

(Published in the Topeka Metro News July 22, 2013)

**ORDINANCE NO. 19830**

AN ORDINANCE introduced by City Manager Jim Colson, amending City of Topeka Code Sections 18.10.020, 18.10.050, 18.20.020, 18.25.010, 18.25.070, 18.25.080, 18.25.095, 18.55.190 and specifically repealing said original sections, as well as creating new Section 18.25.135, all concerning electronic message center sign regulations.

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

Section 1. That section 18.10.020, Classification, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**Classification.**

For the purpose of this division, signs are hereby classified as follows:

- (a) Electronic message center signs (EMCs);
- (~~a~~b) Wall signs;
- (~~b~~c) Ground signs, ~~either portable or fixed to the ground~~ including portable;
- (~~e~~d) Billboards or panel posters;
- (~~d~~e) Roof signs;
- (~~e~~f) Projecting signs; and
- (~~f~~g) Temporary signs ~~and flags, banners and pennants.~~

Section 2. That section 18.10.050, Illumination, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**Illumination.**

(a) Except for an EMC, ~~No~~ sign shall be illuminated other than by electricity, and all signs so illuminated shall be constructed entirely of incombustible material except the insulation thereof and approved plastics for sign faces.

(b) All wiring, sockets, receptacles, switches, conductors and their supports shall be constructed and installed in accordance with the electrical code of the city and shall be subject to the inspection and approval of the city electrical inspector.

Section 3. That section 18.20.020, District regulations, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**18.20.020 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 signs, not exceeding five feet in height and 40 square feet per sign face and meeting the requirements of this subsection.

(i) Electronic message center signs (EMCs); ~~Number.~~  
~~Programmable electronic signs~~EMCs are limited to one per street frontage.

(ii) 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~~ ten square feet. The portion of the sign

53 face consisting of the ~~LED lighting~~EMC shall not be considered internally  
54 illuminated.

55 (iii) LEDEMC Size. The ~~light emitting diode (LED)~~EMC area is  
56 limited in size based upon street designation, as determined by the  
57 planning director, pursuant to the street classification system in the long-  
58 range transportation plan adopted by the Metropolitan Topeka Planning  
59 Organization. Size limitations of the LEDEMC area are as follows:

60 (A) Nine square feet per sign face where placement  
61 would abut a local street.

62 (B) Twelve square feet per sign face where placement  
63 would abut a collector street.

64 (C) Fifteen square feet per sign face where placement  
65 would abut an arterial street.

66 (D) If placement is at an intersection of two streets and  
67 the sign face is visible to motorists on both streets, size of the EMC  
68 area shall be based upon the lower classified street.

69 ~~(iv) Animated and Audio Messages. No sign shall include any~~  
70 ~~audio message, tones or music nor shall a sign display animated~~  
71 ~~messages, including flashing, blinking, fading, scrolling, shading,~~  
72 ~~dissolving, or any other effect that gives the appearance of movement.~~  
73 ~~Sign messages shall remain static for at least eight seconds.~~

74 ~~(v) Brightness. Signs shall utilize automatic dimming technology~~  
75 ~~to adjust the brightness of the sign relative to ambient light so that at no~~

time shall a sign exceed a brightness level of three tenths foot candle above ambient light, as measured using a foot candle (lux) meter calibrated within the past 12 months and in conformance with the following process:

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

(B) An ambient light measurement shall be taken using a foot candle meter at some point between the period of time between 30 minutes past sunset and 30 minutes before sunrise with the sign turned off to a black screen.

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

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

98                               ~~(vi) Default Mechanism. All signs shall contain a default~~  
99                               ~~mechanism that will cause the sign to revert immediately to a single~~  
100                              ~~message or a black screen if the sign malfunctions.~~

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

106                   (3) Wall signs (in the M-2 district) nonilluminated on the face of the  
107                   building. Only one sign shall be permitted per building street frontage.

108                   (4) Wall sign (in the M-3 and M-4 districts) may be permitted where  
109                   mounted on the face of the building. Such sign may be interior illuminated, limited  
110                   to a maximum sign area of 40 square feet.

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

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

(1) 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.

(2) Wall sign where mounted on the face of the building. Such sign may be interior illuminated, limited to a maximum sign area of 40 square feet.

(3) ~~Advertising s~~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.

(4) ~~Advertising s~~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.

(5) One EMC sign with up to two sign faces per street frontage provided that the size is limited to 50% of the allowable sign area for the zoning district. A sign may be comprised entirely of an EMC.

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

(1) ~~Advertising~~ Signs relating to 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.

(2) One EMC sign with up to two sign faces per street frontage provided that the size is limited to 50% of the allowable sign area for the zoning district. A sign may be comprised entirely of an EMC.

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

(1) Wall signs, nonilluminated on the face of the building.

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

(3) One EMC sign with up to two sign faces per street frontage provided that the size is limited to 50% of the allowable sign area for the zoning district. A sign may be comprised entirely of an EMC.

(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.

(iii) One EMC sign with up to two sign faces per street frontage are allowable in X-1 and X-2 districts provided that the size is limited to 50% of the allowable sign area for the zoning district. A sign may be comprised entirely of an EMC.

(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 4. That section 18.25.010, Illuminated canopies, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

~~Illuminated canopies~~Electronic message center signs (EMCs).

~~Canopies of permanent construction may be illuminated by electric lights and the name of the building, the name of the owner or occupant and the street number may be made a part of such canopy. In the case of a theater or other place of public amusement, a daily program may be outlined upon such canopy by the use of changeable letters or characters.~~



(a) Electronic message center signs may be erected in the following zoning districts: RR, R, M, O & I, C, I, U-1, MS-1 and X only if the sign is allowed in the respective district pursuant to TMC 18.20.020 and the sign meets all of the following standards:

(1) Brightness. An EMC shall utilize automatic dimming technology to adjust the brightness of the sign relative to ambient light so that at no time shall an EMC exceed a brightness level of three-tenths (0.3) foot candle above ambient light, as measured using a foot candle (lux) meter calibrated within the past 36 months and in conformance with the following process:

(i) Light measurements shall be taken with the meter aimed perpendicular to the sign message face or at the area of the sign emitting the brightest light if that area is not the sign message face, at a preset distance depending on sign size. Distance shall be determined by taking the square root of the product of the sign area and one-hundred (100). For example, using a 12 square foot sign:  $\sqrt{(12 \times 100)} = 34.6$  feet measuring distance.

(ii) An ambient light measurement shall be taken using a foot candle meter at some point between the period of time between 30 minutes past sunset and 30 minutes before sunrise with the sign turned off to a black screen.

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

(iv) The brightness of an EMC shall be compliant with the brightness requirements of this subsection if the difference between the ambient light measurement and the operating sign light measurement is three-tenths (0.3) foot candle or less.

(2) Movement. The following display features are prohibited: flashing, strobing, blinking, fluttering, spinning, rotating, bouncing, animation, scrolling and chasing.

(i) Exception: An EMC located within the I, C-2, C-3, C-4, or C-5 districts which is not within 125 feet of a residential or open space district may have animation, scrolling text, and frame effects.

(3) Right-of-way; no portable. An EMC shall not overhang into a public right-of-way and shall not be included in a portable sign.

(4) Audio Messages. An EMC shall not include any audio message, tones or music.

(5) Dwell times; C-2, C-3, C-4, C-5 and I. EMCs located within a C-2, C-3, C-4, C-5 or I district and within 125 feet of a residential or open space district may only display static images having a dwell time of at least four seconds and a transition time of two seconds or less and this transition may use frame effects without illusionary or simulating movement.

(6) Dwell times; Church/public building identification signs. EMCs incorporated into church or public building identification signs shall have a dwell time of at least eight seconds.

(7) Dwell times; O & I; C-1; U-1; MS-1; X-1; X-2. EMCs located within an O&I, C-1, U-1, MS-1, X-1, or X-2 district may only display static images having a dwell time of at least four seconds and a transition time of two seconds or less and this transition may use frame effects without illusionary or simulating movement.

(8) Compliance assurance. No permit shall be granted unless the applicant provides sufficient proof from the manufacturer that the sign has the technical capacity to comply with all applicable regulations governing EMCs and that the sign owner and/or operator has reviewed and understands the applicable regulations pertaining to the EMC and agrees not to violate the regulations.

(b) Non-Conforming EMCs. An EMC in existence on the effective date of this ordinance that does not meet the standards regarding audio messages, movement, and brightness shall be compliant with the requirements of this ordinance by September 1, 2013.

Any EMC in existence on the effective date of this ordinance that does not meet the standards regarding size, number, placement, and type shall be a nonconforming use and regulated pursuant to TMC 18.220.

Section 5. That section 18.25.070, Height and size permitted, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**Height and size permitted.**

Except as provided in Chapter 18.20, No ground sign shall extend at any point more than 10 feet above grade, unless the following provisions are complied with, in which case a maximum height above grade of 55 feet may be permitted:

(a) Such signs, including all supports and braces, ~~shall be~~are constructed entirely of incombustible materials except for approved plastics for sign faces; and

(b) Such signs ~~shall not~~ contain no more than 300 square feet of single face area.

Section 6. That section 18.25.080, Location and support, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**Location and support.**

All affixed ground signs shall be adequately supported and braced or guyed. Except as provided in Chapter 18.20, ~~No~~ ground sign shall exceed 50 feet in length. Where any part of an affixed ground sign projects over rights-of-way of public streets or alleys, the sign shall be considered as a projecting sign and subject to the regulations pertaining to such signs.

Section 7. That section 18.25.095, No off-premises advertising, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**No off-premises advertising; Exception.**

(a) 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.

(b) Subsection (a) shall not apply to directional signs that meet all of the following requirements:

(1) The business, industry, or other activity the sign is intended to serve does not have arterial street frontage but has an access road or drive directly taken from the arterial road where the sign will be located;

277           (2)    The property owner of the property where the sign will be located  
278           provides written consent to the planning director;

279           (3)    The sign does not exceed ten square feet and four feet in height;

280           (4)    The zoning district where the sign is located has the same zoning  
281           or a less restrictive zoning designation than the business the sign will serve; and

282           (5)    The communication is limited to the business name, business logo,  
283           and directional symbols.

284           Section 8.    “That The Code of the City of Topeka, Kansas, is hereby amended  
285           by adding a section, to be numbered 18.25.135, which said section reads as follows:

286           **Electronic message center signs.**

287           Each EMC sign located on a billboard or panel poster shall meet all of the  
288           following requirement:

289           (a)    The sign does not contain or display flashing, intermittent or moving lights,  
290           including animated or scrolling advertising.

291           (b)    Messages shall have a minimum dwell time of eight seconds and a  
292           transition time between messages of two seconds or less.

293           (c)    The sign shall not be placed within 1320 feet of another billboard or panel  
294           poster EMC sign on the same side of the highway, with the distance being measured  
295           along the nearest edge of the pavement and between points directly opposite the signs  
296           along each side of the highway.

297           (d)    If a billboard or panel poster is a legal conforming structure it may be  
298           changed to an EMC sign. However, a billboard or panel poster that is a nonconforming  
299           structure cannot be changed to an EMC sign.

(e) The sign shall comply with the EMC standards in TMC 18.25.010 but the 50% sign area limitation in TMC 18.20.020 shall not apply.

Section 9. That section 18.55.190, “S” definitions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**“S” definitions.**

“School” means any building or part thereof which is or was designed, constructed or used for education or instruction in any branch of knowledge including any re-use for office or administrative functions designed to support school services or programs.

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

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

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

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

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

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

324 “Setback regulations” means the requirements of building laws that a building be  
325 set back a certain distance from the street or lot line either on the street level or at a  
326 prescribed height.

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

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

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

334 “Sign” means any ~~device for visual communication that is used for the purpose of~~  
335 ~~bringing the subject thereof to the attention of the public, but not including any flag,~~  
336 ~~badge or insignia of any government or governmental agency~~ outdoor device, structure,  
337 fixture or placard using graphics, symbols, and/or written copy designated for the  
338 purpose of advertising or identifying any establishment, product, goods, services,  
339 activities, or uses.

340 “Sign, animation” means the use of movement or some element thereof, to depict  
341 action or create a special effect or scene.

342 “Sign area” means the total area of the space to be used for advertising  
343 purposes, including the spaces between open-type letters and figures, including the

background structure or other decoration or addition which is an integral part of the sign. Sign supports shall be excluded in determining the area of a sign. A double-faced sign shall have twice the total area of a single-faced sign.

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

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

“Sign, dwell time” means the interval of time between individual messages on an Electronic Message Center sign.

“Sign, Electronic Message Center” (EMC) means an electrically activated changeable sign whose variable message and/or graphic presentation capability can be electronically programmed by computer from a remote location. EMCs typically use light emitting diodes (LEDs) as a lighting source.

“Sign, flashing” means ~~any illuminated sign, whether stationary, revolving, or rotating, which exhibits changing light or color effects; provided, that revolving or rotating signs which exhibit no changing light or color effects other than those produced by revolution or rotation shall be deemed flashing signs only if they exhibit sudden or marked changes in such light or color effects~~ a pattern of changing light illumination where the sign illumination alternates suddenly between fully illuminated and fully non-illuminated or fully illuminated in one color to fully illuminated in another color in a period



of less than one second for the purpose of drawing attention to the sign.  
Chasing/running lights, spinning, strobing, and frame effects are included.

“Sign, frame effects” means a visual effect on an electronic message center sign applied to a single frame to transition from one message to the next.

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

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

“Sign, off-premise directional” means a small off-premise sign intended to allow for the safe and efficient flow of vehicular traffic to the site.

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

“Sign, scrolling” means a mode of message transition on an EMC sign in which the message appears to move vertically or horizontally across the display surface.

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

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

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

392 “Specified anatomical area” means less than completely or opaquely covered  
393 human genitals, pubic region, and human male genitals in a discernibly turgid state,  
394 even if completely and opaquely covered.

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

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

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

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

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

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

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

416           “Structurally altered” means the making of such a substantial change in the  
417 construction, identity, and use of the present building.

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

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

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

430           Subdivision Plat. See “plat of a subdivision.”  
431

Section 10. That original §§ 18.10.020, 18.10.050, 18.20.020, 18.25.010, 18.25.070, 18.25.080, 18.25.095, 18.55.190 of The Code of the City of Topeka, Kansas, are hereby specifically repealed.

Section 11. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 12. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 13. 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 on July 16, 2013.

CITY OF TOPEKA, KANSAS

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk