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HERE'S THE LATEST **SIGNchatter**

EMC BRIGHTNESS | REED VS. GILBERT | SIGN CODE RED FLAGS

Workplace selfies even your boss can love

MUNICIPALITIES ACROSS THE U.S., including several in Kansas, participated in #CityHallSelfie day on Aug. 15. Publications including *The Kansas City Star* and other national news media outlets picked up the story. There's sure to be even more coverage next year as the online event grows. If you missed out, start planning now for a creative way to participate and show off your city on Aug. 15, 2017. Just post to social media with the hashtag #CityHallSelfie. We'll share some of your selfies in SIGNchatter or online.



The cities of Overland Park (left) and Olathe (right) were two of several Kansas municipalities participating in #CityHallSelfie day for 2016.



Burford Theatre | Arkansas City, KS

SIGNchatter

KANSAS SIGN CODE NEWS and PLANNING RESOURCES | ISSUE NO. 3 | FALL of 2016

The optimal brightness level for EMCs

WITH MORE LOCAL BUSINESSES increasing their investments in electronic message centers (EMCs), city planners have discovered not all digital signs are created equally and not all operators follow best practices. Consequently, some planners are grappling with how to measure and control brightness levels.

Responsible sign companies and their business customers are in favor of appropriate brightness levels because signs that are too bright can be less effective. Sign brightness should be set at a level to be visible and readable but not glaring.

Fortunately, extensive research conducted by the International Sign Association (ISA) has resulted in national brightness level recommendations. Many Kansas munic-

ipalities have adopted these recommendations into code.

The ISA's suggested optimal brightness level for on-premise EMCs is 0.3 foot candles above ambient light conditions when measured at an appropriate distance.

Today's EMCs have technology to ensure appropriate brightness levels. If you'd like to review proposed legislative language for your code, or see examples of how other cities address brightness in their sign codes, get in touch with Cindy Proett via the contact information appearing below.

Or you may wish to explore the ISA's guide for EMC brightness. You can review research and learn how to measure the nighttime brightness of an EMC even without operational control of the sign.

Download the ISA's guide: bit.ly/2dyKSow



Capitol Federal | Downtown Topeka, KS



EDITED BY CINDY PROETT, KANSAS SIGN ORDINANCE CONSULTANT

As a former mayor and city council member for Hutchinson, Cindy knows the challenges faced by Kansas municipalities. She offers no-cost sign ordinance consulting, code reviews, sign policy research and more in her role as municipal and community coordinator for Luminous Neon Art & Sign Systems. She is a member of the Kansas chapter of the American Planning Association. 620-662-2363 | cproett@luminousneon.com



Proud silver sponsor of the 2016 Kansas Planning Conference

COME MEET CINDY PROETT in the exhibitor area of this year's planning conference. Learn more about how Luminous Neon Art & Sign Systems has partnered with more than a dozen Kansas communities on sign code reviews. All resources are 100% free.

DID YOU KNOW ? Barton is the only Kansas county named after a woman (Clara Barton, American Red Cross founder).

RESOURCES & REFERENCES

Watch this space for recommended reading, relevant links, sign planning resources and other stuff just for fun.

- ✉ **Subscribe to SIGNchatter**
cproett@luminousneon.com
- ☁ **Reed v. Gilbert case ruling**
bit.ly/2d19uA4
- ☁ **ISA brightness guidelines**
bit.ly/2dyKSow
- 🌐 **APA-KS 2016 annual program**
adobe.ly/2dklHbr
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tristatesign.org

Moratoria in response to Reed v. Gilbert

SOME U.S. CITIES HAVE ENACTED MORATORIA on sign regulation while working through the implications of Reed v. Gilbert. However, many experts believe the courts could view with disfavor a total moratorium on sign permits. Even more tenuous is the denial of new sign permits, which could be viewed as an unconstitutional restraint of speech.

In contrast, a moratorium of short duration – probably no more than 30 days – might be used to delay permits issued under code provisions that are questionable.

Additionally, cities are advised to suspend enforcement of any code provisions

– particularly the regulation of temporary signs – that may be questionable after Reed v. Gilbert. However, any sign code structural provisions directly related to public safety should continue to be enforced.



McPherson Museum/CVB | McPherson, KS

Drafting a fair and effective sign code that balances a community's interests is not an easy task. Trying to do that during a short moratorium is even harder, but it is not impossible.

Until courts provide further guidance, some cities may opt to remove references to sign content other than those relating to public safety.



Seven signs your code may be illegal

CITY PLANNERS WALK THE LINE between enforcing local standards and providing for the rights of sign owners. Now more than ever, careless regulation can put a city at risk. To help avoid any such mistakes, review the following list compiled by the International Sign Association. It's not legal advice, but rather a starting point for discussions with city attorneys and other legal advisors. Want to avoid pitfalls? Watch out for these red flags in your sign code.



CONTENT-BASED REGULATION

A sign code cannot have different regulations for different signs based on what the signs say. Said another way, the wording of the message and the identity of the messenger cannot be a factor in determining whether the sign will be permitted (of course, obscenity is not protected speech). An example of an illegal sign code might be one that allows a grocery store to have a bigger sign than a shoe store.



TIME & TEMPS BUT NOT OTHERS

A sign code cannot permit time and temperature displays but ban other types of electronic messages.



CHANGING TRADEMARKED COLORS

A sign code cannot require a change of colors for a registered trademark.



REGULATING INTERIOR SIGNAGE

A sign code cannot regulate signs located inside a building unless they are intended to be read from the outside.



RESTRICTING READABILITY

A sign code cannot require a sign to be so small or short -- or to be set back from the road so far -- that it cannot be seen and/or read by its intended audience in time to stop at the business.



EMCS FOR SOME... BUT NOT OTHERS

A sign code cannot forbid local businesses from using electronic message centers while allowing local governments to use them.



SIGN FEES TO FUND OTHER EFFORTS

Cities can't charge sign permit fees and use a portion of these fees to fund activities unrelated to sign regulation.

Have any questions?

YOU'RE NOT ALONE. With the June 18, 2015 ruling (available below) in the case of Reed v. Town of Gilbert, AZ, the United States Supreme Court voted 9-0 to hold that no city's sign code may contain "content-based regulations of speech that do not survive strict scrutiny."

Consequently, cities nationwide are revising code to create content-neutral ordinances. Although SIGNchatter cannot provide legal advice, Cindy Proett, editor, can provide relevant case studies and updates. Contact her for details.

☁ **Download the ruling:** bit.ly/2d19uA4