(Published in the Topeka Metro News  October 23, 2002)

ORDINANCE NO. 1790/a

AN ORDINANCE introduced by Councilmember Gary Price relating to the placement of sign code enforcement responsibilities on the public works director, planning director or their designees, removal of signs located in the city's rights-of-way, establishing fines for sign code violations, and changing the bond or insurance requirements, amending City of Topeka Code §§ 118-8, 118-10, 118-11, 118-12, 118-13, 118-37, 118-56, 118-57, 118-58, 118-60, 118-104, and 118-179 and specifically repealing said original sections.

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

Section 1. City of Topeka Code § 118-8, Unsafe signs, is hereby amended to read as follows:

Unsafe signs.

The code enforcement public works director, planning director or their designees shall notify the owner or person maintaining any sign which has become insecure or in danger of falling, or is otherwise unsafe, that such sign is unsafe. Upon receipt of such notice, the owner or person maintaining the sign shall proceed immediately to place the sign in a safe and secure manner and condition as approved by the code enforcement public works director, planning director or their designees or the owner shall have the sign removed.

Section 2. City of Topeka Code § 118-10, Maintenance and removal, is hereby amended to read as follows:

Maintenance and removal.

(a) All signs must be maintained in good condition and the owner thereof shall repair any signs when ordered to do so by the code enforcement public works director, planning director or their designees.
(b) If any sign is not maintained in good condition so as to meet the approval of the code enforcement public works director, planning director or their designees, then the code enforcement public works director, planning director or their designees may order such sign to be removed within a reasonable time.

Section 3. City of Topeka Code § 118-11, Removal of signs, is hereby amended to read as follows:

Removal of signs.

(a) Any sign placed on private or public property (including public right-of-way) in violation of any provision of this section chapter or any other chapter of the Code of the city may be removed and impounded by the code enforcement public works director, planning director or their designees. The code enforcement public works director, planning director or their designees shall prepare a written notice specifying the violation involved which shall also state that if the sign is not removed or the violation not corrected within three (3) days, the sign shall be impounded. Additionally, the notice shall inform the recipient that he or she may appeal the violation to the board of zoning appeals. If the violation is not corrected within the stated time period, the sign shall be removed by the code enforcement public works director, planning director or their designees. The city will hold the sign(s) for five ten (5 10) business days. After at least ten (10) business days of storage, the city shall have the sign properly disposed. The sign(s) will be returned to the owner before the prior to the expiration of the five ten (10) business day period the owner of the sign may secure its return upon the payment of any fines and the removal and storage fee.

(b) The violation notice shall be served by certified mail, personal delivery or posting in a conspicuous place upon the property. This notice may be served upon the
older of the sign permit or an employee or representative of the permittee and the owner of
the property upon which the sign is located as shown on the records of the register of
deeds. Any sign placed on city property, city right-of-way, and city easements, in violation
of any provision of this chapter or any other chapter of the Code of the city may be
immediately removed and impounded by the public works director, planning director or
their designees. The public works director, planning director or their designees shall
prepare a written notice specifying the violation involved for which the sign has been
impounded. Additionally, the notice shall inform the recipient that he or she may appeal
the violation to the board of zoning appeals. After at least ten (10) business days of
storage, the city shall have the sign properly disposed. Prior to the expiration of the ten
(10) business day period the owner of the sign may secure its return upon the payment of
any fines and the removal and storage fee.

(c) Notwithstanding the above, the code enforcement public works director,
planning director or their designees may cause immediate removal of a dangerous or
defective sign which poses an immediate threat or hazard to person or property. The code
enforcement director shall provide notice as set forth in subsection (b) of the emergency
removal. The notice shall include information about the recovery of the sign as set forth in
subsection (b). The public works director, planning director or their designees shall
prepare a written notice specifying the violation involved for which the sign has been
impounded. Additionally, the notice shall inform the recipient that he or she may appeal
the violation to the board of zoning appeals. After at least ten (10) business days of
storage, the city shall have the sign properly disposed. Prior to the expiration of the ten
(10) business day period the owner of the sign may secure its return upon the payment of any fines and the removal and storage fee.

(d) Any notice of a violation shall be served by certified mail, personal delivery or posting in a conspicuous place upon the property. This notice may be served upon the owner of the sign, holder of the sign permit, or an employee or representative of the permittee and the owner of the property upon which the sign is located or owner of property adjacent to the city right-of-way on which it is located as shown on the records of the register of deeds.

Section 4. City of Topeka Code § 118-12, Cost of sign removal, is hereby amended to read as follows:

**Fines and Cost of sign removal.**

(a) (1) It shall be unlawful to violate subsection (a) of section 118-11 of this chapter. Further any violation of subsection (a) of section 118-11 of this chapter shall be a municipal offense and shall be subject to a minimum fine of fifty dollars ($50.00). Every day of violation shall be a separate and distinct offense.

(2) The fine may be collected from the property owner, sign owner, or permittee. If the property owner or permittee fails to pay the fine, such fine shall be certified to the city clerk, who shall assess the costs as a special assessment against the lot or parcel of land upon which the sign was located in the manner provided by law.
(3) Notwithstanding the foregoing, the public works director, planning
director or their designees may cause an individual violation of subsection (a) of
section 118-11 of this chapter to be prosecuted in municipal court.

(b) Any sign removed by the code enforcement public works director, planning
director or their designees may be disposed of in any reasonable manner deemed
appropriate by the city. The following fee schedule for removal and storage of
unauthorized or hazardous signs is hereby established:

(a) (1) Routine removal, each . . . . $30.00

(b) (2) Removal requiring special equipment or extra labor . . . . actual cost
of removal

The fee may be collected from the property owner, sign owner, or sign permittee. If
the property owner, sign owner, or permittee fails to pay the authorized fee, such fee shall
be certified to the city clerk, who shall assess the costs as a special assessment against
the lot or parcel of land upon which the sign was located in the manner provided by law.

Section 5. City of Topeka Code § 118-13, Revocation of permits, is hereby
amended to read as follows:

Revocation of permits.

The code enforcement public works director, planning director or their designees
may revoke any sign permit under the provision of this chapter or order the removal of any
sign for any of the following reasons:
Whenever a permit holder is convicted of a violation of any of the provisions of this chapter or any other ordinance relating to signs;

(b) Whenever a permit holder is convicted of any violation of any condition on which the permit was based;

(c) Whenever any false statement or misrepresentation has been made on the application on which the issuance of the permit was based;

(d) Whenever the sign owner has failed to maintain a sign in conformance with this chapter or any other ordinance relating to signs;

(e) Whenever the owner obtains a change in the zoning of the lot and the existing sign becomes nonconforming.

Section 6. City of Topeka Code § 118-37, Insurance, is hereby amended to read as follows:

Insurance.

Any person desiring to erect or hang a sign to advertise the business of such person in the city shall furnish to the city the same kind and character of a bond, or in lieu thereof, shall furnish the same kind and character of written agreement and evidence of public liability insurance as required in section § 118-104, which instrument shall be subject to the approval of the city attorney and the council, and which bond or written agreement and certificate policy of insurance shall be kept in full force and effect for such time as such sign remains in place.

Section 7. City of Topeka Code § 118-56, Required, is hereby amended to read as follows:

Required.
(a) No sign subject to the provisions of this chapter shall hereafter be hung or erected until after a permit to hang, erect or locate such sign has been obtained from the code enforcement public works director or his or her designees.

(b) No additional billboard or panel poster type signs subject to the provisions of this chapter shall hereafter be hung or erected and no permits for additional billboards or panel posters shall be issued by the code enforcement public works director or his or her designees following the effective date of this section; provided, that this provision shall not prevent the necessary maintenance and/or repair of existing billboards or panel posters.

(c) No sign erected or constructed prior to the effective date of this section for which a permit was required for original construction shall be relocated, rebuilt or remodeled without coming into compliance with the provisions of this chapter and until after a permit granting permission for such relocation, rebuilding or remodeling has been obtained from the code enforcement public works director or his or her designees. A permit for a new billboard or panel poster type sign shall not be issued until verification that an existing billboard or panel poster type sign has been removed. A new billboard or panel poster sign shall comply with the provisions of this chapter for new signs, including construction type, distance requirements and zoning.

(d) Permits issued under this chapter shall become null and void after a period of ninety (90) days from the date of issuance unless work is commenced towards the completion of the structural elements of the sign. One (1) extension of time may be granted for good cause shown by the code enforcement public works
director or his or her designees upon written request of the applicant.

Section 8. City of Topeka Code § 118-57, Exemptions, is hereby amended to read as follows:

Exemptions.

A personal announcement sign may be erected or located for a period not to exceed fourteen (14) days without obtaining a permit and shall be considered exempt from zoning use regulations notwithstanding the foregoing, no personal announcement sign shall be placed on city property, city right-of-way or city easements. For purposes of this exemption, a personal announcement sign is a sign not to exceed twenty-four (24) square feet in display area and eight (8) feet in height which depicts an individualized event, including, but not limited to, such events as anniversaries, births, weddings and birthdays, but under no circumstances including events of a commercial nature. Provided further, personal announcement signs shall not in any event be lighted.

Section 9. City of Topeka Code § 118-58, Application, is hereby amended to read as follows:

Application.

No permit shall be issued by the code enforcement public works director or his or her designees until an application has been filed in the director’s office showing the plans and specifications, including stress diagrams or tabulated stresses, dimensions, materials and details of construction, together with complete details showing methods of anchoring proposed signs.

Section 10. City of Topeka Code § 118-60, Appeals, is hereby amended to read as follows:
Appeals.

Any person whose application for a permit to hang, erect or locate an advertising sign has been denied by the code enforcement public works director or his or her designees, or any person desiring to appeal from any decision of the code enforcement public works director, planning director or their designees in the enforcement of the city sign regulations which shall specifically include a decision to remove, fine or otherwise cite an individual or business for an improperly located sign, may appeal to the board of zoning appeals by serving written notice on the code enforcement public works director, planning director or their designees. Such notice shall be at once transmitted by the code enforcement public works director, planning director or their designees to the chairperson of the board of zoning appeals who shall then arrange for a hearing thereon.

Section 11. City of Topeka Code § 118-104, Bond or insurance prerequisite to issuance, is hereby amended to read as follows:

Bond or insurance prerequisite to issuance.

Before any license is issued under this article, the person shall execute and deliver to the city a good and sufficient surety company bond in the sum of $5,000.00 to be approved by the city attorney and the council, and so conditioned that the person will pay any and all damages which may occur to any citizen or property on account of defective construction of signs and to further save and indemnify and hold harmless the city against all liabilities, judgment, damages, costs and expenses which may in any way accrue against the city in consequence of the granting of such license. In lieu of such bond, the person may execute a written agreement promising to pay any and all damages which may occur to any citizen or property on account of defective construction of signs and to further
save and indemnify and hold harmless the city against all liabilities, judgments, damages, costs and expenses which may in any way accrue against the city in consequence of the granting of such license, the written agreement to be accompanied by a certificate of insurance evidencing the fact that the person has in force and effect a policy of insurance covering public liability and in the same or a greater amount than the bond required in this section, which agreement and certificate of insurance shall be subject to approval by the city attorney and the council. A bond or written agreement and certificate of insurance as required in this section shall be kept in force and effect at all times during the life of the license so issued as aforesaid. the applicant or licensee shall present to the city clerk evidence of a satisfactory, public liability insurance policy covering all operations of five hundred thousand dollars ($500,000.00) combined single limit for liability and property damage. Such policy may be written to allow no more than one thousand dollars ($1,000.00) for a paid deductible. Should any policy be cancelled, the city shall be notified of such cancellation within ten (10) days after such cancellation is effective, and provisions to that effect placing upon the company writing such policy the duty to give such notice shall be incorporated in such policy. If any such insurance policy at any time fails, in the opinion of the public works director, planning director or their designees, to comply with the provisions of this section or to afford reasonably satisfactory protection to the persons intended to be protected thereby, he/she shall in writing so notify the licensee and the city clerk, and failure to maintain the insurance required by this section shall be grounds for revocation of any such license or, in the discretion of the public works director, planning director or their designees, for the suspension thereof until the insurance required by this section is so furnished, and it shall be unlawful for any person to engage in business while
the license to do so is for any reason suspended or after such license is for any reason revoked.

Section 12. City of Topeka Code § 118-179, Special portable sign regulations, is hereby amended to read as follows:

Special portable sign regulations.

No portable ground sign maintained within one foot of public property shall exceed eight (8) square feet in single face area, nor shall the highest point of such sign be more than four and one half (4 1/2) feet above grade. All portable signs shall be weighted to prevent overturning. No portable sign shall be located, placed or maintained within the lines of any street, city property, city right-of-way, or city easement alley or public grounds.

Section 13. Said City of Topeka Code §§ 118-8, 118-10, 118-11, 118-12, 118-13, 118-37, 118-56, 118-57, 118-58, 118-60, 118-104 and 118-179 are hereby specifically repealed.

Section 14. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper.

PASSED and APPROVED by the City Council OCT 15 2002.

Harry Felker, Mayor

ATTEST:

Iris E. Walker
Iris E. Walker, City Clerk

APPROVED AS TO FORM AND LEGALITY
DATE: 10/4/02 BY: C
TO BE CODIFIED Y
NOT TO BE CODIFIED