

5/31/2016

ORDINANCE NO. 50-265

AN ORDINANCE AMENDING SECTIONS 9.29.030, 9.29.060, 9.29.080, 9.29.090, 9.29.100, 9.29.110, 9.29.140, 9.29.150, 9.29.170 9.29.180, 9.29.200, 9.29.230, 9.29.250, 9.29.260, 9.29.280, 9.29.390 AND 9.29.400; CREATING SECTIONS 9.29.035, 9.29.175, 9.29.235, 9.29.255 AND 9.29.265; AND REPEALING SECTIONS 9.29.040, 9.29.050, 9.29.070, 9.29.100, 9.29.290, 9.29.300, 9.29.310, 9.29.320, 9.29.330, 9.29.340, 9.29.350, 9.29.360, 9.29.370 AND 9.29.380 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO REGULATIONS FOR USE OF THE BIG ARKANSAS RIVER AND BANK AREA.

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

SECTION 1. Section 9.29.030 of the Code of the City of Wichita, Kansas is hereby amended to read as follows: **“Definitions.** For the purposes of this chapter, the following words and phrases used herein shall have the following meanings unless otherwise clearly indicated by the context:

- (a) "Water craft or “Watercraft” means any boat or vessel designed for water travel, including, but not limited to any row boat, canoe, kayak, standup paddle board, power boat or motor boat, paddle boat, sail craft or boat of any type, and includes personal watercraft and air boats.
- (b) "Power boat" or “Motor boat” means any water craft powered by a combustible engine or electric motor or machinery or any kind, whether or not such machinery is the principal source of propulsion.
- (c) "Personal watercraft" means those watercraft including, but not limited to, jet skis, water bikes, wave runners, wave jammers, and other similar one or two person watercraft being propelled or powered by machinery.

- (d) “Director” means the Director of the Department of Park and Recreation or the Director’s designated representative.
- (e) “Inflatable floatation device” means an inner tube or other water recreational form or apparatus that is inflated with air or foam and is non-navigable. This term includes inflatable or foam chaise loungers, air mattresses and other inflatable or foam devices.
- (f) “Operate” means to navigate or otherwise use a watercraft of any kind.
- (g) “Operator” means a person who is in actual physical control of any watercraft upon the river or while docking.
- (h) “Swim” means to swim, stand, wade or be in the river or use the river for any recreational purpose.”

SECTION 2. Section 9.29.035 of the Code of the City of Wichita, Kansas is hereby created to read as follows:

“Power boats, motor boats and personal watercraft prohibited upon the Big Arkansas River without permission. (a) It shall be unlawful for any person to operate a power boat, motor boat or personal watercraft upon the Big Arkansas River at any point within the city limits of the City of Wichita, Kansas without prior written approval from the Director of Park and Recreation.

(b) Upon obtaining written approval of the Director, any operation of a power boat, motor boat or personal watercraft upon the Big Arkansas River and shall be subject to terms and conditions as set forth in the Wichita City Park Guidelines for Boating and any additional rules and regulations as may be established by said Director. It shall be unlawful for any person to operate a watercraft upon the Big Arkansas River with written permission from the Director but

in violation of the provisions set forth in the Wichita City Park Guidelines for Boating, or in violation of any other rule or regulation established by the Director.”

SECTION 3. Section 9.29.060 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

“Lincoln Street dam, watercraft prohibited, exceptions. It is unlawful for any water craft operating in or upon the Big Arkansas River and Bank Area to come within one hundred fifty feet of the Lincoln Street dam, however canoes and kayaks are allowed in the safe boat passage. Swimming and use of any inflatable floatation device is strictly prohibited in the boat passage.”

SECTION 4. Section 9.29.080 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

“Confluence of the Big and Little Arkansas Rivers. Unless prior written approval has been obtained from the Director, it is unlawful for any person to operate a water craft in or upon the Big Arkansas River and Bank Area within 50 (fifty) feet of the "falls" area at the confluence of the Big and Little Arkansas Rivers, within 50 (fifty) feet of the fire pots at the foot of The Keeper of The Plains sculpture, or upon the Little Arkansas River between the "falls" area and the Central Avenue. ”

SECTION 5. Section 9.29.090 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

“Prohibited during festivals. Unless a permit or the prior written approval of the Director is obtained, all unauthorized water craft and watercraft activities are prohibited in or upon any portion or portions of the Big Arkansas River and Bank Area on days during which the same or portion thereof is being used for community events, special functions, ceremonies

or festivals sanctioned by the City or by the Department of Water Resources of the State of Kansas.

SECTION 6. Section 9.29.110 of the Code of the City of Wichita, Kansas shall read as follows:

“Boats for hire—Soliciting. It is unlawful for any person, firm or corporation operating a water craft in or upon the Big Arkansas River and Bank Area for hire, or who accepts a fee, donation, contribution or remuneration of any kind to solicit, pick up or discharge passengers from property under the ownership, jurisdiction or control of the City or the Board of Park Commissioners of the City without written permission from the Director.”

SECTION 7. Section 9.29.140 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

“Tying - Where prohibited. It is unlawful for any person to tie a water craft of any type to any tree located upon property under the ownership, jurisdiction or control of the City or the Board of Park Commissioners of the City, and no person shall drive stakes on such property for the purpose of tying or anchoring any water craft. The tying of any type of water craft in or upon the Big Arkansas River and Bank Area shall be limited to designated areas which are so marked. No person shall tie or anchor any type of water craft beneath any bridge crossing the Big Arkansas River or within the park system of the City, including A. Price Woodard Parks (East and West near the Douglas Street bridge), unless permission is obtained in writing from the ~~city~~ Director.”

SECTION 8. Section 9.29.150 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

“Speed limits. It is unlawful for any person to operate any water craft in or upon the Big Arkansas River and Bank Area at a speed greater than forty miles per hour except authorized in writing by the Director. In no case shall power boats operate in excess of five (5) miles per hour when passing beneath any bridge located within the area between the Lincoln Street dam and the Seneca Street bridge. No water craft shall operate in excess of five (5) miles per hour when operating between the Kellogg Avenue overpass/bridge and the Lewis Street bridge, nor between the Douglas Street bridge and the First Street bridge.”

SECTION 9. Section 9.29.170 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

“Riding prohibited when, exceptions. It is unlawful for any person to ride, or permit another to ride on any elevated decks or gunnels of any water craft operating in or upon the Big Arkansas River and Bank Area unless prior written authorization has been obtained from the Director.”

SECTION 10. Section 9.29.175 of the Code of the City of Wichita, Kansas is hereby created to read as follows:

“Operating a watercraft under the influence of alcohol or drugs. It is unlawful for any person to operate or attempt to operate any watercraft located in or upon the Big Arkansas River and Bank Areas while under the influence of alcohol, drugs or any combination of alcohol and any drug or drugs to a degree that renders the person incapable of safely operating a watercraft. Any violation of this section shall be subject to the definitions and provisions set forth in K.S.A. 32-1130, K.S.A. 32-1131 and K.S.A. 32-1138, and any amendments thereto, and any violator shall be subject to the penalties set forth therein.”

SECTION 11. Section 9.29.180 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

“Intoxicated persons. It is unlawful for any person to ride in any water craft located in or upon the Big Arkansas River and Bank Area while such person is under the influence of alcohol and/or drugs or any combination thereof to a degree that renders the person incapable of safely riding within or upon such water craft.”

SECTION 12. Section 9.29.200 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

“Authorized loading at ramps, courtesy docks and loading areas. It is unlawful for any person, firm or corporation to use property along the Big Arkansas River and Bank Area that is under the ownership, jurisdiction or control of the City or the Board of Park Commissioners of the City for the purpose of loading or unloading power boats, or water craft of any type which requires the use of a hauling trailer, or for the purpose of loading or unloading equipment, operators or passengers at any place other than the authorized and designated ramps, courtesy docks and loading areas, except by written consent of the ~~city~~ Director.”

SECTION 13. Section 9.29.230 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

“Throwing objects. It is unlawful for any person to throw any object from the bank, any bridge or water craft located in or upon the Big Arkansas River and Bank Area unless prior written approval has been obtained from the Director. Casting a fishing line or use of a safety rope shall not be considered as throwing an object.”

SECTION 14. Section 9.29.235 of the Code of the City of Wichita, Kansas is hereby created to read as follows:

“Jumping from bridges - Prohibited. It is unlawful for any person to jump or dive or otherwise throw themselves from any bridge that crosses the Big Arkansas River.”

SECTION 15. Section 9.29.250 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

“Placement of buoys—Where prohibited. The placement of buoys or floating markers of any description in or upon the Big Arkansas River and Bank Area by any organization, person, firm or corporation is strictly prohibited, except by written consent of the Director.”

SECTION 16. Section 9.29.255 of the Code of the City of Wichita, Kansas is hereby created to read as follows:

“Abandoned watercraft – Removal. (a) It shall be unlawful for any person to abandon a watercraft in, upon or sunk in the Big Arkansas River and Bank Area without the prior written consent of the Director. Abandoned watercraft may be removed by a law enforcement officer when any of the conditions exist as set forth in K.S.A. 32-1156(c), and any amendment thereto.

(b) If none of the conditions exist as set forth in subsection (a) herein, and the ownership of the abandoned or sunken watercraft can be ascertained, the owner shall be given written notice to remove the abandoned or sunken watercraft within 10 business days from the date of the notice. Notice shall be deemed sufficient if given to the owner personally or sent by United States mail. Any owner so notified who has not removed the abandoned or sunken watercraft shall be liable to the City for all costs incurred by its removal and for any subsequent storage fees. If the owner fails to claim the abandoned or sunken watercraft after its removal from the river by the City, the watercraft may be disposed of as set forth in K.S.A. 32-1157 and amendments thereto.”

SECTION 17. Section 9.29.260 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

Dangerous Water Conditions – Authority to close river. In the event that the Director of the Department of Park and Recreation determines the presence of certain conditions make navigation and other activities in, upon and around the Big Arkansas River and Bank Area significantly dangerous to the public, the Director is authorized to issue an order closing the river to the public. In making such a determination the Director may consult with and gather input from the Chief of Police, the Fire Chief, the Director of the Department of Public Works any other necessary City staff. Conditions that will be considered significantly dangerous to the public can include, but are not limited to, high water levels, swift currents, the presence of debris in the river and along the river bank and the presence of harmful bacteria that impacts water quality. The Director shall close all public boat ramps and all water craft and all water craft activities in and upon the river are prohibited during such times the ramps are closed. The Director's order shall be disseminated to all local news media and all such other available means as are necessary may be utilized to inform the public by announcement of such order. All boat ramps providing public access to the river shall be posted and physical barricades may be used to block access to such ramps. Recession of the Director's order shall be publicly announced in the local media and all postings and barriers shall be removed."

SECTION 18. Section 9.29.265 of the Code of the City of Wichita, Kansas is hereby created to read as follows:

"Violation of Dangerous Water Conditions order – Unlawful, exceptions. (a) It is unlawful for any person to enter into or to operate any water craft in or upon the Big Arkansas

River and Bank Area during any time an order that has been issued by the Director closing the river due to dangerous water conditions is in effect.

(b) This provision shall not apply to authorized emergency personnel in the performance of their official duties.

(c) Any person violating any of the provisions of this section shall be guilty of a misdemeanor and punished as set forth in Section 9.29.390 of this Chapter.”

SECTION 19. Section 9.29.280 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

“Fishing—where prohibited, Bowfishing prohibited. It is unlawful for any person to attempt to capture, kill, or otherwise obtain fish from the Big Arkansas River within the city limits by any means while such person is on the Kellogg Avenue overpass/bridge, Lewis Street bridge, Douglas Street bridge, First Street railroad bridge or First Street bridge. It is unlawful for any person to attempt to capture, kill or otherwise obtain fish from the Big Arkansas River by any means while said person is an occupant of any watercraft placed on or within the Big Arkansas River and Bank Area between the Lincoln Street dam and the 2nd Street Bridge. Bowfishing is prohibited in or upon all parts of the Big Arkansas River and Bank Area within the city limits of the City of Wichita.”

SECTION 20. Section 9.29.390 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

“Violation and penalty. It is a misdemeanor for any person to knowingly and willfully violate any provision of this chapter. Every person who is convicted of violating the provision of this chapter may be punished by a fine of not more than \$500.”

SECTION 21. Section 9.29.400 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

“Written consent – Procedure. Whenever the written approval, consent or permission of the ~~city~~ Director of Park and Recreation is required either as a condition precedent to an action taken or to exempt a person from any of the provisions of this chapter, the same shall be obtained by submitting a request for such consent in writing to the Department of Park and Recreation. Such request shall be submitted at least 2 business days in advance for recreational use of the river and 30 days in advance for special events. A request for written consent of the Director under this chapter shall be subject to the provisions set forth in subsections (a) and (c) of Section 9.03.080 and Sections 9.03.090 through 9.03.190 of this Code, pertaining to the provisions governing the issuance of park permits, including the standards for issuance and the process for appealing the denial thereof. Additionally, any written consent or permission required to be obtain from or granted by the Director may be obtained from or granted by a designated representative of the Director, unless this chapter expressly provides otherwise.

Any written consent issued or provided pursuant to this chapter shall be valid only for the date, time and duration and for the purpose(s) specifically set forth within the written consent and shall further be subject to an administrative fee to be set and collected by the Department of Park and Recreation. In the Director’s discretion, approval may be given for a duration of up to one (1) year at a time for recurring activities.”

SECTION 22. The originals of Sections 9.29.030, 9.29.040, 9.29.050, 9.29.060, 9.29.070, 9.29.080, 9.29.090, 9.29.100, 9.29.110, 9.29.140, 9.29.150, 9.29.170, 9.29.180, 9.29.200, 9.29.230, 9.29.250, 9.29.260, 9.29.280, 9.29.290, 9.29.300, 9.29.310, 9.29.320,

9.29.330, 9.29.340, 9.29.350, 9.29.360, 9.29.370, 9.29.380, 9.29.390 and 9.29.400, of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 23. 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 21st day of June, 2016.

Jeff Longwell, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Jennifer Magaña
Director of Law and City Attorney