

(Published in the Topeka Metro News May 28, 2012)

**ORDINANCE NO. 19736**

AN ORDINANCE introduced by Daniel R. Stanley, Interim City Manager, amending City of Topeka Code § 18.10.010, § 18.20.020, § 18.25.060, § 18.55.005 and § 18.55.190 and specifically repealing said original sections as well as creating new § 18.25.095, all concerning programmable electronic signs.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That section 18.10.010, Defined, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**Defined.**

For the purpose of this division, the term “sign” means and includes any ~~electric~~electronic sign, signboard, billboard, posterboard, transparency, banner, panel poster, bulletin, sign device, any announcement, decoration, demonstration, display or insignia used to advertise or to promote the interest of any person wherein the same is placed, out of doors, upon buildings or structures or upon constructed surfaces detached from or attached to or supported by buildings, other structures or the ground, and shall also include the sign supports and appurtenances necessary thereto. The provisions of this division shall not apply to signs located on governmental or school property where the primary purpose and function of the sign is to convey messages of public rather than commercial interest or for keeping score at athletic events.

Section 2. That section 18.20.020, District regulations, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**District regulations.**

All signs listed hereafter are regarded as accessory structures as distinguished

from off-premises billboard or poster panel signs which are regarded as a principal use in the districts in which allowed. All signs shall be located upon a lot, parcel or tract of land so as not to encroach upon a recorded easement or public dedicated right-of-way, except as may be provided by Chapters 5.150, 18.10, 18.15 and 18.25 TMC.

(a) Agricultural and Residential Districts. The following types of signs are permitted in the RR, R and M districts:

(1) Church or public building identification sign, not exceeding 2540 square feet per sign face and meeting the requirements of this subsection. ~~Such sign may be lighted only if indirect lighting or shaded lighting is used.~~

(A) Number. Programmable electronic signs are limited to one per street frontage.

(B) Internal Illumination. Church and public building identification signs may be internally illuminated if the area to be illuminated does not exceed 25 percent of the sign face. The portion of the sign face consisting of the LED lighting shall not be considered internally illuminated.

(C) LED. The light-emitting diode (LED) area is limited in size based upon street designation, as determined by the planning director, pursuant to the street classification system in the Long Range Transportation Plan adopted by the Metropolitan Topeka Planning Organization. Size limitations of the LED area are as follows:

(i) Nine (9) square feet per sign face where placement would abut a local street.

(ii) Twelve (12) square feet per sign face where

53 placement would about a collector street.

54 (iii) Fifteen (15) square feet per sign face where  
55 placement would about an arterial street.

56 (D) Animated and audio messages. No sign shall include any  
57 audio message, tones or music nor shall a sign display animated  
58 messages, including flashing, blinking, fading, scrolling, shading,  
59 dissolving, or any other effect that gives the appearance of movement.  
60 Sign messages shall remain static for at least eight (8) seconds.

61 (E) Brightness. Signs shall utilize automatic dimming technology  
62 to adjust the brightness of the sign relative to ambient light so that at no  
63 time shall a sign exceed a brightness level of three tenths (0.3) foot candle  
64 above ambient light, as measured using a foot candle (Lux) meter  
65 calibrated within the past 12 months and in conformance with the following  
66 process:

67 (i) Light measurements shall be taken with the meter  
68 aimed perpendicular to the sign message face or at the area of the  
69 sign emitting the brightest light if that area is not the sign message  
70 face, at 30 feet from the sign along local roadways, 35 feet from the  
71 sign along collector roadways, and 40 feet from the sign along  
72 arterial roadways.

73 (ii) An ambient light measurement shall be taken using a  
74 foot candle meter at some point between the period of time  
75 between thirty (30) minutes past sunset and thirty (30) minutes

76 before sunrise with the sign turned off to a black screen.

77 (iii) Immediately following the ambient light measurement  
78 taken in the manner required by this subsection, an operating sign  
79 light measurement shall be taken with the sign turned on to full  
80 white copy.

81 (iv) The brightness of a sign conforms with the brightness  
82 requirements of this subsection if the difference between the  
83 ambient light measurement and the operating sign light  
84 measurement is three tenths (0.3) foot candle or less.

85 (F) Default mechanism. All signs shall contain a default  
86 mechanism that will cause the sign to revert immediately to a single  
87 message or a black screen if the sign malfunctions.

88 (2) Monument signs limited to the identification of a multifamily building  
89 or complex, or residential subdivision. Such sign shall be limited to a maximum  
90 sign area of 40 square feet and not more than five feet in height. Monument  
91 signs shall be limited to two per public street, or designated private drive, or  
92 entrance into the subject development.

93 (3) ~~Nameplate or flat w~~Wall signs (in the M-2 district) nonilluminated on  
94 the face of the building ~~which contain the name of the building only.~~ Only one  
95 such sign shall be permitted ~~on one per~~ building street frontage, ~~except where the~~  
96 ~~building fronts two principal streets, one such sign may be permitted on each~~  
97 ~~front face of the building.~~

98 (4) ~~Nameplate or flat w~~Wall sign (in the M-3 and M-4 districts) may be

permitted where mounted on the face of the building ~~and containing the name of the building only~~. Such sign may be interior illuminated, limited to a maximum sign area of 40 square feet.

(5) Nameplate, flat wall sign, monument or pole sign in the RR, R and M zoning districts recognizing the property's designation on either the National Register of Historic Places, the Register of Historic Kansas Places, or as a locally designated Historic Landmark. Only one such sign shall be permitted per property, and shall be limited to a maximum of four (4) square feet per sign face and not more than four (4) feet in height. Such sign shall contain information only about the historic nature of the property, and shall not be illuminated.

(b) Office and Commercial Districts. The following types of signs are permitted in the O&I and C districts:

~~(1) Church or public building identification sign (in the O&I-1, O&I-2, O&I-3, and C-1 districts) shall be permitted not to exceed 25 square feet per sign face. Such sign may be lighted only if indirect lighting or shaded lighting is used.~~

(21) Monument signs (in the O&I-1, O&I-2, O&I-3 and C-1 districts) limited to a maximum sign area of two square feet per foot of lot frontage, not to exceed a total of 100 square feet or 50 square feet per sign face, and limited to a maximum height of five feet.

(32) ~~Nameplate or flat w~~Wall sign where mounted on the face of the building ~~and containing the name of the building only~~. Such sign may be interior illuminated, limited to a maximum sign area of 40 square feet.

(43) Advertising signs (in the C-2 district) relating to either the name of

the business and/or products sold therein. Such signs shall not contain more than 200 square feet per single sign face, and shall not exceed a height of 35 feet; provided, however, that where such signs are within a 700-foot radius of the intersection of the centerline of an interstate highway with any major street or thoroughfare, as designated on the current adopted transportation plan, such signs shall not exceed a height of 55 feet.

(54) Advertising signs (in the C-3, C-4 and C-5 districts) shall not contain more than 300 square feet per single sign face and shall not exceed a height of 55 feet.

(c) Industrial Districts. The following types of signs are permitted in the I districts:

~~(1) Nameplate or flat wall sign where mounted on the face of the building and containing the name of the building only. Such signs may be interior illuminated, limited to a maximum sign area of 40 square feet.~~

~~(2) Monument signs limited to a maximum sign area of two square feet per foot of lot frontage, not to exceed a total of 100 square feet or 50 square feet per sign face, and limited to a maximum height of five feet.~~

(31) Advertising sign relating to either the name of the business and/or products sold therein. Such sign shall not contain more than 300 square feet per single sign face, and shall not exceed a height of 55 feet.

(d) University and Medical Service Districts. The following types of signs are permitted in the U-1 and MS-1 districts:

(1) ~~Nameplate or flat w~~Wall signs, nonilluminated on the face of the

building ~~which contain the name of the building only.~~

(2) Monument signs limited to a maximum sign area of ~~40~~ 100 square feet or ~~20~~ 50 square feet per sign face, and limited to a height of five feet.

(e) Mixed Use Districts. The following types of signs are permitted in the X districts:

(1) Permanent Signs.

(i) A nonresidential property is permitted any combination of wall sign and/or projecting sign totaling 100 square feet per building face except in no case shall any individual wall sign exceed 70 square feet, nor projecting sign exceed 15 square feet in size. An exception to these size limitations may be made by the planning director in cases where it can be demonstrated that any proposed wall or projecting sign supports or restores the historical significance of a building. Wall signs shall not cover or obstruct any architectural features deemed integral to the historic appearance or character of the building. Such features shall include, but are not limited to, transom windows, detailed brick, tile, or shingles.

(ii) Properties are permitted one double-faced ground sign, which shall include portable signs, not to exceed 40 square feet per sign face, nor seven feet in height above grade.

(f) Conditional Use Permits. Uses permitted by conditional use permit shall be subject to the sign regulations of the district where permitted, or specifically reviewed and considered as part of the conditional use permit.

Section 3. That section 18.25.060, Defined, of The Code of the City of

Topeka, Kansas, is hereby amended to read as follows:

**Defined.**

The term “ground signs” as used in this article means any sign not attached to a building, other than a billboard or panel poster, erected upon or supported by the ground and either affixed to the ground or portable. Any sign affixed to a trailer which is used solely for the transportation of the sign and is not designed to carry any other load shall be considered a portable sign for the purpose of sign regulations. ~~The advertisement contained on a ground sign shall pertain only to the business, industry or other pursuit conducted on or within the premises on which such sign is erected or maintained.~~

Section 4. That section 18.55.005, Generally, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**Generally.**

For the purpose of this ~~division~~title and Chapter [2.45](#) TMC, certain terms and words are hereby defined. Unless the context indicates to the contrary, words used in the present tense include the future tense, words used in the singular include the plural, words used in the plural include the singular, words importing the masculine gender include the feminine and neuter, and the word “shall” is mandatory. Any terms not herein defined shall be construed as defined elsewhere in this division or in an applicable building code or upon the interpretation of the city attorney, who may determine the context indicates that a standard dictionary definition is more appropriate. Where a word or term is defined in both this chapter and elsewhere in this division, the definition in this chapter shall be generally applicable except in the chapter or section of



191 this division where the word is elsewhere defined.

192       Section 5. That section 18.55.190, “S” definitions, of The Code of the City of  
193 Topeka, Kansas, is hereby amended to read as follows:

194       **“S” definitions.**

195       “School” means any building or part thereof which is designed, constructed or  
196 used for education or instruction in any branch of knowledge.

197       “School, elementary” means any school licensed by the state and which meets  
198 the state requirements for elementary education.

199       “School, private” means any building or group of buildings the use of which  
200 meets state requirements for primary, secondary or higher education and which use  
201 does not secure the major part of its funding from any governmental agency.

202       “School, secondary” means any school licensed by the state and which is  
203 authorized to award diplomas for secondary education.

204       “School, vocational” means a secondary or higher education facility primarily  
205 teaching usable skills that prepare students for jobs in a trade and meeting the state  
206 requirements as a vocational facility.

207       “Setback” means the minimum required distance between a building and the lot  
208 line or street right-of-way line, whichever is applicable.

209       “Setback line” means that line that is the required minimum distance from the  
210 street right-of-way line or any other lot line that establishes the area within which the  
211 principal structure must be erected or placed.

212       “Setback regulations” means the requirements of building laws that a building be  
213 set back a certain distance from the street or lot line either on the street level or at a

214 prescribed height.

215 “Sewage system” means a facility designed for the collection, removal, treatment  
216 and disposal of waterborne sewage generated within a given service area.

217 “Shop” means a use devoted primarily to the sale of a service or a product or  
218 products, but the service is performed or the product to be sold is prepared in its  
219 finished form on the premises.

220 “Shopping center” means a group of retail stores, originally planned and  
221 developed as a single unit, with immediate adjoining off-street parking facilities.

222 “Sign” means any device for visual communication that is used for the purpose of  
223 bringing the subject thereof to the attention of the public, but not including any flag,  
224 badge or insignia of any government or governmental agency.

225 “Sign area” means the total area of the space to be used for advertising  
226 purposes, including the spaces between open-type letters and figures, including the  
227 background structure or other decoration or addition which is an integral part of the sign.  
228 Sign supports shall be excluded in determining the area of a sign. A double-faced sign  
229 shall have twice the total area of a single-faced sign.

230 “Sign, billboard” or “panel poster” means any sign or advertisement used as an  
231 outdoor display for the purpose of making anything known, the origin or point of sale of  
232 which is remote from said display.

233 “Sign, business” means a sign which directs attention to a business, product,  
234 service or activity conducted or sold on the premises where the sign is displayed.

235 “Sign, flashing” means any illuminated sign, whether stationary, revolving, or  
236 rotating, which exhibits changing light or color effects; provided, that revolving or

237 rotating signs which exhibit no changing light or color effects other than those produced  
238 by revolution or rotation shall be deemed flashing signs only if they exhibit sudden or  
239 marked changes in such light or color effects.

240 “Sign, illuminated” means a sign designed to give forth any artificial light or reflect  
241 such light from an artificial source.

242 “Sign, programmable electronic” means a sign capable of displaying words,  
243 symbols, figures, or images that can be electronically or mechanically changed by  
244 remote or automatic means. The elements may be internally illuminated or may be  
245 illuminated by reflected light.

246 “Sign, real estate” means a sign pertaining to the sale or lease of the lot or tract  
247 of land on which the sign is located or to the sale or lease of one or more structures or a  
248 portion thereof located on such lot or tract of land.

249 “Site” means a specific location for the placement, erection or construction of a  
250 building, facility or establishment.

251 “Site-built home” means a home on a permanent foundation erected by the  
252 process of assembling individual building materials or members on-site and subject to  
253 adopted construction codes and safety standards.

254 “Site plan” means a plan to scale, showing accurately and with complete  
255 dimensioning the boundaries of a site and the location of all buildings, structures, uses,  
256 drives, parking, drainage, landscaping, and other principal site development  
257 improvements for a specific parcel of land.

258 “Specified anatomical area” means less than completely or opaquely covered  
259 human genitals, pubic region, and human male genitals in a discernibly turgid state,

even if completely and opaquely covered.

“Specified sexual activities” means human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; and fondling or other erotic touching of human genitals or pubic region.

“Stacking space” means a paved surface which is designed to accommodate a motor vehicle waiting for entry to any drive-through facility or auto-oriented use, which is located in such a way that a parking space or access to a parking space is not obstructed, and which is at least nine feet in width and 19 feet in length. Stacking spaces commence 10 feet behind the middle of the pickup window.

“Standards” means site design regulations such as lot area, height limits, frontage, landscaping, yards, and floor area ratio – as distinguished from use restrictions.

“Storage” means holding or safekeeping goods in a warehouse or other depository to await the happening of some future event or contingency which will call for the removal of the goods.

“Street” means a right-of-way dedicated to the public use, or a private right-of-way serving more than one ownership, which provides principal vehicular and pedestrian access to adjacent properties.

“Street line” means a dividing line between a lot and a street right-of-way.

“Structural alterations” means any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any substantial change in the roof or in the exterior walls.

“Structurally altered” means the making of such a substantial change in the

construction, identity, and use of the present building.

“Structure” means anything which is built or constructed, an edifice or building of any kind, or any place of work artificially built up or composed of parts joined together in some definite manner, which requires location on the ground or is attached to something having a location on the ground. It includes buildings, towers, cages for transformer substations, pergolas, and billboards but excludes poles, fences, retaining walls, air-conditioning units, posts, and other minor incidental improvements.

“Stub street” means a nonpermanent dead-end street that is intended to be extended in conjunction with the subdivision and development of the adjacent unplatted land. Access from the stub street shall be permitted only along the frontage of such street to the lots in the subdivision containing the stub street.

“Subdivision” means division of a lot, tract or parcel of land into two or more parts for the purpose of ownership or building development.

Subdivision Plat. See “plat of a subdivision.”

Section 6. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 18.25.095, which said section reads as follows:

**No off-premise advertising.**

All advertisements shall pertain only to the business, industry or other pursuit conducted on or within the premises on which such sign is erected or maintained.

Section 7. That original § 18.10.010, § 18.20.020, § 18.25.060, § 18.55.005 and § 18.55.190 of The Code of the City of Topeka, Kansas, are hereby specifically repealed.

Section 8. This ordinance shall take effect and be in force from and after its

passage, approval and publication in the official City newspaper.

Section 9. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 10. Should any section, clause or phrase of this ordinance be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

PASSED AND APPROVED by the Governing Body May 22, 2012.

CITY OF TOPEKA, KANSAS

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk