

OCA# 132019

(First published in *The Wichita Eagle*, on October 14, 2016)

ORDINANCE NO. 50-334

AN ORDINANCE AMENDING SECTIONS 10.04.126, 10.04.127, 10.04.131, 10.04.132, 10.04.180, 10.04.190, 10.04.210, 10.04.215, 10.04.220, REPEALING SECTIONS 10.04.055, 10.04.056 AND 10.04.057 AND CREATING 10.04.137 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO STREETS AND SIDEWALKS IN THE RIGHT OF WAY.

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

SECTION 1. Section 10.04.055 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 2. Section 10.04.056 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 3. Section 10.04.057 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 4. Section 10.04.126 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Notice to remove obstructions; penalties.”**

- (a) Whenever any Person obstructs the Right-of-Way as described in Section 10.04.125, the City Engineer or the City Engineer’s representative shall serve or cause to be served a notice upon such Person, and, if different, the owner of record of the property, requiring compliance within no more than thirty (30) days of the date of such notice. Such notice(s)

will be served through first-class mail, postage prepaid and certified, to the last known address of such Person(s) or by personal service.

- (b) The City Engineer shall, charge such Person with a Right-of-Way usage fee in an amount not to exceed two hundred (200) dollars per day for the time period such obstruction was in the Right-of-Way following notification to remove the obstruction.

SECTION 5. Section 10.04.127 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Failure to comply with notice; penalties.”**

- (a) If the Person noticed under Section 10.04.126 fails to comply with such notice, either through failure to remove the obstruction or failure to obtain compliance through Section 10.04.125(b), the City Engineer or the City Engineer’s representative shall take action to remove such obstruction forthwith.
- (b) When such Person noticed under Section 10.04.126 fails to remove such obstruction pursuant to the notice or fails to respond to the notice, such property shall be deemed abandoned after thirty (30) days and subject to removal by the City Engineer.
- (c) Any costs associated with the removal and/or storage of the obstruction shall be charged against the Person creating the obstruction or, when such Person cannot be identified, against the abutting property and such tax shall be levied, certified, and collected in the same manner as special assessment taxes for the repair and construction of sidewalks.

SECTION 6. Section 10.04.131 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Sidewalk Café Permits and applicable procedure.”**

(a) After application to the City Engineer's Office and upon notice and opportunity for comment from the public, a sidewalk café permit may be issued. Such permit will allow for the location of diverters, plantings, stands, tables, lighting, seating, devices for protection of patrons from the elements, and other devices for the sale and service of prepared meals and beverages. The sale, service and consumption of prepared meals and beverages including alcoholic liquor shall be allowed upon public sidewalks within the permitted area as provided under K.S.A. § 12-406a and K.S.A. § 41-719 (d). The application shall comply with the administrative requirements established by the City Engineer, and shall be referred to the City's Traffic Engineer, the MABCD and the Fire Department for their recommendations and determination that the sidewalk café operation as described in the application will not endanger or unduly inconvenience the public. If negative public comment is received, the City Engineer shall hold a public hearing and shall make a decision on the issuance of the permit. A permit denial may be appealed to the City Council in a writing delivered to the City Clerk within thirty (30) days of the decision by the City Engineer.

SECTION 7. Section 10.04.132 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Permit issuance.”**

On approval of the application and payment of the required fee the sidewalk café permit shall be issued by the City Engineer. This permit is in addition to any other license or permit required for the operation intended. The area encompassed by a valid sidewalk café permit may be included by the permit holder as part of the licensed premises submitted for any club or drinking establishment license issued by the State of Kansas.

SECTION 8. Section 10.04.137 of the Code of the City of Wichita is hereby created to read as follows:

**“Isolated Sales”**

- (a) Isolated sales are allowed only in non-residential zoning districts. Such sales may include the location of stands, tables, racks and other devices for the sale and display of merchandise upon public sidewalks for a period not to exceed two (2) consecutive days per calendar month.
- (b) The location of the display devices shall be made so that no more than one-half of the sidewalk area from front to back is occupied by the display racks, etc., but in no case shall the unobstructed sidewalk area be less than four (4) feet; furthermore, the placement of the display racks, et cetera, shall be limited so that each merchant shall display the merchandise only within the area of the sidewalk which immediately abuts each merchant’s business.

SECTION 9. Section 10.04.180 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Exceptions to system and correction of existing inconsistencies.”**

- (a) The City Engineer and the MABCD are authorized, empowered, and directed to make such exceptions to the numbering system as may be made necessary by the irregular routing of streets, avenues or highways, by the use of named private streets; or by any other circumstance under which application of the numbering system set forth in Section 10.04.170 is impossible or produces a result which is not consistent with the orderly and uniform numbering of houses and buildings.

- (b) The City Engineer and the MABCD are authorized, empowered, and directed to correct existing inconsistencies in house numbers assigned or otherwise in use by reassigning a street number consistent with Section 10.04.170 and 10.04.180 and requiring the property owner(s) to post such reassigned street numbers as provided in Section 10.04.190.
- (c) Before making a reassignment of street numbers as provided in subsection (b) of this Section, the City Engineer shall notify the affected property owner in writing of such reassignment and said property owner may appeal a decision by the City Engineer reassigning a street number to the governing body of the city. Such appeal shall be in writing setting forth with sufficient particularity the decision appealed from and the reasons why such decision should be reviewed. An appealing party shall have the right to be heard and to present evidence at the hearing set for such purpose. Provided, however, that no such appeal shall be accepted or considered by the governing body unless notice of such appeal is given to the governing body within twenty days after the making of the decision appealed from.

SECTION 10. Section 10.04.190 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Duty of owner or occupant to place and size of house numbers.”**

The owner or occupant of every one or two family dwelling in the City is required to conspicuously place on the residence house numbers of at least three (3) inches in height. Painting house numbers on the Curb alone shall not be sufficient to comply with this Section.

Such numbers shall be consistent with Sections 10.04.170 and 10.04.180. Such numbers shall be of a contrast with their background such that police officers and firefighters can read the numbers from the abutting street. Any property owner failing to comply with this Section shall be

punished by a fine of twenty five (25) dollars. Each day house numbers are not properly placed on the residence is a separate and distinct offense.

SECTION 11. Section 10.04.210 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Appeal.”**

Any applicant may appeal a decision by the Director of the MAPD refusing to approve the naming or numbering of a street to the Metropolitan Area Planning Commission (MAPC). Such appeal shall be in writing setting forth with sufficient particularity the decision being appealed and the reasons why such decision should be reviewed. Provided, however, no such appeal shall be considered by the MAPC unless written notice of the appeal is received by the MAPC no later than thirty (30) days after the decision being appealed is made.

SECTION 12. Section 10.04.215 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Enforcement.”**

The MABCD, the Wichita Fire Department, City Engineering, and the Wichita Police Department have the power to enforce any provision of this Chapter.

SECTION 13. Section 10.04.220 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Penalty.”**

Unless otherwise provided in this Title, a violation of the terms of this Title shall constitute a misdemeanor.

SECTION 14. The original of Sections 10.04.055, 10.04.056, 10.04.057, 10.04.126, 10.04.127, 10.04.131, 10.04.132, 10.04.180, 10.04.190, 10.04.210, 10.04.215 and 10.04.220 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 15. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas this 11<sup>th</sup> day of October, 2016.

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Jeff Longwell, Mayor

ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Jennifer Magaña  
City Attorney and Director of Law