline of the street right-of-way, that is within or adjacent to any "LC" Limited Commercial, "GC" General Commercial, "LI" Limited Industrial or "GI" General Industrial zoning district; provided, however, such signs shall only be permitted in the zoning districts as set forth in Sections 24.04.195, 24.04.196 and 24.04.198 of this chapter. Except in the "GC", "LI" or "GI" zoning districts, no zoning district shall be considered for linear measurement unless it is adjacent to an arterial street or expressway. No zoning district or zoning shall be considered for linear measurement if it is included within an approved Community Unit Plan, Planned Unit Development, P-O Protective Overlay or Protective Overlay District, except when such Community Unit Plan, Planned Unit Development, P-O Protective Overlay or Protective Overlay District specifically allows off-site billboard signs. For purposes of measurement, zoning shall be considered to extend to the centerline of all streets. A designated mile shall be the length of the centerline of a street between mile section lines, even though the linear measurement may exceed five thousand two hundred eighty feet. Any mile not covered entirely by city boundary shall be treated on a percentage basis. The number of signs allowed shall be in direct proportion to the percentage of the designated mile that lies within the city limits boundary. There shall be permitted not more than one off-site sign facing a direction of travel, for each five hundred linear feet of street having "GC", "LI" or "GI" zoning adjacent thereto, provided however, under no circumstances shall there be erected more than five off-site signs facing a direction of travel in a designated mile in the "GC" and "LI" zoning districts, and eight per mile in the "GI" zoning district, and; provided further, whenever any off-site sign is to be located in the "LC" limited commercial district the following shall be applicable.

Off-site billboard signs may be permitted in the "LC" limited commercial district, but only when a designated mile has at least fifteen hundred linear feet of "LC", "GC", "LI" or "GI" zoning adjacent thereto. When there is at least three thousand linear feet of appropriate zoning adjacent to a designated mile, a second off-site billboard sign may be permitted. When there is at least forty-five hundred linear feet of appropriate zoning adjacent to a designated mile, a third off-site billboard sign may be permitted.

Whenever an off-site billboard sign is located on an "LC" zoning lot that abuts or

faces the direction of travel along a designated arterial street, such off-site billboard sign must meet the criteria for an off-site junior billboard sign. Extensions beyond the three hundred square foot sign face area maximum for sign faces of an off-site junior billboard in an "LC" zoning district are not allowed. When off-site billboard signs are located on "LC" zoning lots that abut or face the direction of travel along a designated arterial street, no more than two off-site billboard signs may be permitted within a designated mile in "LC" zoning districts.

3. Maximum Size and Height Permitted. In or upon "LC", "GC" General Commercial, "LI" Limited Industrial or "GI" General Industrial zoning districts or lots, the gross surface area of an off-site billboard sign face facing the direction of travel shall not exceed eight hundred twenty-five square feet, including any extensions. Extensions may not extend more than five and one-half feet above the normal upper rectangular lineage of the face, nor more than two feet beyond any of the other three sides. Maximum rectangular dimensions of any off-site billboard sign face, excluding extensions, shall be fourteen feet in height by forty-eight feet in length. No off-site billboard sign, sign structure or sign cabinet shall exceed thirty feet in height at the top of the maximum rectangular dimension, which does not include the permitted extensions.

In or upon "LC" Limited Commercial zoning districts or lots, the gross surface area of any off-site sign face facing the direction of travel along a designated arterial street shall not exceed three hundred square feet, and shall meet the criteria for an off-site junior billboard sign. No extensions beyond the maximum three hundred square foot sign face area are allowed for off-site junior billboard signs located in or upon "LC" zoning districts or lots. In the "LC" zoning district, no off-site sign shall exceed thirty feet in height at the top of the sign, sign structure or sign cabinet.

Exceptions: Off-site billboard signs, sign structures or sign cabinets located adjacent to an elevated portion of a highway structure may be erected to a maximum height of fourteen feet above the top of the railing or barrier along the traffic deck. Off-site signs that cantilever over the roof or roof parapet of a one-story building shall maintain eight feet of vertical clearance between the bottom of the sign and the roof or parapet and shall not exceed twenty-six feet in height above the roof or parapet. For purposes of enforcement, no off-site sign permit for additional height above a roof or roof parapet shall be issued

until the building over which the off-site sign is to be cantilevered has been erected.

4. Prohibited Locations. No off-site billboard sign shall be erected on a property when any of the following conditions exist:

a. No off-site billboard sign shall be erected on a zoning lot, of less than one hundred fifty feet of frontage, that has more than two on-site ground or pole signs totaling more than two hundred fifty square feet gross surface area facing a direction of travel that are located within thirty-five feet of the street right-of-way line.

b. No off-site billboard sign shall be erected that would obscure the view of any on-site sign. This shall be determined by establishing a sight point at the centerline of the street one hundred fifty feet in either direction, then no on-site sign within one hundred fifty feet of the off-site sign shall be obscured from view.

c. No off-site billboard sign shall be erected within three hundred thirty feet of another off-site sign facing the same direction of travel along the same street.

d. Except as permitted by Section 24.04.225, no off-site billboard sign shall be erected closer than 300 feet from a platted and residentially-zoned lot on which a primary residential structure can be legally erected or to a residential structure. This distance shall be measured from the nearest lot line of such platted and residentially-zoned lot or residential structure to the closest part of the off-site billboard sign. This minimum distance may be reduced to 150 feet when any platted and residentially-zoned lot or residential structure is fully screened from view of the proposed off-site billboard sign by a non-residential building. Such view shall be from the closest minimum building setback line (as established for residentially-zoned lots in the Wichita-Sedgwick County Unified Zoning Code) of the residentially-zoned lot or residential structure.

EXCEPTION: Any off-site billboard sign with a sign face or faces facing the direction of travel along a highway or freeway may not be erected closer than 300 feet, measured perpendicular to the sign face or faces, or within a 150 foot radius of such sign face, faces or sign structure, to any platted and residentially-zoned lot on which a primary residential structure can be legally erected, or to a residential structure. If the billboard sign is located within a 300' radius of a residentially-

zoned lot or structure, the structural elements supporting the sign face or faces shall be screened from view of the residentially-zoned lot/s or structure/s by panels of earth tone colors on which no advertising is applied.

e. No off-site billboard sign shall be located on any property in the "LC" limited commercial zoning district that is not a part of at least three hundred continuous feet (linear measurement) of commercial or industrial zoning.

f. No off-site billboard sign shall be located closer than six hundred sixty feet to the established bank lines of the Big Arkansas or the Little Arkansas Rivers, or to any park or recreation area under the jurisdiction of any public body including the Board of Park Commissioners of the city.

Off-site billboard signs may be erected within six hundred sixty feet of the established bank lines of the Big Arkansas or Little Arkansas Rivers or any such park or recreation area when such off-site signs are located in athletic field facilities owned or operated by a public body.

5. Setback. Off-site billboard signs shall comply with all building setback lines.

6. Type. Off-site billboard signs may be ground or pole or wall signs, but shall not be erected upon or over the roof of any one story building, except as provided in Subsection 3 of this Section. Each off-site billboard sign may contain only one panel per facing with a message or advertisement; however, this panel or a portion thereof may be a variable message sign. No off-site billboard pole signs may be supported by more than one pole.

SECTION 3. Section 24.04.225 of the Code of the City of Wichita is hereby created to read as follows:

24.04.225 - Special Review Approval for Off-Site Billboard Sign Permits. This section sets out the required Special Review procedures for new or enlarged off-site billboard signs.

1. **Authority.** (a) An application for a permit for installation of a new or enlarged (size or height) off-site billboard sign located closer to a residentially-zoned lot or use than allowed by Section 24.04.222.4.d of this code shall require a public hearing and approval by the Planning Commission or, if forwarded to the Wichita City Council for final action, shall require approval by the Wichita City Council.

(b) The Metropolitan Area Planning Commission (MAPC) is hereby designated and granted authority to hear and make recommendations on off-site billboard signs under this Section. In exercising such authority and functions, the MAPC shall operate under the Sign Code for the City of Wichita (Chapter 24.04) and neither under the Unified Zoning Code nor any zoning statutes. The MAPC shall use its by-laws and other procedures and rules now existing or hereafter amended in such matters.

2. **Initiation.** An application for a new or enlarged off-site billboard sign shall be filed upon request of both the owner(s) of the subject property on which the off-site sign is to be located and the owner of the proposed sign.
3. **Application.** A complete application for a new or enlarged off-site billboard sign shall be submitted to the Planning Director in a form established by the Director, along with a nonrefundable fee that has been established by the Wichita City Council to defray the cost of processing the application. No application shall be processed until the application is complete and the required fee has been paid. Each application for a new or enlarged off-site billboard sign shall be accompanied by a site plan that, at a minimum, includes the following information:
 - a. A detailed graphic presentation of the subject property site, including property parcel dimensions;
 - b. The location of any other buildings or structures on the site;
 - c. The location, size and type of any other ground signs on the site;
 - d. The distance of the proposed sign from any buildings, structures or other signs on the site;
 - e. A detailed representation of the proposed sign, including sign structure and sign face dimensions, total height of the sign, and any related appurtenances such as catwalks.
4. **Establishment of hearing date, publication of notice.**
 - a. Promptly upon determining that an application is complete, the Planning Director shall schedule a public hearing before the Planning Commission, and shall notify the applicant of the meeting and hearing date. The initial public hearing before the Planning

Commission shall be scheduled for the next meeting date for which it is practicable to give at least 20 days notice.

- b. Notice required pursuant to this section shall be published in the official newspaper and shall indicate the time and place of the public hearing and a general description of the application. The subject property shall be designated by legal description or a general description sufficient to identify the property under consideration.
- c. Notice required pursuant to this section shall be mailed to all owners of record of real property within the area covered by the application and to all owners of record of real property within at least 200 feet of the property lines of the parcel or lot on which the proposed billboard sign is to be located. The written notice required herein shall be placed in the mail with the postmark to be not less than 20 days prior to the date of the public hearing.
- d. The Planning Director shall also submit the application to the appropriate District Advisory Board for review and recommendation when requested or required under the policies of Chapter 2.61 of the Code of the City of Wichita.

5. **Report of Planning Director.** The Planning Director shall prepare a staff report that reviews the proposed application for a new or enlarged off-site billboard sign in light of the general requirements of the Wichita Sign Code (Chapter 24.04) and that addresses the following additional elements as they may be appropriate for the review of the application:

- a. The zoning, uses and character of the neighborhood;
- b. The suitability of the subject property for the proposed off-site sign;
- c. The conformance of the requested off-site sign to the adopted or recognized comprehensive plan or other plans or policies being utilized by the City;
- d. Opposition or support of neighborhood residents;
- e. A consideration of the recommendations of professional staff.

The applicant shall have the burden of demonstrating that the proposal meets the applicable review criteria.

The Planning Director shall provide a copy of the report to the Planning Commission in its agenda packet and shall send a copy of the report to the applicant by first-class mail, pre-paid, at least five days before the scheduled Planning Commission hearing.

6. **Action by the Planning Commission.** The Planning Commission, in a public hearing, shall review the proposed new or enlarged off-site billboard sign for compliance with the requirements outlined in subsection 5 of this Section. In the course of such review, the Planning Commission may approve modifications to the application and/or site plan as a condition of approval of the off-site sign. Based on that review, the Planning Commission shall act to approve, approve with conditions or modifications, or deny the application for a new or enlarged off-site billboard sign. This provision specifically contemplates that it may be necessary for the Planning Commission to attach additional special conditions to a proposed approval in order to ensure that it complies fully with the criteria of this Code. This action by the Planning Commission shall be the final action on the off-site billboard application except when any one or more of the following exist: (1) the applicant appeals the action of the Planning Commission; (2) one or more valid protest petitions are filed opposing the action of the Planning Commission; or (3) an appeal is filed by anyone with standing to appeal, which shall include the applicant; the Planning Director; the Zoning Administrator; the Wichita City Council; or any owner of land located in the City of Wichita that is within 200 feet of the application area and property in question.

When any one or more of these exceptions exist, the Planning Commission's action shall be in the form of a recommendation that is forwarded to the Wichita City Council for final action. Protest petitions and appeals shall be filed within 14 days of the conclusion of the Planning Commission hearing pursuant to the jurisdiction notice. If the Planning Commission fails to make a recommendation on an off-site billboard sign request, or its motion results in a tie vote, the Planning Commission shall be deemed to have made a recommendation of disapproval.

7. **Action by the Wichita City Council.** If the off-site billboard sign application is forwarded to the Wichita City Council for one of the reasons listed in Section 24.04.225.6 above, along with

the Planning Commission's recommendation and any District Advisory Board recommendation, the City Council shall consider the application(s) and may, at its discretion, hold a public hearing. The off-site billboard application may be approved, approved with conditions or modifications, or denied by the City Council. In acting on the application, the City Council may:

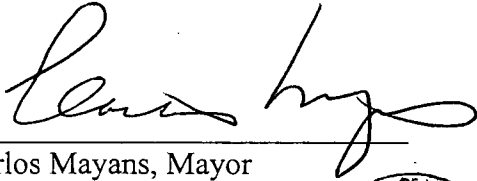
- a. Adopt the Planning Commission's recommendation;
- b. Override the Planning Commission's recommendation by a two-thirds majority vote of the membership of the City Council; or
- c. Return such recommendation to the Planning Commission with a statement specifying the basis for the City Council's failure to approve or disapprove.

If the City Council returns the Planning Commission's recommendation, the Planning Commission, after considering the same, may resubmit its original recommendation giving the reasons therefore or submit a new and amended recommendation. Upon the receipt of such recommendation, the City Council, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendation, or it need take no further action thereon. If the Planning Commission fails to deliver its recommendation to the City Council following the Planning Commission's next regular meeting after receipt of the City Council's report, the City Council shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly. If the City Council approves the application or the application as modified or with conditions, the Superintendent of Central Inspection shall issue a permit to the applicant consistent with the action of the City Council.

SECTION 4. The originals of Sections 24.04.185 and 24.04.222 of the Code of the City of Wichita are hereby repealed.

SECTION 5. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon publication once in the official paper.

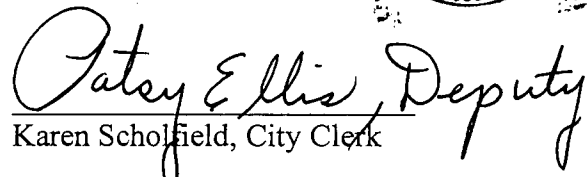
ADOPTED at Wichita, Kansas, this 2nd day of November, 2004.



Carlos Mayans, Mayor

ATTEST:




for Karen Scholfield, City Clerk

Approved as to Form:


Gary E. Rebenstorf, Director of Law

DECLARATION OF EMERGENCY

REQUEST OF THE MAYOR OF THE CITY OF WICHITA FOR THE
DECLARATION BY THE GOVERNING BODY OF SAID CITY OF THE
EXISTENCE OF A PUBLIC EMERGENCY REQUIRING THE FINAL
ADOPTION AND PASSAGE ON THE DATE OF ITS INTRODUCTION
OF AN ORDINANCE BELOW DESIGNATED.

TO THE MEMBERS OF THE GOVERNING BODY OF THE CITY OF WICHITA,
KANSAS:

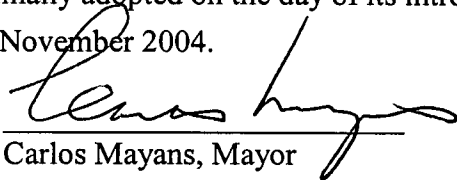
I, Carlos Mayans, Mayor of the City of Wichita, Kansas hereby request that the
Governing Body declare that a public emergency exists requiring the final adoption and passage
on the day of its introduction, to-wit, of an ordinance entitled:

AN ORDINANCE AMENDING SECTIONS 24.04.185 AND 24.04.222, AND
REPEALING THE ORIGINALS OF SAID AMENDED SECTIONS; AND
CREATING NEW SECTION 24.04.225, ALL IN THE CODE OF THE CITY OF
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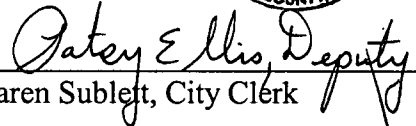
The general nature of such public emergency is that a moratorium expires on November 4, 2004,
on the receipt of applications for new billboard signs. New billboard sign regulations need to be
passed and effective before the expiration of the moratorium. It is, therefore, expedient at this
time that the Governing Body find and declare that a public emergency exists by reason of the
foregoing, and that the above-entitled ordinance be finally adopted on the day of its introduction.

Executed at Wichita, Kansas, this 2nd day of November 2004.




Carlos Mayans, Mayor

ATTEST:


for Karen Sublett, City Clerk

Approved as to Form:


Gary E. Rebenstorf, Director of Law

LEGAL PUBLICATION

Published in The Wichita Eagle
November 4, 2004 (#2188078)
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AN ORDINANCE AMENDING SECTIONS 24.04.185 AND 24.04.222, AND REPEALING THE ORIGINALS OF SAID AMENDED SECTIONS; AND CREATING NEW SECTION 24.04.225, ALL IN THE CODE OF THE CITY OF WICHITA, KANSAS, AND PERTAINING TO THE SIGN CODE OF THE CITY OF WICHITA, KANSAS.

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

SECTION 1. Section 24.04.185 of the Code of the City of Wichita is hereby amended to read as follows:

24.04.185 Classifications and Definitions.

1. Classification of Signs. Signs shall be classified by the superintendent of central inspection in accordance with the following classifications and definitions:

a. Sign, Advertising Decoration. Various sign materials used for temporary display and decoration, including streamers, string pennants, pinwheels, bunting and other similar devices on which no advertising copy, logos, symbols or emblems are printed, painted or attached, and that also comply with Section 24.04.230 of this Code.

b. Sign, Animated. A sign depicting action, motion, light or color changes through electrical or mechanical means. Although technologically similar to flashing signs, the animated sign emphasizes graphics and artistic display and may include video displays.

c. Sign, Banner. An on-site sign on which advertising copy, logos, symbols or emblems may be printed, painted or attached, and which advertises goods or services sold, produced or conducted on the premises, or a special event as referenced in 24.04.190(8); constructed of fabric or any non-rigid material with no fully enclosing framework; and designed to be attached securely at each end or corner of the banner sign to a wall, canopy, posts or stakes.

d. Sign, Building. An on-site sign attached to or painted onto a wall, awning, canopy, building or structure; or that is attached to, but not painted on, a roof structure or roof surface, the height of which shall not exceed the height of the roof or wall parapet, or of any of the following: (1) the highest point of the coping of a flat roof; (2) the deck line of a mansard roof; (3) the average height between the eaves and ridge line of a gable, hip or gambrel roof or (3) three feet above the finished roof deck if the average height of a gable, hip or gambrel roof is less than three feet above the bottom or lowest edge of the roofline; except that a building or structure that was constructed prior to May 4, 1990 that does not have an area at least three feet tall and twenty feet wide above an unglazed portion of the building elevation, the bottom of which is at least seven feet above grade, may have a building sign which shall not exceed four feet, six inches above the roof or parapet;

e. Sign, Bulletin Board. An on-site sign containing the name of the institution or organization, and may also include names of persons connected with it, announcements of persons, events or activities occurring at the institution. Such sign may also present a greeting or similar message;

f. Sign, Commercial Balloon. An on-site, temporary sign that is inflated and exceeds five square feet in area, designed to advertise a specific product or service sold, produced or conducted on the premises on which advertising copy, logos, symbols or emblems may or may not be printed, painted or attached. Commercial balloons may be tethered or mounted to a structural flag or pennant.

g. Sign, Commercial Flag or Pennant. An on-site sign on which advertising copy, logos, symbols or emblems may or may not be printed, painted or attached, and which advertises goods or services sold, produced or conducted on the premises, or any of the events referenced in 24.04.190(8); and constructed of fabric or any non-rigid material with no fully enclosing framework, and designed to be attached securely to a permanent pole or post.

h. Sign, Construction. A temporary on-site sign indicating the names of architects, engineers, landscape architects, contractors, financier and similar artisans involved in the design and construction of a structure or project during the period of construction;

i. Sign, Directional. A sign containing words or symbols indicating an entrance to, exit from, or location of parking, loading, restrooms and emergency entrances which are for the convenience of the public;

j. Sign, Electronic Message. A variable message sign that utilizes computer-generated messages or some other electronic means of changing copy. These signs include displays using incandescent lamps, LEDs, LCDs or a flipper matrix, and also enable changes to be made to messages from locations other than at the sign. Electronic message signs shall be classified as animated, flashing or moving signs when the rate of copy and/or graphic changes is more than one change per second.

k. Sign, Flashing. A sign with an intermittent or flashing light source. Generally, the sign's message, copy or flashing pattern is constantly repeated.

l. Sign, Ground. A sign placed upon, or supported by, the ground independently of any building or structure on the property.

m. Sign, Identification. An on-site sign which carries only the name and address of a building, business, development or establishment. Such sign may

be wholly or partly devoted to a readily recognized symbol;

n. Sign, Menu Board. An on-site sign designed and used for the display of menu items and pictures and/or prices of menu items.

o. Sign, Monument. A detached ground sign for which the width of the widest part of the base or pole or pylon cover of the sign is at least one half the width of the widest part of the sign face, or for which the sign or sign cabinet supports consists of visible poles or pylons supporting a sign cabinet or face that is not more than two feet above the average grade of the ground under the sign face.

p. Sign, Nameplate. A small on-site sign located at any entrance to a building and indicating the name and/or address of an occupant and, where applicable, a professional status;

q. Sign, Off-site. A sign delivering a message or advertisement other than the name, occupation or nature of the activities conducted on the premises or the products sold or manufactured thereon;

r. Sign, Off-Site Billboard. An off-site junior or standard billboard sign. Off-site billboards do not include off-site signs that meet the criteria set forth in Sections 24.04.190.2, 24.04.190.6, 24.04.190.10, 24.04.190.18 or 24.04.251.2.1 of this Code.

s. Sign, Off-Site Junior Billboard. An off-site sign with any sign face equal to or less than three hundred square feet in area, and not exceeding thirty feet in total height above adjoining grade.

t. Sign, Off-Site Standard Billboard. An off-site sign with any sign face greater than three hundred square feet in area, but not exceeding fourteen feet in height and forty-eight feet in length, plus any allowed extensions.

u. Sign, On-site. A sign which carries only a message or advertisement strictly incidental to a lawful use of the premises on which it is located, including signs or sign devices indicating the business transacted, services rendered, goods sold or produced on the premises, the rental or lease of products or building space, name of the person, firm or corporation occupying the premises;

v. Sign, Pole or Pylon. A detached ground sign whose sign face or cabinet is more than two feet above ground level and is supported by poles, pylons or posts;

w. Sign, Political. A sign pertaining to the announcement of an individual being a legally registered candidate for an elective political office, or a sign stating a position regarding any issue that has been placed on a ballot for public vote or referendum. Any such sign exceeding six square feet of gross surface area shall be classified as an off-site sign and regulated accordingly;

x. Sign, Portable. A temporary on-site sign designed in such a manner to be readily movable and not permanently attached to the property; such as, A-frames, trailer signs, signs placed on vehicles, beacon lights and other similar signs. Any such sign shall not exceed a height of ten feet above grade; and shall not exceed sixty square feet per side in gross surface area.

y. Sign, Project Directory. An on-site sign containing the names and locations, in list or map form, of the individual components making up a planned unit development, shopping center or similar project;

z. Sign, Project Title. A sign which carries the overall name of a residential subdivision, shopping center, industrial park, medical complex, planned unit development, mobile home park and similar projects;

aa. Sign, Projecting. An on-site sign suspended from, or supported by, a building or structure and projecting therefrom a distance exceeding one foot beyond the property line;

bb. Sign, Real Estate. An on-site sign, excluding any portable sign as defined herein, displayed for the purpose of offering real property for sale, lease or rent;

cc. Sign, Roof. A sign erected upon or above the roof of a building or structure that does not meet the definition of a Building Sign;

dd. Sign, Temporary. An on-site sign, excluding any banner, commercial flag or pennant, that is limited sign as otherwise defined in this Code, that is limited in the period of time that such sign may remain on a property either by the limitations of these regulations or the conditions of the permit;

ee. Sign, Variable Message. A sign that includes provisions, or the electronic or mechanical means for, message or copy changes. These signs may include changeable message or copy with letters and/or numbers mounted in or on a track system, time and temperature signs, electronic message signs, menu boards, signs with scrolling faces, and signs with rotating sections or panels (i.e., tri-vision and similar type displays).

ff. Sign, Wall. A sign attached to, erected against, or painted onto a wall of a building with the exposed face of the sign in a plane parallel to said wall;

gg. Sign, Window. On-site signs, either temporary or permanent, installed on the window area of a building;

2. Definitions. The definitions set out below are applicable to this chapter:

a. Abutting. Abutting means touching or directly contiguous to.

b. Adjacent. Adjacent means no farther than one hundred fifty linear feet, unless otherwise provided in a specific section of this Code.

c. Institution. The building, group of buildings, or place of confinement or use of an established organization or foundation dedicated to public service, education, or culture, or any church or school.

d. Owner. Owner of a sign includes the property owner of record, manager, lessee, designated agent, or any person exercising control over the sign.

e. Pole or Pylon Cover or Wrap. An enclosure for concealing and/or decorating poles or other structural supports of a ground or pole sign.

f. Sign. Any structure, fixture, banner, flag, pennant, placard or device using text (including letter, word, or numeral), pictorial representation (including illustration, declaration, or figure), emblem (including device, symbol, logo, or trademark), attention attracting device such as strobe lights, flashing lights or beacon lights, or any other thing which is designed, intended, or used to identify, instruct, attract, guide, advertise or inform, any part of which is visible from any adjacent property or public street or highway.

g. Sign Cabinet. The structural frame that encloses one or more sign faces.

h. Sign Structure. A structure of any kind which is built or constructed and supports or is capable of supporting a sign as defined in this chapter. A sign structure shall include the foundation and base, the poles or pylons that support the sign, any structural extensions that support a sign or its cabinet, any structural framework that supports a sign face, or any sign face cabinet.

i. Zoning District or District. Zoning classifications established in the Wichita-Sedgewick County Unified Zoning Code as set forth in Title 28 of the Code of the City of Wichita.

j. Zoning Lot. A parcel of land that is designed by its owner or developer, at the time of applying for a building permit as one lot, all of which is to be used, developed or built upon as a unit under single ownership. As long as it satisfies the requirements of the above and the requirements of the subdivision rules and regulations, such lot may consist of (1) a single lot of record, (2) a portion of a lot of record, or (3) a combination of complete lots of record, complete lots and portions of lots of record, or portions of lots of record.

For purposes of this Code, approved Community Unit Plans, Planned Unit Developments or "P-O" Protective Overlays, as defined in the Wichita-Sedgewick County Unified Zoning Code, shall be considered as a single zoning lot.

To the extent they are not inconsistent with this chapter, the definitions adopted for Title 28 of the Code of the City of Wichita, as amended shall apply to the terms used in this chapter. The use of zoning definitions and reference to the zoning code is for purposes of convenience and shall not be deemed to make the sign ordinance or activities or regulation under the sign ordinance as zoning or zoning regulation.

3. Signs subject to more than one classification. Whenever a sign could be subject to more than one classification, the superintendent of central inspection shall determine the most appropriate classification and apply all applicable regulations.

SECTION 2. Section 24.04.222 of the Code of the City of Wichita is hereby amended to read as follows:

24.04.222 Specific Regulations - Off-site signs when permitted in the "LC" Limited Commercial, "GC" General Commercial, "LI" Limited Industrial or "GI" General Industrial districts.

1. Special Review Approval Required. New off-site billboard signs, or replacement of an existing off-site billboard sign, that increase the height or size of an existing off-site billboard sign, that are closer to residential structures or uses than allowed lots or to residential structures or uses than allowed by Section 24.04.222.4.d, must obtain a Special Review Approval as outlined in Section 24.04.225 of this Code.

2. Number permitted. The number of off-site signs, facing a direction of travel within any designated mile, shall be determined by the linear measurement in feet, along the centerline of the street right-of-way, that is within or adjacent to any "LC" Limited Commercial, "GC" General Commercial, "LI" Limited Industrial or "GI" General Industrial zoning district; provided, however, such signs shall only be permitted in the zoning districts as set forth in Sections 24.04.195, 24.04.196 and 24.04.198 of this chapter. Except in the "GC", "LI" or "GI" zoning districts, no zoning district shall be considered for linear measurement unless it is adjacent to an arterial street or expressway. No zoning district or zoning shall be considered for linear measurement if it is included within an approved Community Unit Plan, Planned Unit Development, P-O Protective Overlay or Protective Overlay District, except when such Community Unit Plan, Planned Unit Development, P-O Protective Overlay or Protective Overlay District specifically allows off-site billboard signs. For purposes of measurement, zoning shall be considered to extend to the centerline of all streets. A designated mile shall be the length of the centerline of a street between mile section lines, even though the linear measurement may exceed five thousand and two hundred eighty feet. Any mile not covered entirely by city limits shall be treated on a percentage basis. The number of signs allowed shall be in direct proportion to the percentage of the designated mile that lies within the city limits boundary. There shall be permitted not more than one off-site sign facing a direction of travel, for each five hundred linear feet of street having "GC", "LI" or "GI" zoning adjacent thereto, provided however, under no circumstances shall there be erected more than five off-site signs facing a direction

of travel in a designated mile in the "GC" and "LI" zoning districts, and eight per mile in the "GI" zoning district; and provided further, whenever any off-site sign is to be located in the "LC" limited commercial district the following shall be applicable.

Off-site billboard signs may be permitted in the "LC" limited commercial district, but only when a designated mile has at least fifteen hundred linear feet of "LC", "GC", "LI" or "GI" zoning adjacent thereto. When there is at least three thousand linear feet of appropriate zoning adjacent to a designated mile, a second off-site billboard sign may be permitted. When there is at least forty-five hundred linear feet of appropriate zoning adjacent to a designated mile, a third off-site billboard sign may be permitted.

Whenever an off-site billboard sign is located on an "LC" zoning lot that abuts or fronts a designated arterial street, such off-site billboard sign must meet the criteria for an off-site junior billboard sign. Extensions beyond the three hundred square foot sign face area maximum for sign faces of an off-site junior billboard in an "LC" zoning district are not allowed. When off-site billboard signs are located on "LC" zoning lots that abut or front a designated arterial street, no more than two off-site billboard signs may be permitted within a designated mile in "LC" zoning districts.

3. Maximum Size and Height Permitted. In or upon "LC", "GC" General Commercial, "LI" Limited Industrial or "GI" General Industrial zoning districts or lots, the gross surface area of an off-site billboard sign facing the direction of travel shall not exceed eight hundred twenty-five square feet, including any extensions. Extensions may not extend more than five and one-half feet above the normal upper rectangular line of the face, nor more than two feet beyond any of the other three sides. Maximum rectangular dimensions of any off-site billboard sign face, excluding extensions, shall be fourteen feet in height by forty-eight feet in length. No off-site billboard sign, sign structure or sign cabinet shall exceed thirty feet in height at the top of the maximum rectangular dimension, which does not include the permitted extensions.

In or upon "LC" Limited Commercial zoning districts or lots, the gross surface area of any off-site sign facing the direction of travel along a designated arterial street shall not exceed three hundred square feet, and shall meet the criteria for an off-site junior billboard sign. No extensions beyond the maximum three hundred square foot sign face area are allowed for off-site junior billboard signs located in or upon "LC" zoning districts or lots. In the "LC" zoning district, no off-site sign shall exceed thirty feet in height at the top of the sign, sign structure or sign cabinet.

Exceptions: Off-site billboard signs, sign structures or sign cabinets located adjacent to an elevated portion of a highway structure may be erected to a maximum height of fourteen feet above the top of the railing or barrier along the traffic deck. Off-site signs that cantilever above the roof or roof parapet of a one-story building shall maintain eight feet of vertical clearance between the bottom of the sign and the roof or parapet and shall not exceed twenty-six feet in height above the roof or parapet. For purposes of enforcement, no off-site sign permit for additional height above a roof or roof parapet shall be issued until the building over which the off-site sign is to be cantilevered has been erected.

4. Prohibited Locations. No off-site billboard sign shall be erected on a property when any of the following conditions exist:

a. No off-site billboard sign shall be erected on a zoning lot, of less than one hundred fifty feet of frontage, that has more than two on-site ground or pole signs totaling more than two hundred fifty square feet gross surface area facing a direction of travel that are located within thirty-five feet of the street right-of-way line.

b. No off-site billboard sign shall be erected that would obscure the view of any on-site sign. This shall be determined by establishing a sight point at the centerline of the street one hundred fifty feet in either direction, then no on-site sign within one hundred fifty feet of the off-site sign shall be erected within three hundred thirty feet of another off-site sign facing the same direction of travel along the same street.

d. Except as permitted by Section 24.04.225, no off-site billboard sign shall be erected closer than 300 feet from a platted and residentially-zoned lot on which a primary residential structure can be legally erected or to a residential structure or use. This distance shall be measured from the nearest lot line of such platted and residentially-zoned lot or residential structure or use to the closest part of the off-site billboard sign. This minimum distance may be reduced to 150 feet when any platted and residentially-zoned lot or residential structure or use is fully screened from view of the proposed off-site billboard sign by a non-residential building. Such view shall be from the closest minimum building setback line (as established for residentially-zoned lots in the Wichita-Sedgewick County Unified Zoning Code) of the residentially-zoned lot or residential structure or use.

e. No off-site billboard sign shall be located on any property in the "LC" limited commercial zoning district that is not a part of at least three hundred continuous feet (linear measurement) of commercial or

industrial zoning.

f. No off-site billboard sign shall be located closer than six hundred sixty feet to the established bank lines of the Big Arkansas or the Little Arkansas Rivers, or to any park or recreation area under the jurisdiction of any public body including the Board of Park Commissioners of the city.

Off-site billboard signs may be erected within six hundred sixty feet of the established bank lines of the Big Arkansas or Little Arkansas Rivers or any such park or recreation area when such off-site signs are located in athletic field facilities owned or operated by a public body.

5. Setback. Off-site billboard signs shall comply with all building setback lines.

6. Type. Off-site billboard signs may be ground or pole or wall signs, but shall not be erected upon or over the roof of any one story building, except as provided in Subsection 3 of this Section. Each off-site billboard sign may contain only one panel per facing with a message or advertisement; however, this panel or a portion thereof may be a variable message sign. No off-site billboard pole signs may be supported by more than one pole.

SECTION 3. Section 24.04.225 of the Code of the City of Wichita is hereby created to read as follows:

24.04.225 - Special Review Approval for Off-Site Billboard Sign Permits. This section sets out the required Special Review procedures for new or enlarged off-site billboard signs.

1. Authority. (a) An application for a permit for installation of a new or enlarged (size or height) off-site billboard sign located closer to a residentially-zoned lot or use than allowed by Section 24.04.222.4.d of this code shall require a public hearing and approval by the Planning Commission, or, if forwarded to the Wichita City Council for final action, shall require approval by the Wichita City Council.

(b) The Metropolitan Area Planning Commission (MAPC) is hereby designated and granted authority to hear and make recommendations on off-site billboard signs under this Section. In exercising such authority and functions, the MAPC shall operate under the Sign Code for the City of Wichita (Chapter 24.04) and neither under the Unified Zoning Code nor any zoning statutes. The MAPC shall use its by-laws and other procedures and rules now existing or hereafter amended in such matters.

2. Initiation. An application for a new or enlarged off-site billboard sign shall be filed upon request of both the owner(s) of the subject property on which the off-site sign is to be located and the owner of the proposed sign.

3. Application. A complete application for a new or enlarged off-site billboard sign shall be submitted to the Planning Director in a form established by the Director, along with a nonrefundable fee that has been established by the Wichita City Council to defray the cost of processing the application. No application shall be processed until the application is complete and the required fee has been paid. Each application for a new or enlarged off-site billboard sign shall be accompanied by a site plan that, at a minimum, includes the following information:

a. A detailed graphic presentation of the subject property site, including property parcel dimensions;

b. The location of any other buildings or structures on the site;

c. The location, size and type of any other ground signs on the site;

d. The distance of the proposed sign from any buildings, structures or other signs on the site;

e. A detailed representation of the proposed sign, including sign structure and sign face dimensions, total height of the sign, and any related appurtenances such as catwalks.

4. Establishment of hearing date, publication of notice. Promptly upon determining that an application is complete, the Planning Director shall schedule a public hearing before the Planning Commission, and shall notify the applicant of the meeting and hearing date. The initial public hearing before the Planning Commission shall be scheduled for the next meeting date for which it is practicable to give at least 20 days notice.

b. Notice required pursuant to this section shall be published in the official newspaper and shall indicate the time and place of the public hearing and a general description of the application. The subject property shall be designated, by legal description or a general description sufficient to identify the property under consideration.

c. Notice required pursuant to this section shall be mailed to all owners of record of real property within the area covered by the application and to all owners of record of real property within at least 200 feet of the property lines of the parcel or lot on which the proposed billboard sign is to be located. The written notice required herein shall be placed in the mail with the postmark to be not less than 20 days prior to the date of the public hearing.

d. The Planning Director shall also submit the application to the appropriate District Advisory Board for review and recommendation when requested or required under the policies of Chapter 2.61 of the Code of the City of Wichita.

5. Report of Planning Director. The Planning Director shall prepare a staff report that reviews the proposed application for a new or enlarged off-site billboard sign in light of the general requirements of the Wichita

Sign Code (Chapter 24.04) and that addresses the following additional elements as they may be appropriate for the review of the application:

a. The zoning, uses and character of the neighborhood;

b. The suitability of the subject property for the proposed off-site sign;

c. The conformance of the requested off-site sign to the adopted or recognized comprehensive plan or other plans or policies being utilized by the City;

d. Opposition or support of neighborhood residents;

e. A consideration of the recommendations of professional staff.

The applicant shall have the burden of demonstrating that the proposal meets the applicable review criteria. The Planning Director shall provide a copy of the report to the Planning Commission in its agenda, packet and shall send a copy of the report to the applicant by first-class mail, pre-paid, at least five days before the scheduled Planning Commission hearing.

6. Action by the Planning Commission. The Planning Commission, in a public hearing, shall review the proposed new or enlarged off-site billboard sign for compliance with the requirements outlined in subsection 5 of this Section. In the course of such review, the Planning Commission may approve modifications to the application and/or site plan as a condition of approval of the off-site sign. Based on that review, the Planning Commission shall act to approve, approve with conditions or modifications, or deny the application for a new or enlarged off-site billboard sign. This provision specifically contemplates that it may be necessary for the Planning Commission to attach additional special conditions to a proposed approval in order to ensure that it complies fully with the criteria of this Code. This action by the Planning Commission shall be the final action on the off-site billboard application except when any one or more of the following exist: (1) the applicant appeals the action of the Planning Commission; (2) one or more valid protest petitions are filed opposing the action of the Planning Commission; or (3) an appeal is filed by anyone with standing to appeal, which shall include the applicant; the Planning Director; the Zoning Administrator; the Wichita City Council; or any owner of land located in the City of Wichita that is within 200 feet of the application area and property in question.

When any one or more of these exceptions exist, the Planning Commission's action shall be in the form of a recommendation that is forwarded to the Wichita City Council for final action. Protest petitions and appeals shall be filed within 14 days of the conclusion of the Planning Commission hearing pursuant to the jurisdiction notice. If the Planning Commission fails to make a recommendation on an off-site billboard sign request, or its motion results in a tie vote, the Planning Commission shall be deemed to have made a recommendation of disapproval.

7. Action by the Wichita City Council. If the off-site billboard sign application is forwarded to the Wichita City Council for one of the reasons listed in Section 24.04.225.6 above, along with the Planning Commission's recommendation and any District Advisory Board recommendation, the City Council shall consider the application(s) and may, at its discretion, hold a public hearing. The off-site billboard application may be approved, approved with conditions or modifications, or denied by the City Council. In acting on the application, the City Council may:

a. Adopt the Planning Commission's recommendation;

b. Override the Planning Commission's recommendation by a two-thirds majority vote of the membership of the City Council; or

c. Return such recommendation to the Planning Commission with a statement specifying the basis for the City Council's failure to approve or disapprove. If the City Council returns the Planning Commission's recommendation, the Planning Commission, after considering the same, may resubmit its original recommendation giving the reasons therefor or submit a new and amended recommendation. Upon the receipt of such recommendation, the City Council, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendation, or it need take no further action thereon. If the Planning Commission fails to deliver its recommendation to the City Council following the Planning Commission's next regular meeting after receipt of the City Council's report, the City Council shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly. If the City Council approves the application or the application as modified or with conditions, the Superintendent of Central Inspection shall issue a permit to the applicant consistent with the action of the City Council.

SECTION 4. The originals of Sections 24.04.185 and 24.04.222 of the Code of the City of Wichita are hereby repealed.

SECTION 5. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon publication once in the official paper. ADOPTED at Wichita, Kansas, this 2nd day of November, 2004.

Carlos Mayans, Mayor

ATTEST:

Karen Scholfield, City Clerk

AFFIDAVIT

STATE OF KANSAS \
- SS.
County of Sedgwick /

Milt Mounts, of lawful age, being first duly sworn, deposeeth 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 consecutive issues - weeks, that the first publication of said notice was

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made as aforesaid on the 4th day of

November A.D. 2004, with

subsequent publications being made on the following dates:

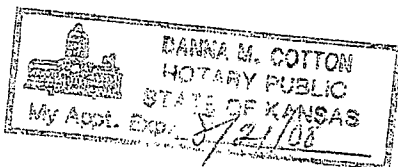
And affiant further says that _____ he has personal knowledge of the statements above set forth and that they are true.

[Handwritten Signature]

Subscribed and sworn to before me this

11th day of November 2004

[Handwritten Signature: Danna M. Cotton]
Notary Public Sedgwick County, Kansas



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