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OCA#081109

ORDINANCE NO. 47-872

AN ORDINANCE AMENDING SECTION 5.68.215 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO ANTI-PROSTITUTION EMPHASIS AREA ENHANCED PENALTIES.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF

WICHITA, KANSAS:

Section 1. 5.68.215 of the Code of the City of Wichita, Kansas, shall read as follows:

(a) The following described area of the city is designated to be an anti-prostitution emphasis area:

- (1) An area bounded to the north at 21st Street, on the east by Washington, on the south by 2nd Street, and on the west by Main Street, which becomes Park Place, which encompasses all areas within those parameters, including the property on both sides of each of the boundary streets.
- (2) An area bounded to the north at Waterman, on the east by Washington, on the south by 47th Street South, and to the west by Wichita, which encompasses all areas within those parameters, including the property on both sides of each of the boundary streets.
- (3) An area bounded to the north by 13th Street, on the east by Hillside, on the south by 2nd Street, and on the west by Cleveland, which encompasses all areas within those parameters, and including the property on both sides of each of the boundary streets.

(b) Any person who commits an unlawful act of prostitution, or a prostitution-related act within

the area set forth in subsection (a) is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than two thousand five hundred dollars or one year's imprisonment, or by both such fine and imprisonment. Upon a first conviction of a violation of this section, the court shall impose a fine not less than two hundred dollars nor more than five hundred dollars, and a mandatory jail sentence of not less than five consecutive days nor more than six months' imprisonment. Upon a second conviction of a violation of this section, the court shall impose a fine of not less than five hundred dollars nor more than one thousand dollars and a mandatory jail sentence of not less than thirty consecutive days nor more than one year's imprisonment. Upon a third or a subsequent conviction of a violation of this section, the court shall impose a fine of not less than one thousand dollars nor more than two thousand five hundred dollars and a mandatory jail sentence of not less than ninety consecutive days nor more than one year's imprisonment. No person shall be eligible for probation or parole until serving the entire minimum sentence.

- (c) For the purposes of this section, an unlawful act of prostitution or a prostitution-related act shall include the following sections of this code, and any amendments thereto: 5.68.010 (prostitution), 5.68.020 (patronizing a prostitute), 5.68.030 (promoting prostitution), 5.68.110 (soliciting for immoral purposes), 5.68.170 (sodomy for hire), 5.68.180 (patronizing a person offering sodomy for hire), 5.68.190 (promoting sodomy for hire), 5.68.200 (sodomy), or 5.68.210 (loitering for the purpose of solicitation).
- (d) For the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section, it is irrelevant whether an offense occurred before or after conviction for a previous offense.
- (e) The imposition of the fines established in subsection (b) herein shall be mandatory and the

court shall not waive, remit, suspend, parole or otherwise excuse the payment thereof except that defendants who are in violation of this section due to their commission of an act in violation of Sections 5.68.101 (prostitution), 5.68.110 (solicitation for immoral purposes) or 5.68.170 (sodomy for hire) shall be eligible to have such fines suspended by their agreement to enter and successfully complete a court-ordered program of treatment and supervision.

The court may also order that any defendant perform community service specified by the court but such an order shall be entered only after the court has required the defendant to file an affidavit of such defendant's financial condition as required by Section 1.04.210(e) of this code and amendments thereto, and the court has found from the information contained in the affidavit that the defendant is financially unable to pay the fines imposed herein.

- (f) If any subsection, clause or provision of this section is for any reason held illegal, invalid or unconstitutional, such action shall not affect the remaining provisions of this section which shall remain valid to the extent possible.

Section 2. The original Section of 5.68.215 of the Code of the City of Wichita, Kansas, is hereby repealed.

Section 3. 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 22 day of April, 2008.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary Rebenstorf
Director of Law and City Attorney