



**MONTROSE
PLANNING AND ZONING COMMISSION MEETING
AGENDA**

Wednesday, June 19, 2019 – 7:00 PM

**Montrose Community Center
200 Center Avenue South
Montrose, Minnesota 55363**

1. Call to Order
2. Roll Call
3. Pledge of Allegiance
4. Approval of Agenda
5. Approval of Minutes
 - A. May 8, 2019 Planning and Zoning Commission Meeting Minutes
6. Public Hearing
 - A. Consider Amendment to Chapter 1031 of the City of Montrose Zoning Code
 - Consider Amendments to Chapter 1031: Alternative Energy Systems regarding the location and regulations of commercial Solar Farms.
7. Old Business
8. New Business
 - A. Discussion on Necessary Sign Ordinance Amendments
 - B. City Planner Updates
9. Next Meeting
 - A. Wednesday, July 10, 2019 to be held at the Montrose Community Center - 7:00 p.m.
10. Adjournment

*** * Please note that a quorum of the City Council may be present
at the Planning and Zoning Commission Meeting. * ***

City of Montrose
 Planning and Zoning Commission Meeting
 Montrose Community Center
 200 Center Avenue South
 Wednesday, May 8, 2019
 7:00 P.M.

1. CALL TO ORDER

Pursuant to call and notice the Montrose Planning and Zoning Commission met in Regular Session on Wednesday, May 8, 2019 at 7:00 p.m.

Planning and Zoning Commission Chair, Ms. Tracy Gurneau, called the meeting to order at 7:01 p.m.

2. ROLL CALL

Present: Commissioner Justin Emery
 Commissioner Tracy Gurneau
 Commissioner Barry Rhineberger
 Commissioner Mike Scanlon
 City Council Liaison Lloyd Johnson
 City Council Liaison Tom Marszalek

Absent: Commissioner Sylvia Henry

Staff Present: Ms. Deborah Boelter, City Clerk-Treasurer
 Mr. Myles Campbell, City Planner

3. PLEDGE OF ALLEGIENCE

The Pledge of Allegiance was taken.

4. APPROVAL OF THE AGENDA

Commissioner Scanlon motioned to approve the May 8, 2019 Planning and Zoning Commission Meeting Agenda. Commissioner Rhineberger seconded the motion. Motion carried 4-0.

5. APPROVAL OF THE MINUTES

A. April 17, 2019 Planning and Zoning Commission Meeting

Commissioner Rhineberger motioned to approve the Planning and Zoning Commission Meeting minutes of April 17, 2019. Commissioner Emery seconded the motion. Motion carried 4-0.

6. OLD BUSINESS

A. Discussion on Ordinance #2015-06, Amendment Relating to Solar Energy Systems

City Planner, Mr. Myles Campbell, stated that in past discussions with the Planning and Zoning Commission, the major concerns seemed to be with the role and regulation of commercial Solar Farm operations within City limits. He continued by stating that the two (2) primary concerns that the Commission discussed included:

1. The impact of Solar Farms on the staged development and growth of the City.
2. The Solar Farm's visibility and impact to neighboring residential properties and public right-of-way.

Mr. Campbell stated that while Solar Farms are not necessarily an urban land use, most of the Commission Members had no issue with allowing these types of uses on an interim basis in the City of Montrose; as long as, they do not hamper the expansion of the City and are sufficiently screened to lessen sightline impacts.

Mr. Campbell stated to address the concerns of the Planning and Zoning Commission, he prepared information for them to consider and discuss in regards to using the City's Comprehensive Plan as a means to direct Solar Farm locations away from areas of planned short-term development, and in requiring a screening component as an aspect of any future commercial solar development.

Mr. Campbell presented the pros and cons of the following screening options:

- Fences.
- Plantings.
- Berms.

Mr. Campbell stated that staff is recommending that language be added to the Solar Energy Systems (SES) Ordinance specifically requiring screening from a right-of-way either as a combination of plantings and a fence or plantings and a berm.

Commissioner Rhineberger stated that he would like to see a variety of screening options available; because, all property sites are different and then they could have screening that fits the particular site they are considering for development of a Solar Farm.

Mr. Campbell asked the Planning and Zoning Commission to consider that Solar Farms are an interim use and that the land will eventually be repurposed. While a plantings and berm combination may provide the best multidirectional screening, it also changes the grading of the site permanently and impacts future development costs.

The Commission Members discussed and determined that any future grading of the site for a different use would be a part of the fees incurred by a future developer.

Commissioner Gurneau asked the Commissioners if they should consider amending the Ordinance's fence height requirement of eight (8) feet to ten (10) feet since the trees can be ten (10) feet tall. Commissioner Emery stated that he believes that the eight (8) feet tall fence is sufficient and then the ten (10) feet tall trees can cover the area above the fence. The Commissioners were in agreement that the fence height should remain at eight (8) feet.

The Planning and Zoning Commission Members discussed and directed Mr. Campbell to add language that requires screening from a right-of-way as a combination of plantings and a fence or plantings and a berm.

Mr. Campbell then discussed the City's SES Ordinance's setback requirement of one hundred (100) feet from all property lines for a commercial Solar Farm. After discussions, the Planning and Zoning Commission Members decided to leave the setback requirement at one hundred (100) feet from all property lines for a commercial Solar Farm.

Mr. Campbell presented information regarding consistency with the City's Comprehensive Plan and logical growth. He continued by stating that the City's SES Ordinance currently has no language in the conditions for an Interim Use Permit (I.U.P.) to be granted to a commercial Solar Farm regarding the anticipated growth areas of the City as identified in the Comprehensive Plan. He continued by stating that Solar Farms are not inherently at odds with a growing city. They provide construction jobs in their creation and require maintenance workers throughout their life span. They also provide the city with tax base over the thirty (30) year period they operate; often on land that would otherwise remain vacant or agriculture focused. However, the risk that Solar Farms do pose to expanding cities is in how they impact the logical expansion of the city's utility systems, and in the overall patterns of growth and development.

Mr. Campbell stated that the simplest change to the SES Ordinance would be to add a condition to the effect of *"any proposed Solar Farm that would fall within the City's interim build scenario, as outlined and shown on page X of the Comprehensive Plan, is subject to review by the City's Planning and Zoning Commission and City Council for its consistency with the Comprehensive Plan, and the expected growth of the City within the period of the Interim Use Permit."* He continued by stating that this language would be the least drastic change to the Ordinance; but, also has the weakest language in regards to being a condition for approval/denial.

The Planning and Zoning Commission discussed the proposed language and were in agreement that it should be added to the SES Ordinance.

Mr. Campbell stated that no matter what other changes are made to the SES Ordinance in regards to the location of interim Solar Farms, the aforementioned language should be included in the Ordinance. However, Mr. Campbell stated that on its own it is not a strong enough condition to base an approval or denial option on; so, he presented the following *Conditions of Consistency* language for the Planning and Zoning Commission to consider as a subsection to the above language:

1. The site should not immediately abut an existing development which utilizes urban utilities.
2. The site should not impede the logical extension of urban utilities or public right-of-way in the area of the City's interim build scenario. This is subject to review of both the Planning and Zoning Commission; as well as, the City Engineer and Public Works Department Director.

The Planning and Zoning Commission Members discussed the proposed *Conditions of Consistency* and were in agreement that they should be included in the SES Ordinance.

Mr. Campbell then presented the Commission with information on urban development as a permit termination event. He continued by stating that while it is a more drastic standard than simply requiring consistency with the interim build, it is also more clearly defined for a Solar Farm Developer who is deciding where to locate his development in the City. This option would treat utility extensions reaching the boundary of a Solar Farm's property line as an event which would terminate the interim use of the property. Interim uses must, as part of both City and State standard, identify the date or event which would terminate the interim use with certainty. This effectively would be adding a second scenario for termination besides the thirty (30) year period of the permit. This scenario would be clearly defined in the language of both the Ordinance and the issued permit itself. When a utility reached the property line of the Farm, no matter the amount of time they have left from a date-based termination, the interim use permit would cease to exist. However, the City could include a permit extension for its full period in cases where the solar operator agreed to continue the extension of those utilities.

Mr. Campbell continued by stating that while it may appear as a harsh or severe requirement, having it clearly defined in the Ordinance would mean that a solar developer would be well aware of the risk inherent in developing closer to the City and would be better able to evaluate his location options, rather than taking an application to the Planning and Zoning Commission and having it found that it was inconsistent with the interim build. It would also effectively help to steer Solar Farms to those areas around the City which are not projected for meaningful growth in the next thirty (30) years. As well as, allowing for the City to have an ability to use land that is primed for development, with utilities in place, without having to wait ten (10) to fifteen (15) years for the I.U.P. to run its course.

The Planning and Zoning Commission discussed the urban development as a permit termination event and were in agreement that it was not needed in the Ordinance; because, the language amendment regarding the consistency with the City's Comprehensive Plan and the review by the Planning and Zoning Commission, City Council, City Planner and City Engineer should be sufficient in determining the location and interim use of a proposed Solar Farm.

7. NEW BUSINESS

A. Updates From the City Planner

Mr. Campbell gave updates in the following projects that will be reviewed by the Planning and Zoning Commission at future meeting(s):

1. The proposed improvements and possible business to the yellow house located at 140 Nelson Boulevard.
2. A potential buyer and business at the former Casey's Building.
3. Concept Plan from the Brummer Group for *The Preserve Housing Development* site.

B. Discussion About the July 17, 2019 Meeting

Ms. Boelter stated that she is unable to be at the Wednesday, July 17, 2019 Planning and Zoning Commission and asked if the Commission Members would be willing to move the July, 2019 Meeting to Wednesday, July 10, 2019. The Commission Members agreed to have the July, 2019 Planning and Zoning Commission Meeting on Wednesday, July 10, 2019.

8. NEXT MEETING

A. Wednesday, July 10, 2019 to be held at the Montrose Community Center – 7:00 p.m.

9. ADJOURNMENT

Commissioner Scanlon motioned to the adjourn the Planning and Zoning Commission Meeting at 8:11 p.m. Commissioner Emery seconded the motion. Motion carried 4-0.

Tracy Gurneau
Chair
City of Montrose

ATTEST:

Deborah R. Boelter, CMC
City Clerk-Treasurer
City of Montrose

CITY OF MONTROSE
NOTICE OF PUBLIC HEARING

Notice is hereby given that the Montrose Planning and Zoning Commission will hold a Public Hearing at 7:00 p.m. or as soon thereafter on Wednesday, June 19, 2019 at the Montrose Community Center, located at 200 Center Avenue South, for the purpose of considering the amendment of the City's Zoning Ordinance language surrounding Solar Energy Systems.

Notice is further given that any written or oral comments from citizens regarding the proposed Zoning Ordinance amendments will be heard at the Public Hearing. All interested persons are invited to attend the meeting and will be afforded the opportunity to speak on the amendments during the Public Hearing.

Deb Boelter
City Clerk-Treasurer
City of Montrose

Date of Publication: Thursday, June 6, 2019

**CITY OF MONTROSE
COUNTY OF WRIGHT
STATE OF MINNESOTA**

ORDINANCE NO. 2019-_____

**AN ORDINANCE AMENDING CHAPTER 1031: ALTERNATIVE ENERGY
SYSTEMS TO ESTABLISH ADDITIONAL STANDARDS FOR SOLAR FARMS
WITHIN THE CITY.**

THE CITY COUNCIL OF THE CITY OF MONTROSE ORDAINS:

1. CHAPTER 1031: Alternative Energy Systems, SECTION 1031.4, 4-h. is hereby amended to remove the following strikethroughs:

Setbacks. All equipment and structures shall meet the setback and coverage limitations for the zoning district in which the system is located, except that Solar Farms shall be setback from all property lines at least one hundred (100) feet. ~~In addition, solar farms shall be screened from adjacent residential uses in accordance with Section 1020-5, Required Landscape Screening.~~

2. CHAPTER 1031: Alternative Energy Systems, SECTION 1031.4, 4. is hereby amended to add the following underlined text:

- i. Screening. All solar farms shall be screened from adjacent residential uses in accordance with Section 1020-5, Required Landscape Screening. Landscaping shall be consistent with the design standards and criteria established in Section 1020-4, B.
 - a. Solar farms which abut a public roadway must provide screening from right-of-way through a combination of fencing, landscaping or earthen berms. These should provide screening to a minimum height of 8 feet. The grade for determining this height will be based upon the grade elevation of the solar farm that is being screened. Design Criteria for this screening shall be based upon the provisions of Chapter 1020, FENCING/SCREENING/LANDSCAPING in the City of Montrose's zoning ordinance.

2. CHAPTER 1031: Alternative Energy Systems, SECTION 1031.4, 4. is hereby amended to add the following underlined text:

- j. For proposed solar farms which fall within the area of the interim build scenario identified in the City's Comprehensive Plan, additional review by city staff will be required to determine consistency with the plan and potential growth impact. This review is subject to the following conditions:
 - a. The site should not immediately abut an existing residential development which utilizes urban utilities.
 - b. The site should not impede future logical extension of urban utilities or public right-of-way as determined by the public works director and city engineer.



NORTHWEST ASSOCIATED CONSULTANTS, INC.

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 Telephone: 763.957.1100 Website: www.nacplanning.com

TO:	Deb Boelter
FROM:	Myles Campbell
DATE:	6.11.19
RE:	Sign Ordinance Amendments
FILE NO:	273.02 – 19.03
PID:	N/A

BACKGROUND

Staff was directed to examine the city's existing sign ordinance after complaints were received from the US Highway 12 Steering Committee about the amount of temporary and portable signs along the corridor in Montrose. In addition to this area of review, staff also found a number of ordinance sections under what could be defined as content-based code, that is code that regulates on the basis of a sign's content versus its size, location or other physical characteristic.

This presents an issue for the city, as content-based code can be construed by courts as limiting an individual's first amendment right to free speech. This is especially true since the 2015 Supreme Court decision in *Reed v. Town of Gilbert*. This decision broadened what could be construed as an unconstitutional restriction on freedom of speech.

Staff believes it is in the city's best interests to revise its code to be more content-neutral overall to avoid potential legal challenges. A few examples of what this revision has looked like with previous client communities, and what this revision itself could look like, have been attached, as well as a memo on the topic from the League of Minnesota Cities. Planning Staff will be working closely with the City's Attorney in addition, to confirm that the changes being made are in compliance with state statutes and regulations.

The following items are attached for reference:

- Exhibit A: Existing Sign Ordinance
- Exhibit B: League Memo: Sign Ordinances and the First Amendment
- Exhibit C: Saint Francis Sign Ordinance Revision
- Exhibit D: St. Paul Park Sign Ordinance Revision

Sandwich Board Signs

Sandwich board signs are a low-cost and convenient way for businesses to advertise on-site. However, they currently exist in a gray area within the code as they are not directly mentioned by name, but could probably fall under the category of portable signs. Portable signs are meant to be temporary or seasonal and operate under 15-day licenses. This is done since the portable signs are not affixed to the ground and can pose risks to surrounding private property in cases of storms, tornadoes, and other severe weather events. In addition, portable signs can be up to 32 square feet and have no unique setback requirements from the general regulations.

Sandwich board signs are similar but distinct from this description of portable signs. In other communities, the typical standard for a sandwich board sign is that they be permitted without a 15-day license period, but that they must only be left out on display during regular business hours, and must otherwise be stored inside. Additionally, rather than just having a setback requirement of half the minimum required district setback from the lot line, most ordinances also require sandwich board signs to be placed no further than 15 feet from the entrance of the business.

Staff believes adding a new definition for sandwich board signs to Chapter 1002, and these regulations to the general provisions section of Chapter 1024 would allow for the continued use of sandwich board signs by local businesses, but in a way that limits their impact on the Highway 12 corridor aesthetic.

Content-Neutral Code

Montrose has a number of instances in which it permits/exempts/prohibits a sign not based on its shape, size or location, but on its content. Over a number of court cases decided at the federal level, certain instances of content-based code have been determined to be unconstitutional on the grounds that it may prohibit an individual's right to free speech. For example, here is a section from the prohibited signs section of the code:

B. Prohibited Signs. The following signs are prohibited:

1. Advertising signs with the following exceptions:

a. ...

b. A real estate development sign advertising lots or property for sale may be located off-premises by permit. The permit shall be renewable annually and conditioned upon documentation allowing such sign or structure by the property owner upon which it is to be located. The sign shall conform to the size restriction of signs imposed within the respective district in which the sign is located or a maximum of sixty-four (64) square feet each side, whichever is greater.

This piece of language is content-based code because it is specifically allowing for just real estate advertising to be allowed off-premise. If a business owner wanted to advertise their restaurant, or a billboard company wanted to put up an advertisement for a new outlet mall coming soon, they wouldn't be allowed to do so. It's legally allowed to prohibit off-premise signs at large, since that ordinance is based on location of signs, but this is a content-based exemption to that prohibition.

Other examples that have been found by the courts to constitute "content-based" sign code is regulating and referring to political signs, ideological signs, holiday signs, and etc. From 2015's *Reed v. Town of Gilbert* decision, a two-step analysis was created to determine what constitutes content-based code.

1. Does the ordinance's actual language refer to the content or the message of the sign?
2. If not then does evidence exist that shows the city adopted the regulation specifically because of disagreement (or agreement) with the message expressed by the sign?

While its best practice to draft as content-neutral language as possible, there may be cases where a City sees a need in regulating the content of a sign. In such an instance, there needs to be proof that such a regulation is being done strictly in the interest of the public welfare, and not because of a favoritism of one message over another. For example, the city does have regulations over signs which contain directional information, but this is done in order to ensure the sign does not impact the safe flow and location of vehicle traffic. However, if the city only allowed commercial businesses to use off-premise directional signs, versus a religious or non-profit group, there would arise the issue of a content-based code which impeded a person's right to free speech.

Conclusion

While initially tasked with just updating the ordinance surrounding signs along Highway 12, I feel it is important to make broader revisions to the sign ordinance to bring it into compliance with state and federal rules surrounding how a local government can and cannot regulate the content of its signs. This process will utilize previous cases of revision as a starting point but will also involve close collaboration with the City's attorney and planning commission in order to ensure that the end result is not only legally sound, but something that works for the city's purposes.

CHAPTER 1024

SIGNS


SECTION:

- 1024-1: Purpose
- 1024-2: Existing Signs and Non-Conforming Signs
- 1024-3: General Provisions
- 1024-4: Permitted and Prohibited Signs
- 1024-5: General District Regulations
- 1024-6: Special District Regulations
- 1024-7: Inspection
- 1024-8: Permit, Application, License, Variance, and City Council Approval
- 1024-9: Enforcement
- 1024-10: Violation a Misdemeanor

1024-1: PURPOSE: The purpose of this Ordinance is to establish minimum requirements, adopted to protect the public health, safety, morals, comfort and general welfare of the people of the City of Montrose, by providing regulations governing all signs, including but not limited to, the type, area, height, materials, construction, illumination, location and maintenance of all signs and sign structures in the City.




1024-2: EXISTING SIGNS AND NON-CONFORMING SIGNS:

- A. **Existing Signs.** Except for signs determined to create a public safety hazard due to content or due to disrepair and condition, or illegally established signs, all legally established signs existing upon the effective date of this Ordinance shall not be enlarged or reconstructed, but may be continued at the size and in the manner of operation existing upon such date.
- B. **Alterations.**
 - 1. A non-conforming sign may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:
 - a. The non-conforming sign is discontinued for a period exceeding one (1) year; or
 - b. The non-conforming sign is destroyed by fire or other peril to the extent of greater than fifty percent (50%) of its market value, and no permit has been applied for within one hundred eighty (180) days of when the non-conforming sign is damaged.

2. Any such permit is subject to reasonable conditions imposed by the City Council to mitigate the impact on adjacent properties.
- C. **Non-Conforming Sign Maintenance and Repair.** Nothing in this Ordinance shall be construed as relieving the owner or user of a legal non-conforming sign or owner of the property on which the legal non-conforming sign is located from the provisions of this Ordinance regarding safety, maintenance, and repair of signs; provided, however, that any repainting, cleaning, and other normal maintenance or repair of the sign or sign structure shall not modify the sign structure or copy in any way which makes it more non-conforming or the sign shall lose its legal non-conforming status. 
- D. **Non-Conforming Uses.** When the principal use of land is legally non-conforming, all existing or proposed signs in conjunction with that land, shall be considered conforming if they are in compliance with the sign provisions for the most restrictive zoning district in which the principal use is allowed.





1024-3: GENERAL PROVISIONS:

- A. The design and construction standards for signs, as set forth in the Uniform Building Code, as may be amended, are hereby adopted.
- B. The installation of electrical signs shall be subject to the State's Electrical Code. Electrical service to such sign shall be underground.
- C. Signs containing non-commercial speech are permitted anywhere that advertising or business signs are permitted, subject to the same regulations applicable to such signs.
- D. Signs shall not create a hazard to the safe, efficient movement of vehicular or pedestrian traffic. No private sign shall contain words which might be construed as traffic controls, such as "stop", "caution", "warning", unless the sign is intended to direct traffic on the premises.
- E. Signs and sign structures shall be properly maintained and kept in a safe condition. Sign or sign structures which are rotted, unsafe, deteriorated or defaced shall be repainted, repaired, or replaced by the licensee, owner or agent of the building upon which the sign stands.
- F. No sign shall be attached or be allowed to hang from any building until all necessary wall and roof attachments have been approved by the Building Official.

- G. No signs, guys, stays, or attachments shall be erected, placed or maintained on rocks, fences or trees nor interfere with any electric light, power, telephone or telegraph wires or the supports thereof.
- H. The use of search lights, banners, pennants and similar devices shall require a license. The license shall be valid for no more than fifteen (15) consecutive days. No more than two (2) licenses per business shall be granted during any twelve (12) month period. 
- I. Illuminated signs shall be shielded to prevent lights from being directed at oncoming traffic in such brilliance that it impairs the vision of the drive. Nor shall such signs interfere with or obscure an official traffic sign or signal. This includes indoor signs which are visible from public streets.
- J. Except for legal, non-conforming portable signs existing prior to the effective date of this Ordinance, portable signs may not exceed thirty-two (32) square feet and may not be illuminated with any flashing device. Use of a portable sign shall require a license. The license shall be valid for no more than fifteen (15) consecutive days. No more than two (2) licenses per business shall be granted during any twelve (12) month period. 
- K. No sign or sign structure shall be closer to any lot line than a distance equal to one-half (1/2) the minimum required yard setback. No sign shall be placed within any drainage or utility easement.
- L. Signs requiring licenses shall display in a conspicuous manner the license sticker or sticker number. 
- M. No sign or sign structure shall be erected or maintained that prevents free ingress or egress from any door, window or fire escape. No sign or sign structure shall be attached to a standpipe or fire escape.
- N. A freestanding sign or sign structure constructed so that the faces are not back to back, shall not have an angle separating the faces exceeding twenty (20) degrees unless the total area of both sides added together does not exceed the maximum allowable sign area for that district.
- O. Signs prohibited in residential districts shall be positioned so that the copy is not visible from residential uses or districts along adjoining side and rear yard property lines.
- P. Except for farm buildings, at least one (1) address sign identifying the correct property number, as assigned by the City, shall be required on each principal building in all districts. The address number shall be at least three (3) inches in height.

1024-4: PERMITTED AND PROHIBITED SIGNS:

A. Permitted Signs. The following signs are allowed without a permit:

1. Public Signs. Signs of a public, non-commercial nature, including safety signs, directional signs to public facilities, trespassing signs, traffic signs, signs indicating scenic or historical points of interest, memorial plaques and the like, when erected by or on behalf of a public official or employee in the performance of official duty.
2. Identification Signs. Identification signs not exceeding three (3) square feet.
3. Informational Signs. Informational signs not exceeding sixteen (16) square feet. 
4. Directional Signs.
 - a. On-Premise Signs. On-premise signs shall not be larger than four (4) square feet. The number of signs shall not exceed four (4) unless approved by the Council.
 - b. Off-Premise Signs. Off-premise signs shall be limited to situations where access is confusing and traffic safety could be jeopardized or traffic could be inappropriately routed through residential streets. The size of the sign shall be approved by the Council and shall contain no advertising. 
5. Integral Signs.
6. Campaign Signs. Campaign signs in agricultural, commercial, industrial, and institutional zones not exceeding eight (8) square feet, and in all residential zones not exceeding four (4) square feet. The sign shall contain the name and address of the person responsible for such sign, and that person shall be responsible for its removal. Such signs shall remain for no longer than seventy-five (75) days in any calendar year. The City shall have the right to remove and destroy signs not conforming to this Ordinance. 
7. Holiday Signs. Signs or displays which contain or depict a message pertaining to a religious, national, state or local holiday and no other matter and which are displayed for a period not to exceed seventy-five (75) days in any calendar year. 
8. Construction Signs. A non-illuminated construction sign confined to the site of the construction, alteration or repair. Such sign shall be removed

within two (2) years of the date of issuance of the first building permit on the site or when the particular project is completed, whichever is sooner. One (1) sign shall be permitted for each street the project abuts. No sign may exceed thirty-two (32) square feet in the R-1 and R-2 Districts, or sixty-four (64) square feet in the UR, R-3, R-4, R-B, business, industrial and institutional districts.

9. "For Sale" and "To Rent" Signs. "For sale" and "to rent" signs shall be permitted subject to the following regulations:
 - a. Six (6) or Less Residential Dwelling Units. The following applies to the sale or rent of a single family residence or where six (6) or less dwelling units (or lots for residential development) are for sale or rent:
 - 1) No more than one (1) such sign per lot, except on a corner lot, two (2) signs shall exceed sixteen (16) square feet in area, or be illuminated.
 - 2) Each such sign shall be devoted solely to the sale or rental of the property being offered and shall be removed immediately upon the sale or rental of the property.
 - 3) Each sign shall be placed only upon the property offered for sale or rent.
 - b. Seven (7) or More Residential Dwelling Units. Where more than six (6) dwelling lots (or lots for residential development purposes) are offered for sale or rent by the same party, signs advertising such sale or rental may be constructed therefore in any district. There shall be permitted one (1) sign facing each public street provided access to the property being offered. Each such sign shall not exceed thirty-two (32) square feet in area; shall be located at least one hundred (100) feet from any pre-existing home; and shall be removed within one (1) year from the date of building permit issuance, or when less than six (6) units remain for sale or rent, whichever is less. Said sign shall fully comply with the setback requirement for the zoning district in which the property is located.
 - c. Commercial, Industrial or Institutional Property. In the event of the sale or rental of commercial, industrial, or institutional property, there shall be permitted one (1) sign facing each public street, providing access to the property being offered. Each sign shall not exceed sixty-four (64) square feet in area and shall be devoted solely to the sale or rental of the property being offered and must be removed immediately upon the sale or rental of the last property

offered at that location. Said sign may be located closer to the property line than fifty (50) percent of the setback required within the particular zoning district in which the property is located.

10. Rummage (Garage) Sale Signs. Rummage sale signs shall not be posted until the day before the sale and shall be removed within one (1) day after the end of the sale and shall not exceed six (6) square feet. Rummage sale signs shall not be located in any public right-of-way, or on utility poles or equipment. The City shall have the right to remove and destroy signs not conforming to this Ordinance.
11. Window Signs. Window signs shall not exceed fifty (50) percent of the total area of the window in which they are displayed.

B. Prohibited Signs. The following signs are prohibited:

1. Advertising signs with the following exceptions:
 - a. Signs advertising non-profit organizations are permitted subject to the restrictions imposed within the zoning district in which the sign is located.
 - b. A real estate development sign advertising lots or property for sale may be located off-premises by permit. The permit shall be renewable annually and conditioned upon documentation allowing such sign or structure by the property owner upon which it is to be located. The sign shall conform to the size restriction of signs imposed within the respective district in which the sign is located or a maximum of sixty-four (64) square feet each side, whichever is greater.
2. Advertising or business signs on or attached to equipment such as semi-truck trailers where signing is a principal use of the equipment on either a temporary or permanent basis.
3. Motion signs and flashing signs, except time and temperature signs and barber poles.
4. Projecting signs except as provided for in Section 1024-6 of this Ordinance.
5. Roof signs, except that a business sign may be placed on the fascia or marquee of a building, and provided:
 - a. The sign does not extend above the highest elevation of the building, excluding chimneys.

- b. The sign is thoroughly secured and anchored to the frames of the building over when they are constructed and erected.
 - c. No portion of the sign extends beyond the periphery of the roof.
- 6. Business signs which advertise an activity, business, product or service no longer produced or conducted on the premises upon which the sign is located. Where the owner or lessor of the premises is seeking a new tenant, such signs may remain in place for not more than thirty (30) days from the date of vacancy.

1024-5: GENERAL DISTRICT REGULATIONS:

A. UR, R-1, and R-2 Districts.

- 1. Residential Area Identification. Only one (1) sign for each area. Sign area may not exceed thirty-two (32) square feet with a maximum height of eight (8) feet for freestanding signs.

B. R-3, R-4, and R-B Districts.

- 1. Residential Area Identification. Only one (1) sign for each area. Sign area may not exceed sixty-four (64) square feet with a maximum height of ten (10) feet for freestanding signs.
- 2. Single or Double Occupancy Multiple Family or Business Sign. The total sign area may not exceed ten (10) percent of the total front building facade, except that both front and side facades may be counted on a corner lot. Signs chosen to comprise the total sign area shall be consistent with the following provisions:
 - a. Freestanding. Not more than one (1) freestanding sign. Sign area may not exceed sixty-four (64) square feet with a maximum height of ten (10) feet.
 - b. Wall, Canopy or Marquee. Not more than one (1) wall, canopy or marquee sign per building. However, on corner lots, two (2) such signs are allowed, one (1) per street frontage. Individual sign area may not exceed sixty-four (64) square feet.

C. B-1 and B-2 Districts.

1. Area Identification. Only one (1) sign. Sign area may not exceed one hundred (100) square feet with a maximum height of twenty-five (25) feet for freestanding signs.
2. Single or Double Occupancy Business Sign. The total sign area may not exceed two hundred fifty (250) square feet or fifteen (15) percent of the total front building facade, whichever is less. In calculating building facade, both front and side facades may be counted on a corner lot. Signs chosen to comprise the total sign area shall be consistent with the following provisions:
 - a. Freestanding. Not more than one (1) sign. Sign area may not exceed a maximum height of twenty-five (25) feet.
 - b. Wall, Canopy or Marquee. Not more than one (1) wall, canopy or marquee sign per building. However, on corner lots, two (2) such signs are allowed, one (1) per street frontage. Individual sign area for the second wall sign shall not be calculated in the maximum for the property, but shall be limited so as not to exceed one hundred (100) square feet.

D. I-1 and I-2 Districts.

1. Area Identification. Only one (1) sign. Sign area may not exceed one hundred (100) square feet with a maximum height of ten (10) feet for freestanding signs.
2. Single or Double Occupancy Business Sign. The total sign area may not exceed fifteen (15) percent of the front building facade, except that both front and side facades may be counted on a corner lot. Signs chosen to comprise the total sign area shall be consistent with the following provisions:
 - a. Freestanding. Not more than one (1) sign. Sign area may not exceed one hundred (100) square feet with a maximum height of ten (10) feet.
 - b. Wall, Canopy or Marquee. Not more than one (1) wall, canopy or marquee sign per building. However, on corner lots, two (2) such signs are allowed, one (1) per street frontage. Individual sign area may not exceed one hundred (100) square feet.

- E. Institutional Districts.** Except as provided for in Section 1-24-6 of this Ordinance, only one (1) sign per principal use. Sign area may not exceed sixty-

four (64) square feet with a maximum height of ten (10) feet for freestanding signs.

- F. **PUD, Planned Unit Development District.** In a PUD District, signing restrictions shall be based upon the individual uses and structures contained in the complex. Signs shall be in compliance with the restrictions applied in the most restrictive zoning district in which the use is allowed.

1024-6: SPECIAL DISTRICT REGULATIONS:

- A. **Motor Fuel Stations.** Signs for motor fuel stations shall be regulated by the single occupancy business structure sign provisions for the zoning district in which the station is located. In addition, motor fuel stations may also display signs which identify current fuel prices and car wash facilities. Such signs shall be limited to a maximum size of sixteen (16) square feet and a maximum height of ten (10) feet each.
- B. **Wall, Canopy or Marquee Signs in Business, Industrial, and Institutional Zoning Districts.** Where freestanding signs are not used and where principal structures have a front yard setback in excess of that which is required under the applicable zoning district regulations, the maximum property signage percentage limitation or maximum square feet restriction may be increased one (1) percent for every five (5) feet of additional setback beyond the zoning district front yard setback requirement. This increase shall be limited to a twenty-five (25) percent maximum and shall be applied only to signs located in the year for which the calculation was made.
- C. **Multiple Occupancy Business and Industrial Buildings.** When a single principal building is devoted to four (4) or more businesses, or industrial uses, a comprehensive sign plan for the entire structure shall be submitted and shall be of sufficient scope and detail to permit a determination as to whether or not the plan is consistent with the following regulations. The plan shall be subject to the approval of the Council. No permit shall be issued for an individual use except upon a determination that it is consistent with the approved comprehensive sign plan.
1. The maximum individual sign sizes for multiple occupancy structures and individual uses which may display signs shall not exceed the maximum provisions for single or double occupancy structures in the same zoning district. The bonus provided in Section 1024-6.B of this Ordinance shall not apply in calculating maximum sign size.
 2. Multiple occupancy structures may display an area identification sign consistent with the applicable district provisions of Section 1024-5 of this

Ordinance. Individual freestanding signs identifying the tenants' business shall not be displayed.

3. Except as provided in Section 1024-6.C.4 of this Ordinance, individual tenants of multiple occupancy structures shall not display separate business signs unless the tenants' business has an exclusive exterior entrance. The number of signs shall be limited to one (1) per entrance, and each sign shall be limited to the maximum wall size sign permitted in the district. The signs shall be located only on exterior walls which are directly related to the use being identified.
4. In any multiple occupancy structure qualifying as a shopping center, directory signs shall be permitted for each common public entrance. Each directory sign area shall not exceed a total of fifty (50) square feet and shall be located within fifty (50) feet of the common public entrance being served. The size of individual business identification signing within the directory shall be established during the site plan review process. Attention shall be given to the possible number of tenant or occupancy bays which may be served by the common public entrance for which the directory sign is intended.

D. Shopping Centers and Industrial Parks Containing More Than Twenty (20) Acres. Where shopping center facilities or industrial parks cover more than twenty (20) acres of land, two (2) area identification signs may be displayed in accordance with the maximum sign size provisions per area identification sign of the applicable zoning district. Additional signs may be displayed subject to approval of the City Council.

E. Highway Area Directional Signs. Within the area immediately adjacent to U.S. 12, directional signs indicating business identification and access routing signs may be allowed by approval of the City Council. Such signs shall be in compliance with the maximum sign size provisions of the district.

F. Schools, Athletic Complexes or Other Public or Semi-Public Institutions.

1. For such facilities occupying an area of five (5) acres or more, an identification sign not larger than ninety-six (96) square feet may be permitted upon approval of a permit by the City Council.
2. Temporary signs, banners and displays for church, school, institutional or civic events are permitted but must be located on property owned or controlled by the church, school, institution, or civic organization and may be displayed only during a period commencing sixty (60) days prior to the scheduled event and ending three (3) days after closing date of said scheduled event.

G. **Projecting Signs.** Such signs, including those projecting into the public right-of-way, may be allowed by a permit approved by the Council in the B-1 Zoning District, provided that:

1. The sign conforms to the uniform character and design guidelines established for the area.
2. The owner assumes all liability for such signs.
3. The signs conform to the size and height limitations of the respective district.

1024-7: INSPECTION: All signs for which a permit is required shall be subject to inspection by the Building Official. The Building Official may order the removal of any sign that is not maintained in accordance with the maintenance provisions of this Ordinance.

1024-8: PERMIT, APPLICATION, LICENSE, VARIANCE, AND CITY COUNCIL APPROVAL:

- A. **Permit Requirement.** Except as provided in Section 1024-4 of this Ordinance, it is unlawful for any person to erect, construct, alter, rebuild or relocate any sign or structure until a permit has first been issued by the City.
- B. **Sign Application.** The following information for a sign license shall be supplied by an applicant if requested by the City:
1. Name, address and telephone number of person making application.
 2. Name, address and telephone number of person owning sign.
 3. A site plan to scale showing the location of lot lines, building structures, parking areas, existing and proposed signs and any other physical features.
 4. Plans, location and specifications and method of construction and attachment to the buildings or placement method in the ground.
 5. Copy of stress sheets and calculations showing that the structure is designed for dead load and wind pressure in any direction in the amount required by this and all other laws and City Code provisions.
 6. Written consent of the owner or lessee of any site on which the sign is to be erected.

7. Any electrical permit required and issued for the sign.
 8. Such other information as the City shall require to show full compliance with this and all other laws and City Code provisions.
- C. **License Issued if Application is in Order.** The Building Official, upon the filing of an application for a license, shall examine such plans, specifications and other data and the premises upon which it is proposed to erect the sign. If it appears that the proposed structure is in compliance with all requirements of this Ordinance and all other laws and City Code provisions, the license shall be issued. If the work authorized under a license has not been completed within sixty (60) days after the date of issuance, the license shall be null and void.
- D. **City Council Approval.** When this Ordinance requires Council approval for a sign, the application shall be processed in accordance with the procedural and substantive requirements of the Zoning Ordinance for a conditional use permit.
- E. **Variances.** The City Council, acting as the Board of Adjustment and Appeals, may, upon application, grant a variance from the terms of this Ordinance. The request for a variance shall be processed in accordance with the procedural and substantive requirements of Section 1007 of this Ordinance.
- F. **Fees.** Fees for the review and processing of sign license applications and variance requests shall be imposed in accordance with the fee schedule established by City Council resolution.

1024-9: ENFORCEMENT: This Ordinance shall be administered and enforced by the Building Official. The Building Official may institute, in the name of the City, appropriate actions or proceedings against a violator.

1024-10: VIOLATION A MISDEMEANOR: Every person violates a section, subdivision, paragraph, or provision of this Ordinance when he or she performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.



INFORMATION MEMO

Sign Ordinances and the First Amendment

Learn how to design a sign ordinance for your city that meets the requirements of the First Amendment for protecting various forms of speech.

RELEVANT LINKS:

[Reed v. Town of Gilbert](#), 135 S. Ct. 2218 (2015).

I. First Amendment principles

The First Amendment protects signs as speech, and, as a result, courts closely review attempts to regulate signs. In 2015, the U.S. Supreme Court decided a seminal case (*Reed v. Town of Gilbert*) that changed how courts review the validity of sign ordinances. Prior to this decision, courts generally presumed sign ordinances were valid and, in their review, would look to the intent behind the adoption of the ordinance, striking down only those ordinances where the court found evidence that the city “adopted (the sign regulation) to suppress speech with which the government disagreed” (commonly known as content-based).

Since *Reed*, courts now presume that sign ordinances that restrict speech (either expressly or implicitly) are unconstitutional. As a result, courts look first to the effect of the sign ordinance—whether the ordinance regulates signs differently based on the content or message of the sign—before conducting its analysis of the constitutionality of the ordinance. Based upon the court’s determination, the court will apply one of two standards of review to the challenged ordinance. If the ordinance draws distinctions based on the message communicated by the sign, the court reviews these ordinances more harshly than if the ordinance regulates signs and their placement without regard to content.

A. Content-based

As referenced above, the *Reed* decision created a two-step analysis to determine if the ordinance restricts speech, commonly referred to as “content-based”:

- Does the ordinance’s actual language refer to the content or the message of the sign?
- If not, then does evidence exist that shows the city adopted the regulation specifically because of disagreement (or agreement) with the message expressed by the sign?

This material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.

RELEVANT LINKS:

In *Reed*, the Town of Gilbert’s sign code required permitting for signs, but then listed out categories or types of signs exempt from permitting, including “political signs,” “ideological signs,” and “temporary directional signs.” The ordinance in *Reed* also placed different physical restrictions on the separate types of signs. The Supreme Court found this ordinance content-based because the regulation “on its face” looked to the message on the proposed sign to determine how the city would regulate it.

As mentioned above, if a court finds the city expressly regulated or intended to regulate a message or content, then the court applies a more rigorous level of review to those ordinances. This heightened level of review is called “strict scrutiny,” and the court will only uphold the ordinance if it furthers a compelling government interest and is narrowly tailored. Courts have found few governmental interests represent justifiable “compelling interests.” As a result, in practice, few, if any, regulations survive strict scrutiny.

In the alternative, for sign ordinances that do not regulate the message or content of signs (commonly called “content-neutral”), courts apply a lower standard of review to the reasonableness of regulations and generally uphold regulations that further a significant government interest, as long as reasonable alternative channels for communication exist. As a result, courts uphold ordinances considered content-neutral more often than not.

B. Content-neutral

As stated above, when a local government’s ordinance is content-neutral, courts review it with a much more relaxed standard, upholding regulations that meet the criteria below (often referred to as reasonable time, place, and manner restrictions). These ordinances:

- Do not reference the content of the sign.
- Are narrowly tailored to serve a significant governmental interest (rather than compelling interest).
- Leave open ample alternative channels for communication of the information.

To help avoid challenges when adopting sign ordinances, cities should:

- Not regulate based on content.
- Not favor commercial speech over noncommercial speech.
- Further substantial government interests, such as traffic safety or aesthetics, without regulating more than necessary to accomplish their objectives.
- Leave ample alternative channels for communication, such as limiting the size of signs but still allowing signs.

Advantage Media, LLC v. City of Eden Prairie, 456 F.3d 793 (8th Cir. 2006).

Hensel v. City of Little Falls, 992 F. Supp.2d 916 (D. Minn. 2014).

RELEVANT LINKS:

*Central Hudson Gas & Elec.
v. Public Svc. Comm'n*, 447
U.S. 557 (1980).

Sign Ordinance, City of
Hopkins sample.

C. Commercial speech v. noncommercial speech

Courts treat commercial speech differently than noncommercial speech and do not afford it the same level of protection. Courts have defined commercial speech as speech that proposes a commercial transaction. Commercial speech enjoys some First Amendment protection but not as much protection as noncommercial speech.

Understanding commercial speech versus noncommercial speech can get confusing. Commercial speech is initiated by a person or company who engages in commerce, or is selling something; targets commercial audiences or audiences that are actual or potential consumers; and communicates a message commercial in nature, such as advertisements. Noncommercial speech, on the other hand, includes messages that do not promote commercial products or services, such as a message that has ideological or political content.

II. Drafting a sign ordinance

With the First Amendment concerns surrounding sign regulation, the below guidelines will help cities in drafting ordinances. Keep in mind that signs can pose distinct problems subject to a city's police power, such as taking up space, obstructing views, distracting motorists, and displacing alternative uses for land, so cities can regulate signs, they just must do so cautiously.

A. Provisions to include

1. Statement of purpose

This section of an ordinance explains the public purpose reason for the sign ordinance and how the city intends to apply the ordinance. The statement of purpose should state clearly that it does not intend to have content-based restrictions or content-based enforcement. Cities find it a best practice for the statement of purpose to delineate the governmental interests spurring the regulations.

2. Substitution clause

Adding a message substitution clause may avoid claims that an ordinance favors commercial signs over noncommercial messages. A substitution clause provides that for every commercial sign allowed, any noncommercial message could be legally substituted. Substitution clauses help protect against allegations of discrimination (based on content) because they always allow a noncommercial message on any sign. Many ordinances inadvertently define signs in terms of advertising and, as a result, may be interpreted as allowing only commercial messages.

RELEVANT LINKS:

[Minn. Stat. § 211B.045](#)

[Brayton v. City of New Brighton](#), 519 N.W.2d 243 (Minn. App. 1994), cert. denied, 514 U.S. 1036, (1995).

A substitution clause may correct these mistakes by providing a catch-all allowance of noncommercial messages notwithstanding other provisions. A sample substitution clause reads as follows:

“Signs containing noncommercial speech are permitted anywhere that advertising or business signs are permitted, subject to the same regulations applicable to such signs.”

3. Severability clause

A severability clause provides that if a court finds any provision of the ordinance invalid, the remainder of the ordinance stands on its own. This clause may prevent a flaw in one part of the ordinance from invalidating the entire ordinance.

A sample severability clause reads as follows:

“If any section, subsection, sentence, clause, or phrase of this Sign Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Sign Ordinance. The City Council hereby declares that it would have adopted the Sign Ordinance in each section, subsection, sentence, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.”

4. Election season pre-emption

A city’s sign ordinance should contain acknowledgement of the election season pre-emption required by state law. Under this law, municipalities must allow noncommercial signs of any size or number during election season, which runs from 46 days before the state general primary until 10 days after the state general election. The statute does not define noncommercial sign. One Minnesota case does, however, and states that a “noncommercial opinion sign” is one which “does not advertise products, goods, businesses, or services and which expresses an opinion or other point of view.” Courts consider campaign signs a subset of noncommercial opinion speech. Outside of “election season,” including during non-general election years, a city’s local sign ordinance governs. However, as stated before, even if not election season, local sign ordinances should not have the effect of prohibiting opinion speech.

5. Time, place, and manner regulations

Best practices suggest cities should:

RELEVANT LINKS:

City of Ladue v. Gilleo, 512 U.S. 43 (1994). *Brayton v. City of New Brighton*, 519 N.W.2d 243 (Minn. App. 1994), cert. denied, 514 U.S. 1036, (1995).

Hensel v. City of Little Falls, 992 F. Supp.2d 916 (D.Minn. 2014).

Reed v. Town of Gilbert, 135 S. Ct. 2218 (2015).

Advantage Media v. City of Hopkins, 379 F.Supp.2d 1030 (D.Minn. 2005).

- Adopt sign ordinance regulations based on time, place, and manner concerns, not on content.
- Refrain from favoring commercial speech over noncommercial speech.

Examples of content-neutral restrictions include regulations based on size, brightness, zoning district, spacing, and movement.

B. Provisions to avoid

1. Unfettered discretion

Cities should avoid drafting ordinances that provide discretionary approval by the city staff. Ordinances that give staff discretion to grant or deny have the potential to favor some messages or messengers over others, regardless of whether an abuse of that discretion occurred. Sign ordinances should have transparent and objective permit requirements, making the decision to grant or deny ministerial, as opposed to subjective, in nature. So, for example, cities should avoid provisions allowing staff discretion to deny permits, even if the application satisfies all specific ordinance requirements, or provisions that treat signs as conditional or special uses.

2. Exemptions or favoritism

Cities should avoid exempting certain groups or messages, such as church signs or official flags, from permit requirements in the ordinance. Courts construe these types of exemptions as content-based discrimination because a decision is made based on the text, or content, of the sign.

Also, municipalities may want to keep in mind that including specific exemptions in sign ordinances often has the effect of “watering down” the proof that the regulation furthers a substantial government interest. For example, if an ordinance includes a prohibition on temporary signs but allows a long list of exemptions, it suggests the city is not really concerned about temporary signs.

3. Over-defining signs

Cities should avoid drafting ordinances in ways in which noncommercial speech inadvertently gets treated less favorably than commercial speech. For example, some cities have run into trouble by defining a “sign” as “advertising.” A court’s analysis would be as follows:

- The city ordinance defines signs as advertising devices.
- The ordinance allows signs as defined.
- The ordinance, by its definition of signs as advertising, prohibits all other types of signs.

RELEVANT LINKS:

FW/PBS, Inc. v. City of Dallas, 493 U.S. 215 (1990).

Metromedia Inc. v. City of San Diego, 453 U.S. 490 (1981).

Advantage Media, LLC v. City of Eden Prairie, 456 F.3d 793 (8th Cir. 2006).

City of Cottage Grove v. Ott, 395 N.W.2d 111 (Minn. App. 1986).

Texas v. Johnson, 491 U.S. 397 (1989). *Young v. City of Roseville*, 78 F.Supp.2d 970 (D. Minn. 1999).

This arguably prohibits noncommercial speech, violating the First Amendment.

C. Include procedural protections

Cities that require permitting should include certain procedural safeguards in their ordinance, such as a:

- Specification of the time within which the city will grant or deny a permit, keeping in mind judicial preference for brevity in the response time.
- Requirement that, if the city denies the permit, the applicant has access to prompt judicial review.

III. Common sign ordinance issues

A. Off-premise advertising (billboards)

Off-premise advertising consists of commercial signs that advertise for a business located somewhere else than at the location where the sign is placed. Large, freestanding billboards create unique problems for land use planning and development precisely because their design intends for them to stand out from their surroundings. Courts have found a legitimate local governmental interest in controlling the size and location of billboards, but not in controlling the sign's communicative aspects. Indeed, billboards can distract drivers, posing real danger to both motorists and nearby pedestrians and justifying regulation.

In Minnesota, the court has upheld a sign ordinance that completely prohibited off-premise commercial advertising, but, did so cautiously and only because the ordinance did not regulate noncommercial signs. Because of the scrutiny applied in regulating speech, cities should use caution in adopting complete billboard prohibitions and work with their city attorneys.

B. Flags

Courts have recognized that the display of flags can constitute expressive conduct protected under the First Amendment as well. Cities should use caution if regulating flags to avoid favoring some types of flags (particularly the United States flag) over other flags. Use of a substitution clause helps in these instances: if one type of noncommercial flag would be acceptable, any noncommercial flag should be allowed.

RELEVANT LINKS:

City of Ladue v. Gilleo, 512 U.S. 43 (1994).

Goward v. City of Minneapolis, 456 N.W.2d 460 (Minn. App. 2990).

SRF Consulting Group, "Dynamic Signage: Research Related to Drive Distraction and Ordinance Recommendations", June 7, 2007.

La Tour v. City of Fayetteville, Ark., 442 F.3d 1094 (8th Cir. 2006). *State v. Dahl*, 676 N.W.2d 305 (Minn. App. 2004).

Minn. Stat. Ch. 173. Minn. Stat. 160.2715. Minn. DOT Billboard Permits and Guidance. Minn. DOT Community and Guide Signage.

C. Yard signs, including political signs

Courts have deemed yard signs constitutionally protected. Best practice suggests avoiding total bans on noncommercial lawn signs in residential areas, and using caution in adopting provisions that may favor some messages over others.

For example, exemptions from sign regulations for real estate signs or construction project signs favor commercial speech over noncommercial speech. However, general limitations on the number and size of signs have withstood constitutional challenges since such limitations have nothing to do with a sign's message, and they further governmental interests in protecting property values, preventing distractions for drivers, or avoiding clutter.

Again, as stated before, a city's sign ordinance should contain acknowledgement of the election season pre-emption required by state law. Under this law, municipalities must allow noncommercial signs of any size or number during election season, from 46 days before the state general primary until 10 days after the state general election.

D. Electronic signs

Electronic signs present new challenges, especially with ever-changing technology capable of new levels of brightness, movement, flashing, and potential distraction. Most sign ordinances do not adequately address these issues and how they may impact traffic safety or aesthetics. Courts have upheld regulations on electronic or flashing signs, so long as the regulations are not tied to the content of the signs, serve a substantial governmental interest, and leave open ample alternative channels for communication. For example, courts have found that allowing non-electronic signs, or even operating the electronic sign in a non-flashing mode, represents ample alternatives.

E. Signs adjacent to highways

Minnesota statutes specifically regulate signs adjacent to highways. Minnesota law states, in part, that it is unlawful to paint, print, place, or affix any object within the limits of any state highway; but provides for some specific signage that meets certain Department of Transportation criteria. Furthermore, Minnesota's Outdoor Advertising Control Act prohibits advertising devices on private land without the consent of the owner or occupant; on public utility poles; on trees or shrubs; and by painting or drawing on rocks or natural features.

RELEVANT LINKS:

LMC Research Department,
651-281-1200

IV. Further assistance

Due to the complexity of regulating signs, cities should work with their city attorneys to draft and review such ordinances. City attorneys also can examine the law for possible exceptions to these general rules about sign ordinances and the First Amendment. The League of Minnesota Cities' Research Department can provide assistance and sample ordinances.

CHAPTER 23**SIGNS****SECTION:**

- 10-23-1: Purpose and Intent
- 10-23-2: Exempt Signs
- 10-23-3: Prohibited Signs
- 10-23-4: Signs Not Requiring Permits
- 10-23-5: ~~Construction Sign Specifications~~ *General Sign Requirements*
- 10-23-6: Maintenance of Signs
- 10-23-7: Non-Conforming Signs
- 10-23-8: District Regulations
- 10-23-9: Administration
- 10-23-10: Severability

10-23-1: PURPOSE AND INTENT: The purpose of this chapter is to protect and promote the general welfare, health, safety and order within the City through the establishment of a comprehensive and impartial series of standards, regulations and procedures governing the erection, use and/or display of devices, signs or symbols serving as visual communicative media to persons situated within or upon public right-of-way or private properties. The provisions of this Section are intended to encourage creativity, a reasonable degree of freedom of choice, an opportunity for effective communication, and a sense of concern for the visual amenities on the part of those designing, displaying or otherwise utilizing needed communicative media of the types regulated by this Section; while at the same time assuring that the public is not endangered, annoyed or distracted by the unsafe, disorderly, indiscriminate or unnecessary use of such communicative facilities.

10-23-2: EXEMPT SIGNS: The following signs are exempt from the requirements of this Section:

- A. ~~Informational signs not exceeding two square feet in area, displayed strictly for the convenience of the public, including signs which identify rest rooms, waste receptacles, addresses, door bells, mailboxes or building entrances.~~
- B. ~~Memorial plaques, cornerstones, and historical tablets.~~ *Memorial plaques, building identification signs, and building cornerstones when cut or carved into a masonry surface or made an integral part of the building or structure.*
- C. ~~Wall or window occupational signs giving the name or profession of a business, providing the sign does not exceed four (4) square feet in area.~~

St Francis Sign Ordinance – *Showing Changes*

- D. ~~Public signs, street signs, warning signs, railroad crossing signs, signs of public service companies for the purpose of safety or private directional signs of not over four (4) square feet. Directional, warning, or informational signs authorized by federal, state, or municipal governments with proper jurisdiction.~~
- E. ~~Other signs of a temporary nature, not specifically covered by this Section for a period of time not to exceed ten (10) calendar days.~~
- F. ~~Signs erected by a governmental unit or a public school district. Official notices authorized by a court, public body, or public safety official.~~

10-23-3: PROHIBITED SIGNS: The following signs are prohibited within the City:

- A. Sign attached to any tree, public sign or utility poles.
- B. Sign constructed of a material not of a permanent nature.
- C. Above roof signs. Projecting signs shall project no further than two (2) feet from the wall to which they are anchored. No sign, or portion thereof, shall project over public property.
- D. Sign which by reason of position, movement, shape, illumination or color would constitute a traffic hazard to oncoming traffic.
- E. Sign noticeably moving as a result of normal wind pressure.
- F. Sign containing obscene language or graphics.
- G. Abandoned signs which no longer identify or adverse a bona fide business, service, product, or activity or for which a legal owner can be found.
- H. Banners, pennants, festoons, and search-lights except as a permitted temporary special event sign *and as identified in 10-23-5-H.*
- I. Signs imitating or resembling official traffic or governmental signs or signage.
- J. Signs placed on vehicles or trailers which are parked or placed for the primary purpose of displaying said sign except for portable signs or lettering on buses, taxis, or vehicles operating during the normal course of business.
- K. Any sign placed within thirty (30) feet of any intersection that may obstruct motorist or pedestrian visibility.

L. ~~Flashing Signs.~~ *Signs which blink, flash, or are animated.*

10-23-4: SIGNS NOT REQUIRING PERMITS: The following signs are exempt from permit requirements but must otherwise be in conformance with all requirements of this Section.

A. ~~Construction signs. having a sign area of sixty-four (64) square feet or less.~~ *A non-illuminated sign not exceeding thirty-two (32) square feet in the R-1 and R-2 District and sixty-four (64) square feet in area in all other districts may be placed on the site where an open building permit has been issued. The sign shall be removed within two (2) years of the date of issuance of the building permit or when the building permit has been finalled or expired, whichever is sooner.*

B. ~~Directional/Informational signs having a sign area of four (4) square feet or less.~~ *Directional signs, on-site. On site-directional signs, not exceeding two (2) square feet in area, intended to facilitate the movement of pedestrians and vehicles within the site, identify restrooms, waste receptacles, addresses, door bells, mailboxes, or building entrances upon which signs are located. Such signs shall be limited to two (2) per site in R-1 and R-2 Districts and four (4) per site for all other districts.*

C. ~~Holiday decorations.~~

D. ~~Nameplates having a sign area of four (4) square feet or less.~~ *Identification Signs. Signs in all non-residential districts which identify the business, owner, manager, or resident providing the sign does not exceed four (4) square feet in area and is attached to a wall or placed in a window. Such a sign may be placed on a residential property with a permitted home occupation.*

E. ~~Political signs in compliance with State Statutes governing campaign signage.~~ *Non-commercial speech. Notwithstanding any other provisions of this sign ordinance, all signs of any size containing non-commercial speech may be posted from June 25 in any general election year until ten (10) days following the general election and thirteen (13) weeks prior to any special election until ten (10) days following the special election.*

F. ~~Private sale or event signs. One sign not to exceed four (4) square feet in area may be placed on the site of a rummage sale or similar event. Any sign shall be removed at the termination of the sale or similar event.~~

G. ~~Real Estate signs having a sign area of six (6) square feet or less.~~ *Individual property sale, lease, or rental signs. Any property that is currently for sale or rent may place one sign per street frontage. Such signs must be removed within ten (10) days after the sale or rental of the property. Such signs shall not exceed six (6) square feet in area in all residential districts and thirty-two (32) square feet in area in all other districts.*

H. "No Trespassing" and "No Hunting" signs and similar warning or restrictive signs, not to exceed two square feet in area, may be placed upon private property by the owner.

10-23-5: CONSTRUCTION — SIGN — SPECIFICATIONS GENERAL REQUIREMENTS: All signs within the City shall be subject to the following standards:

- A. **Compliance with Building and Electrical Codes:** All signs shall be constructed ~~in accordance erected pursuant to~~ with the requirements of the State Building Code.
- B. **Anchorage Requirements:**
 - 1. No sign shall be suspended by non-rigid attachments that will allow the sign to swing in a wind.
 - 2. All freestanding signs shall have self-supporting structures permanently attached to concrete foundations.
 - 3. All portable signs on display shall be braced or secured to prevent motion.
 - 4. *No sign shall be attached to hang from any building until all necessary wall attachments have been approved by the Building Official.*
- C. **Sign Wind Resistance Requirements:**
 - 1. Solid signs, other than wall signs, shall be designed to withstand a wind load of seventeen (17) pounds per square foot on any face, having a height less than thirty (30) feet and to withstand a wind load of twenty-two (22) pounds per square foot on any surface having a height in excess of thirty (30) feet in height.
 - 2. Skeleton signs, other than wall signs, shall be designed to withstand a wind load of seventeen (17) pounds per square foot on the total face area of the letters and all other sign surfaces less than thirty (30) feet in height and to withstand a wind load of twenty-two (22) pounds per square foot on all portions in excess of thirty (30) feet in height.
- D. **Additional Sign Construction and Placement Requirements:**
 - 1. No sign shall be erected, constructed or maintained so as to obstruct any fire escape, required exit, window or door opening used as a means of egress.

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2. No sign shall be attached in any form, shape, or manner which will interfere with any opening required for ventilation, except that signs may be erected in front of and may cover transom windows when not in violation of the provisions of the current Building or Fire Codes.
3. Signs shall be located in such a way as to maintain horizontal and vertical clearance of all overhead electrical conductors in accordance with present Electrical Code specifications.
4. Lighting shall be directed away from road rights-of-way and adjacent dwellings.
5. Freestanding signs in all districts shall have a minimum setback of ten (10) feet from any public right-of-way measured to any portion of the sign, and a minimum clearance of ten (10) feet over any vehicular or pedestrian use area. No freestanding sign shall be located within twenty-five (25) feet of any intersection of street right-of-way lines and/or driveway entrances.
6. *Except as otherwise permitted by this ordinance, no signs other than governmental signs shall be erected or temporarily placed within any right-of-way or upon any public lands or easements.*
7. *When a free standing sign or sign structure is constructed so that the sign faces are not back to back, the angle shall not exceed ten degrees. If the angle is greater than ten degrees, the total area of both sides added together shall not exceed the maximum allowable sign area for that district.*

E. Temporary Signs:

1. *An on-site temporary, portable sign may be used for a period of time not to exceed 120 days per calendar year per parcel of record in the commercial and industrial zoning districts provided:*
 - a. *Such temporary, portable signs shall not exceed thirty-two (32) square feet in area and six (6) feet in height and shall not be placed closer than ten (10) feet from any street right-of-way or property line.*
 - b. *Any temporary, portable sign shall require a permit issued by the City to the property owner specifying the duration of time to be displayed.*
 - c. *No temporary, portable sign shall occupy required parking spaces.*

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- d. *In the case of multi-tenant structures, one sign may be placed every 150 feet of street frontage rather than one sign per parcel. Each 150 feet is granted 120 days for display.*
2. *One sandwich board sign per business may be allowed in the business districts without a permit and without using the time period allotted for temporary, portable signs provided:*
 - a. *The sign is placed within fifteen (15) feet of the entrance of the business.*
 - b. *The sign shall be placed on private property and may be placed on a private sidewalk provided there is five (5) feet of clearance for pedestrians.*
 - c. *The sign may not obstruct safety, visibility, or traffic.*
 - d. *The sign shall be freestanding, not attached to any other structure or devise, not be illuminated, greater than 3 ½ feet in height, greater than 2 feet in width, or greater than 2 feet in depth.*
 - e. *The sign shall be only displayed during business hours.*
- F. **Electronic Message Board Signs.** *Signs displaying electronic, scrolling text-based messages may be permitted in commercial and industrial districts provided that the electronic message board component of any sign is no greater than forty (40) square feet in area.*
- G. **Business and Industrial Window Signs.** *Window signs are permitted in the industrial and business districts provided each sign does not occupy more than 75% of the window area.*
- H. **Banner signs.** *Banner signs and similar products attached to a building shall be allowed without a permit as follows:*
 1. *Signage shall be well secured to prevent it from blowing in the wind.*
 2. *No more than two (2) signs shall be allowed at any one time.*
 3. *Each sign shall be less than 100 square feet in area.*
 4. *Such signage shall be only allowed in the industrial and business districts.*
- I. **Ground Banner Signs.** *Banner signs may be allowed on the ground up to 48 square feet in area but each ground banner sign shall count towards one of the two*

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allowed building banner signs and shall conform to all standards set forth for portable temporary signs in 10-23-5:E-1 and shall require a permit.

10-23-6: MAINTENANCE OF SIGNS: All signs shall be maintained by the owner in a safe condition. A sign shall be repainted whenever its paint begins to fade, chip, or discolor.

10-23-7: NON-CONFORMING SIGNS: Any sign legally existing on the effective date of this Section which does not conform to the requirements set forth in this Section shall become a non-conforming sign. *No non-conforming sign shall be enlarged or altered in such a fashion that increases its non-conformity.* Non-conforming signs shall be subject to the ~~following~~ requirements of Chapter 15 of the Zoning Ordinance.

- A. ~~Any non-conforming temporary or portable sign existing on the effective date of this Section shall be made to comply with the requirements set forth herein and shall be removed within sixty (60) days after the effective date of this Section.~~
- B. ~~A lawful sign on the effective date of this Section or of amendments thereto that does not conform to these provisions shall be regarded as a non-conforming sign.~~

10-23-8: DISTRICT REGULATIONS: The following signs are permitted in their respective Zoning District:

A. **A-1, A-2, and A-3:**

1. All signs not requiring permits as set forth in this Section.
2. One (1) permanent area identification sign per neighborhood, subdivision, or development, not to exceed thirty-two (32) square feet in sign area and six (6) feet in height. The area identification sign shall be placed on the same premises as the development which it identifies.
3. For permitted *legally established* non-residential uses, one (1) freestanding sign not to exceed thirty-two (32) square feet and six (6) feet in height, shall be permitted. One (1) wall business sign, not to exceed twenty (20) square feet, shall also be permitted. The freestanding sign and wall business signage shall be placed on the same premises as the business in which it identifies.
4. Signage requirements for Home Occupations shall be as follows: one (1) freestanding sign not to exceed twenty (20) square feet in sign area and six feet in height, and one (1) business wall sign not to exceed twenty (20) square feet in sign area.

B. RR and ML-PUD:

1. All signs not requiring permits as set forth in this Section.
2. One (1) permanent area identification sign per neighborhood, subdivision, or development, not to exceed thirty-two (32) square feet in sign area and six (6) feet in height. The area identification sign shall be placed on the same premises as the development which it identifies.
3. For ~~permitted~~ *legally established* non-residential uses, one (1) freestanding sign not to exceed thirty-two (32) square feet and six (6) feet in height, shall be permitted. One (1) wall business sign, not to exceed twenty (20) square feet, shall also be permitted. The freestanding sign and wall business signage shall be placed on the same premises as the business in which it identifies.
4. Signage requirements for Home Occupations shall be as follows: one (1) freestanding sign not to exceed twenty (20) square feet in sign area and six (6) feet height, and one (1) business wall sign not to exceed twenty (2) square feet in sign area.

C. R-1 and R-2:

1. All signs not requiring permits as set forth in this Section.
2. One (1) permanent area identification sign per neighborhood, subdivision, or development, not to exceed thirty-two (32) square feet in sign area and six (6) feet in height. The area identification sign shall be placed on the same premises as the development which it identifies.
3. For ~~permitted~~ *legally established* non-residential uses, one business wall sign, not to exceed four (4) square feet, shall be permitted.
4. For ~~permitted~~ *legally established* institutional uses, such as religious institutions, nursing homes, medical establishments and schools, one (1) freestanding sign per street frontage identifying said institution or institutional complex shall be permitted. The freestanding sign shall not exceed sixty (60) square feet in sign area and ten (10) feet in height. One business wall sign, not to exceed twenty (20) square feet in sign area, shall be permitted for each structure.
5. Signage requirements for home occupations shall be as follows: one (1) freestanding sign not to exceed four (4) square feet in sign area and six

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(6) feet in height, and one (1) business wall sign not to exceed four (4) square feet in sign area.

D. R-3 and R-4:

1. All signs not requiring permits as set forth in this Section.
2. One (1) permanent area identification sign per *frontage with access to a neighborhood, subdivision, development or multi-family complex*, not to exceed thirty-two (32) square feet in the sign area and six (6) feet in height, shall be permitted. The area identification sign shall be placed on the same premises as the development which it identifies.
3. For ~~permitted~~ *legally established* non-residential uses, one business wall sign, not to exceed four (4) square feet in sign area, shall be permitted.
4. For ~~permitted~~ *legally established* institutional uses, such as religious institutions, nursing homes, medical establishments, and schools, one (1) freestanding sign per street frontage identifying said institution or institutional complex shall be permitted. The freestanding sign shall not exceed sixty (60) square feet in sign area and ten (10) feet in height. One business wall sign, not to exceed twenty (2) square feet in sign area, shall be permitted for each structure.
5. Signage requirements for home occupations shall be as follows: one (1) freestanding sign not to exceed four (4) square feet in sign area and one (1) business wall sign not to exceed four (4) square feet in sign area.

E. PUD:

1. All signs not requiring permits as set forth in this Section.
2. Signage requirements shall be established at the time the PUD is approved by the City. All applicants shall submit a signage plan for the proposed development.

F. B-2 and B-3:

1. All signs not requiring permits as set forth in this Section.
2. One (1) permanent area identification sign per neighborhood, subdivision, or development, not to exceed thirty-two (32) square feet in sign area and six (6) feet in height, shall be permitted. The area identification sign shall be placed on the same premises as the development which it identifies.

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3. One (1) freestanding sign per street frontage is permitted. The total area of a freestanding sign for a building having one street frontage shall not exceed eighty (80) square feet. Where a building site has two (2) or more street frontages, only one (1) freestanding sign of the above size shall be permitted. Each permitted freestanding sign in excess of one (1), shall have a sign area not to exceed thirty-six (36) square feet. The maximum height of a freestanding sign shall be twenty-five (25) feet.
4. For ~~permitted~~ *legally established* institutional uses, one (1) freestanding sign per street frontage identifying said institution or institutional complex shall be permitted. The freestanding sign shall not exceed sixty (60) square feet in sign area and ten (10) feet in height.
5. One business wall sign shall be permitted according to the following: The total area of all wall signs on any wall of a building shall not exceed fifteen (15) percent of the wall area of that wall when said wall area does not exceed five hundred (500) square feet. When said surface area exceeds five hundred (500) square feet, then the total area of such wall sign shall not exceed seventy-five (75) square feet plus five (5) percent of the wall area in excess of five hundred (500) square feet, provided that the maximum sign area for any wall sign shall be three hundred (300) square feet. Wall area shall be computed individually for each tenant in a multi-tenant building based on the exterior wall area of the space that tenant occupies.

G. **I-1 and I-2:**

1. All signs not requiring permits as set forth in this Section.
2. One permanent area identification sign per neighborhood, subdivision, or development, not to exceed thirty-two (32) square feet in sign area and six (6) feet in height. The area identification shall be placed on the same premises as the development which it identifies.
3. One (1) freestanding sign per street frontage is permitted. The total area of a freestanding sign for a building having one (1) street frontage shall not exceed eighty (80) square feet. Where a building site has two (2) or more street frontages, only one (1) freestanding sign of the above size shall be permitted. Each permitted freestanding sign in excess of one, shall have a sign area not to exceed thirty-six (36) square feet. The maximum height of a freestanding sign shall be twenty-five (25) feet.
4. One business wall sign shall be permitted according to the following: The total area of all signs on any wall of a building shall not exceed fifteen (15) percent of the wall area of that wall when said wall area does not exceed

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five hundred (500) square feet. When said surface area exceeds five hundred (500) square feet, then the total area of such wall sign shall not exceed seventy-five (75) square feet plus five (5) percent of the wall area in excess of five hundred (500) square feet, provided that the maximum sign area for any wall sign shall be three hundred (300) square feet. Wall area shall be computed individually for each tenant in a multi-tenant building based on the exterior wall area of the space that tenant occupies.

H. **I-3:**

1. All signs not requiring permits as set forth in this Section.
2. One (1) permanent area identification sign per neighborhood, subdivision or development, not to exceed thirty-two (32) square feet in sign area and six (6) feet in height, shall be permitted. The area identification sign shall be placed on the same premises as the development which it identifies.
3. One (1) freestanding sign per street frontage is permitted. The total area of a freestanding sign for a building having one street frontage shall not exceed eighty (80) square feet. Where a building site has two or more street frontages, only one freestanding sign of the above size shall be permitted. Each permitted freestanding sign in excess of one shall have a sign area not to exceed thirty-six (36) square feet. The maximum height of a freestanding sign shall be twenty five (25) feet.
4. One business wall sign shall be permitted according to the following: The total area of all signs on any wall of a building shall not exceed fifteen (15) percent of the wall area of that wall when said wall area does not exceed five hundred (500) square feet. When said surface area exceeds five hundred (500) square feet, then the total area of such wall sign shall not exceed seventy-five (75) square feet plus five (5) percent of the wall area in excess of five hundred (500) square feet, provided that the maximum sign area for any wall sign shall be three hundred (300) square feet. Wall area shall be computed individually for each tenant in a multi-tenant building based on the exterior wall area of the space that tenant occupies.

I. **Conservancy:**

1. All signs not requiring permits as set forth in this Section.
2. One (1) permanent identification sign, not to exceed fifty (50) square feet in sign area and six (6) feet in height shall be permitted *per frontage with access to the site*. The identification sign shall be placed on the same premises as the use in which it identifies.

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J. **B-1:**

1. All signs not requiring permits as set forth in this Section.
2. One (1) permanent area identification sign per neighborhood, subdivision, or development, not to exceed thirty-two (32) square feet in sign area and six (6) feet in height shall be permitted. *The area identification sign shall be placed on the same premises as the development which it identifies.*
3. One (1) freestanding sign per lot is permitted. The total area of the freestanding sign shall not exceed sixty-four (64) square feet for lots with a lot width of one hundred (100) feet or more than thirty-six (36) square feet for lots with a lot width of less than one hundred (100) feet. The maximum height of a freestanding sign shall be twenty (20) feet.
4. For permitted *legally established* institutional uses, one (1) freestanding sign per street frontage identifying said institution or institutional complex shall be permitted. The freestanding sign shall not exceed sixty (60) square feet in sign area and ten (10) feet in height.
5. One business wall sign shall be permitted according to the following: The total area of all wall signs on any wall of a building shall not exceed fifteen (15) percent of the wall area of that wall when said wall areas does not exceed five hundred (500) square feet. When said surface area exceeds five hundred (500) square feet, provided that the maximum sign area for any wall sign shall be three hundred (300) square feet. Wall area shall be computed individually for each tenant in a multi-tenant building based on the exterior wall area of the space that tenant occupies.

10-23-9: ADMINISTRATION:

- A. **Application Process:** An application for a sign permit shall be made upon forms to be provided by the City. Said form is to be completed and returned to the City and shall include the following information:
1. The name and address of the applicant: location of the building, structure or lot on which the sign is to be erected, the position of the sign in relation to nearby buildings or structures, the name of the person that will be erecting the sign, and the written consent of the owner of the land if different from the applicant.
 2. A site plan including a drawing of the plans, specifications, and method of construction or attachment to a structure or the ground.

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3. A copy of the stress sheets and calculations, showing that the sign is designed to withstand the required wind load.
 4. A sketch plan showing the signs size, manner of construction, type of sign, construction materials, *other signs on the site*, and any other information as requested by the City.
 5. Signs that meet the requirements of this Section may be issued by City Staff. Applications for signs that do not meet the requirements of this Section shall be reviewed by the Planning Commission and the City Council According to the procedures set forth in this Section.
- B. **Sign Permit Fees:** Every applicant shall pay a fee for each sign regulated by this Section, before being granted a permit. Permit fees shall be subject to the following requirements:
1. The Council shall establish the permit fees on the City's fee schedule.
 2. Any substantial alteration or relocation of a sign shall constitute a new sign, requiring an additional permit fee.
 3. A double fee shall be charged if a sign is erected without first obtaining a permit for such sign. The Council may also require a sign to be removed, altered, or relocated, at the owner's expense, if placed prior to securing the required permit. If the owner fails to remove or alter the sign so as to comply with the provisions set forth in the Section, within ten (10) calendar days following receipt of a letter from the City stating the violations, such signs may be removed by the City, the cost incident thereto being levied as a special assessment against the property upon which the sign is located.
- C. **Inspections:** All sign installations for which a permit is required, shall be subject to inspection and acceptance by the City.
- D. **Revocation of Permit:** The City may revoke a sign permit upon failure of the holder thereof to comply with the provisions of this Section. Any party aggrieved by such revocation may appeal the action to the Council, within ten (10) calendar days after the revocation.
- E. **Expiration of Permit:** The permit shall expire if the sign is not erected within 180 days after issuance of said permit. No permit fees collected for the Sign shall be refunded to the applicant.
- F. **Removal of Signs by the City:** The City may cause the removal of any illegal sign or any sign not properly maintained in cases of emergency, or after failure to

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timely comply with written orders for removal or repair. After removal or demolition of a sign, the following conditions shall be in effect:

1. Written notice shall be mailed to the sign owner and owner of the property where the sign was located stating the nature of the work and the date on which it was performed. The City shall require payment of the costs associated with the removal, with an additional fifty (50) percent added for inspection, administrative and incidental costs.
2. If the amount specified in the notice is not paid within thirty (30) days after mailing of the notice, it shall become a lien against the property where the sign was located and shall be certified as an assessment against the property together with ten (10) percent interest for collection in the same manner as the real estate taxes.
3. The owner of the property upon which the sign is located shall be presumed to be the owner of all signs thereon unless facts to the contrary are brought to the attention of the City, as in the case of a leased sign.
4. For purposes of removal, a sign shall be deemed to include all sign embellishments and structure designed specifically to support the sign.
5. In the case of an emergency, the City may cause the immediate removal of a dangerous or defective sign without notice. Signs removed in this manner shall present a hazard to the Public Safety as defined by the State Building Code.

SECTION 10-23-10: SEVERABILITY: *If any section, subsection, clause, or phrase of this sign ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Chapter. The City Council hereby declares that it would have adopted the sign ordinance in each section, subsection, sentence, or phase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.*

Sec. 74-9. Definitions

Area identification sign means a freestanding sign which identifies the name of a residential subdivision consisting of 50 or more lots; a multiple family residential complex consisting of three or more structures; an office, business or industrial structure containing three or more independent concerns; a single business and/or industrial complex consisting of three or more separate structures existing on individual platted lots or as a planned unit development; a mobile home court; or any integrated combination of the above. Such sign shall be limited only to the identification of an area or complex and shall not contain the name of individual owners or tenants nor contain advertising.

ARTICLE VII. SIGNS

Sec. 74-321. Purpose and intent.

(a) This article regulates the erection, construction, repair, alteration, location or maintenance of signs within the city and provides for the posting of bonds, the issuance of permits, inspection and fees, and penalties for violation.

(b) This article is established to protect the health, safety, general welfare and order within the city through the establishment of a comprehensive and impartial series of standards, regulations and procedures governing the type, numbers, size, structure, location, height, lighting, erection, use and/or display of devices, signs, or symbols serving as a visual communications media to persons situated within or upon public rights-of-way or properties.

(c) The provisions of this article are intended to encourage opportunity for effective, orderly communication by reducing confusion and hazards resulting from unnecessary and/or indiscriminate use of communications facilities.

(Code 1982, § 15.130)

Sec. 74-322. General requirements and restrictions.

(a) No sign permitted by this chapter shall, by reason of its location, color or intensity, create a hazard to the safe, efficient movement of vehicular or pedestrian traffic. No private sign shall contain words which might be construed as traffic controls, such as "stop," "caution," "warning," etc. unless such sign is intended to direct traffic on the premises.

(b) All signs and sign structures shall be properly maintained and shall be kept in a safe orderly condition. In addition, all parts and supports shall be properly painted. Any sign or sign structure which is rotted, unsafe, deteriorated, defaced or otherwise altered shall be repainted, repaired or replaced by the licensee, owner or agent of the owner of the property upon which the sign stands, upon written notice of the building inspector or his agent.

(c) No sign shall be attached to hang from any building until all necessary wall and/or roof attachments have been approved by the building inspector.

(d) No sign, nor any guys, stays or attachment thereto shall be erected, placed or maintained by any person on rocks, fences or trees nor in such manner as to interfere with any electric light, power, telephone or telegraph wires or the supports thereof.

(e) When electrical signs are installed, the installation shall be subject to the state's electrical code, as may be amended.

(f) No signs other than governmental signs shall be erected or temporarily placed within any street rights-of-way or upon any public lands or easements or rights-of-way.

(g) The temporary use of searchlights, banners, pennants and similar devices shall require a permit. The permit shall be valid for ten consecutive days. No more than three permits per business proprietor shall be granted during any 12-month period. The permit shall be prominently displayed during the period of validity. ~~Use of portable signs shall be restricted to information only and may not exceed four square feet, and no advertising shall be permitted thereon.~~ Sandwich boards and other similar portable signs may be displayed in commercial districts during regular business hours provided the sign shall be no greater than 4 square feet in area and shall be located no further than 15 feet from an entrance.

(h) No part of a sign or sign structure shall be placed closer to any lot line than a distance equal to one-half the minimum front yard setback line for the district in which the sign is located.

(i) A person shall not illuminate any existing advertising device at any time if the existing advertising device is not located at the place of business being promoted; ~~except for reasonably sized directional devices to aid tourists in finding gas, food and lodging.~~

(j) All signs shall display in a conspicuous manner the owner's name, permit number and/or registration number and date of erection.

(k) A minimum of one address sign shall be required on each building in all districts. Such sign shall be of sufficient size to be legible from the nearest street yet shall not exceed two square feet in area. The number shall be metal, glass, plastic or curable material and the number shall not be less than 3 1/2 inches in height, in a contrasting color to the base. The numbers shall be lighted or made of some reflective material and so placed as to be easily seen from the street.

(l) No sign or sign structure shall be erected or maintained so as to prevent free ingress or egress from any door, window or fire escape. No sign or sign structure shall be attached to a standpipe or fire escape.

(m) Permanent window signage shall not exceed 25 percent of the total area of the window in which they are displayed. Lettering used in permanent window signage exceeding 3 1/2 inches in height shall be debited against the total number of items of signage permitted on that side of the building.

(n) All signs as required by the Occupational Safety Hazards Act shall be permitted in all districts.

(o) All signs or sign structures within the city require a registration number. No sign or sign structure shall be erected until such time as the person erecting such sign has applied for and received a registration number for such sign. For new building construction, the application for registration shall be made simultaneously with the application for building permit. During such time as the sign is registered, it shall be

determined as to whether the sign complies with all the terms of this chapter and any other ordinance which may be applicable. If at such time it is discovered that such sign does not comply with this chapter, the applicant shall either redesign the sign so as to comply with this chapter, or he shall follow the procedures as set forth in section 74-325. Permitted signs as listed in section 74-323 shall be exempt from registration requirements. However, such permitted signs shall comply with all other applicable provisions of this chapter.

(p) If a freestanding sign or sign structure is constructed so that the sign faces are not constructed so as to be back to back, the angle shall not exceed ten degrees. If the angle is greater than ten degrees, the total area of both sides added together shall not exceed the maximum allowable sign area for that district.

(q) No sign shall be positioned so that it impacts or is exposed to residential uses or districts along adjoining side and rear yard property lines.

(r) No sign shall be permitted within the river development district which is positioned so that it is visible from the river.

(Code 1982, § 15.131)

Sec. 74-323. Permitted and prohibited signs.

(a) *Permitted signs.* The following signs are allowed without a permit, but shall comply with all other applicable provisions of this chapter:

(1) *Public signs.* Signs of a public, noncommercial nature, to include safety signs, danger signs, trespassing signs, traffic signs, signs indicating scenic or historical points of interest, memorial plaques and the like, when signs are erected by or under the order of a public officer or employee in the performance of official duty.

(2) *Identification signs.* Signs in all districts which identify the business, owner, manager or resident and set forth the address of the premises where the sign is located and which contain no other material. There shall be one such sign per premises, not to exceed two square feet in area. If the sign is freestanding, the total height may not exceed five feet. Where applicable, home occupations may be included.

(3) *Directional signs, on-site.* On-site directional signs, not exceeding two square feet in area, intended to facilitate the movement of pedestrians and vehicles within the site upon which such signs are located.

(4) *Integral signs.* Names on buildings, date of construction, commemorative tablets and the like, which are of a permanent type of construction and which are an integral part of the building or the structure.

(5) ~~*Political campaign signs.* Signs or posters announcing the candidate seeking political office and/or political issues and data thereto shall not exceed 12 square feet. Every campaign sign must contain the name and address of the person responsible for such sign and such person shall be responsible for its removal. Political campaign signs shall remain for no longer than 30 days before~~

and two days after the election for which they are intended. All such signs shall be excluded from public buildings, parks and playgrounds, and shall not exceed four feet in height.

Non-commercial speech. Notwithstanding any other provisions of this sign ordinance, all signs of any size containing non-commercial speech may be posted from August 1 in any general election year until ten (10) days following the general election and thirteen (13) weeks prior to any special election until ten (10) days following the special election.

~~(6) *Holiday signs.* Signs or displays which contain or depict a message pertaining to a national or state holiday and no other matter and which are displayed for a period not to exceed 30 days.~~

~~(7) *Construction signs.* A non-illuminated sign announcing the names of architects, engineers, contractors, or other individuals or firms involved with the construction, alteration or repair of a building, but not including any advertisement of any product, or announcing the character of the building enterprise or the purpose for which the building is intended. Such signs shall be confined to the site of the construction, alteration or repair and shall be removed within two years of the date of issuance of the first building permit or when the particular project is completed, whichever is sooner. One sign shall be permitted for each major street the project abuts. No sign may exceed 32 square feet in the R-1 district or 50 square feet in the R-2 through I-2 districts. A non illuminated sign not exceeding 32 square feet in the R-1 District or 50 square feet in the R-2 through I-2 Districts may be placed on the site where an open building permit has been issued. The sign shall be removed within two years of the date of issuance of the first building permit or when the building permit has been finalised or expired, whichever is sooner.~~

~~(8) *Individual property sale, lease or rental signs.* Any on-premises sign announcing the name of the owner, manager, realtor or other person directly involved in the sale or rental of the property or announcing the purpose for which it is being offered. Any property that is currently for sale or rent may place one sign per street frontage. Such signs must be removed within ten days after the sale or rental of property. Such sale, lease or rental signs may not measure more than four square feet in R-1 and R-2 districts; not more than 32 square feet in R-3, R-4, R-B, B-1, B-2, B-3, B-4 and I-1 districts; and not more than 50 square feet in the I-2 district. There shall be only one such sign per property. Corner properties, however, may contain two signs, one per frontage.~~

~~(9) *Rummage sale signs.* One sign not to exceed 4 square feet in area may be placed on the site of a rummage sale or similar event. Rummage sales may be held and signs displayed therefor provided that the exchange or sale of merchandise is conducted inside the principal or accessory structure, the number of sales per year does not exceed two, and the duration of the sale does not exceed three consecutive days. Any sign shall~~ All related signs shall conform to the applicable provisions of this article, and be removed at the termination of the sale.

(b) *Prohibited signs.* The following signs are specifically prohibited by this article:

- (1) Any sign which obstructs the vision of drivers or pedestrians or detracts from the visibility of any official traffic control device.
- (2) Any sign which contains or imitates an official traffic sign or signal, except for private, on-premises directional signs.
- (3) Any sign which moves or rotates. Exempted are time and temperature information signs.
- (4) No sign shall display any moving parts or simulate motion, nor shall it be illuminated with any flashing or intermittent lights, nor shall it be animated. Exempted are time and temperature information signs. All displays shall be shielded to prevent any light from being directed at oncoming traffic in such brilliance as to impair the vision of any driver. No device shall be illuminated in such a manner as to interfere with or obscure an official traffic sign or signal. This includes indoor signs which are visible from public streets.
- (5) Any sign which contains or consists of banners, pennants, ribbons, streamers, strings of light bulbs, spinners or similar devices, except in the case of section 74-322(g).
- (6) Portable signs, except in the case of section 74-322(g).
- (7) Signs and/or posters which are tacked on trees, fences, utility poles or other such permanent supports, except for those signs found on fences (facing inside) of baseball parks.
- (8) Signs painted directly on building walls (wall graphics).
- (9) Signs which advertise an activity, business, product or service that is not produced or conducted or is no longer produced or conducted on the premises upon which the sign is located. Where the owner or lessor of the premises is seeking a new tenant, such signs may remain in place for not more than 30 days from the date of vacancy.
- (10) Advertising signs visible from watercourses in R-1, R-2, R-3 and R-4 districts.
- (11) Signs, video displays, display monitors, or other such devices with moving pictures and/or sound.

(Code 1982, § 15.132)

Sec. 74-324. Nonconforming signs.

(a) *Defined.* The following are nonconforming signs:

- (1) Off-premises signs.
- (2) Prohibited signs.
- (3) All other signs not prohibited by this article that do not conform to the provisions of this chapter.

(b) Continued use of nonconforming signs. Nonconforming signs may be continued, including repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:

- (1) The use of the sign is discontinued for a period more than one year.
- (2) Any nonconforming sign is destroyed by fire or other peril of greater than 50 percent of its market value and no building permit has been applied for within 180 days of the damage.

(c) General provisions governing nonconforming signs. Unless otherwise specified in (b) above:

- (1) A nonconforming sign may not be:
 - a. Changed to another nonconforming sign.
 - b. Structurally altered except to bring the sign into compliance with the provisions of this chapter.
 - c. Expanded.
 - d. Reestablished after its discontinuance for 14 days.
 - e. Repaired or otherwise rehabilitated, except to bring the sign into compliance after damage of more than 50 percent of the market value of such sign.
- (2) If any property use or business changes ownership, all signs on that property, including any sign identifying a business no longer in existence, shall be brought into conformance within 30 days.
- ~~(3) All prohibited signs shall be removed or brought into conformity with this chapter within one year.~~
- (4) Nonconforming signs existing prior to adoption of chapter. Except as otherwise provided in this article, the provisions of this chapter are not intended to alter, diminish, increase or otherwise modify any rights or liabilities imposed upon nonconforming or prohibited signs existing prior to this chapter's effective date. Any act done, offense committed, or rights accruing or accrued, or liability, penalty incurred or imposed prior to the effective date of this chapter is not affected by its enactment.
- (5) Nonconforming sign maintenance and repair. Nothing in this chapter shall be construed as relieving the owner or user of a legal nonconforming sign or owner of the property on which the legal nonconforming sign is located from the provisions of this chapter regarding safety, maintenance, and repair of signs contained in section 74-322. Provided, however, that any repainting, cleaning, and other normal maintenance or repair of the sign or sign structure shall not modify the sign structure or copy in any way which makes it more nonconforming or the sign shall lose its legal nonconforming status.

(d) Nonconforming uses. In cases where a use is legally nonconforming based upon this zoning code, all existing or proposed signs shall be considered conforming if they are in compliance with the sign provisions for the most restrictive zoning district in which the use is allowed.

(Code 1982, § 15.133)

Sec. 74-325. District regulations generally.

The following types of signs shall be permitted in the districts specified.

(a) *R-1 and R-2 and two-family residential districts.*

(1) *Institutional identification.* Only one sign per principal use may be erected on the subject property as follows:

- a. Freestanding sign, not more than 18 square feet nor higher than six feet; or
- b. Wall, canopy or marquee sign, not more than 18 square feet nor higher than the top of the parapet wall or eave.

~~(2) *Residential area identification.* Only one sign may be erected on the subject property as follows:-~~

~~Freestanding sign, not more than 18 square feet nor higher than six feet.~~

(b) *R-3 and R-4 and high density residential districts.*

(1) *Institutional identification.* Only one sign per principal use may be erected on the subject property.

- a. Freestanding sign, not more than 24 square feet nor higher than eight feet; or
- b. Wall, canopy or marquee sign, not more than 24 square feet nor higher than the top of the parapet wall or eave.

~~(2) *Residential area identification.* Only one sign may be erected on the subject property.~~

~~Freestanding sign, not more than 24 square feet nor higher than eight feet.~~

(c) *R-B residential business district.*

(1) *Institutional identification.* Only one sign per principal use may be erected on the subject property.

- a. Freestanding sign, not more than 40 square feet nor higher than eight feet; or
- b. Wall, canopy or marquee sign, not more than 40 square feet nor higher than the top of the parapet wall or eave.

~~(2) *Residential area identification.* Only one sign may be erected on the subject property.~~

Freestanding sign, not more than 40 square feet nor higher than eight feet.

(d) *B-1 limited neighborhood business district.*

(1) *Area identification.* Only one sign may be erected on the subject property. Freestanding sign, not more than 40 square feet nor higher than eight feet.

(2) *Institutional and single or double occupancy business structure identification.* The total sign area for the subject property may not exceed ten percent of the front building facade; both front and side facades may be counted when on a corner lot. Signs chosen to comprise the total sign area shall be consistent with the following provisions:

a. Freestanding sign, not more than one sign per subject property. Sign area may not exceed 24 square feet with a maximum height of 15 feet.

b. Wall, canopy or marquee sign, not more than one sign per subject property, or two signs, one per building side, where a freestanding sign is not utilized. Individual sign area may not exceed 35 square feet with the height maximum set at top of parapet or eaves.

(e) *B-2 retail business district.*

(1) *Area identification.* Only one sign may be erected on the subject property.

Freestanding sign, not more than 50 square feet nor higher than 15 feet.

(2) *Institutional and single or double occupancy business structure identification.* The total sign area for the subject property may not exceed ten percent of the front building facade; both front and side facades may be counted when on a corner lot. Signs chosen to comprise the total sign area shall be consistent with the following provisions:

a. Freestanding sign, not more than one sign per subject property. Sign area may not exceed 35 square feet with a maximum height of 20 feet.

b. Wall, canopy or marquee sign, not more than one sign per subject property, or two signs, one per building side, where a freestanding sign is not utilized. Individual sign area may not exceed 50 square feet with the height maximum set at top of parapet or eaves.

(f) *B-3 auto-oriented business district.*

(1) *Area identification.* Only one sign may be erected on the subject property.

Freestanding sign, not more than 75 square feet nor higher than 20 feet.

(2) *Single or double occupancy business structure identification.* The total sign area for the subject property may not exceed 15 percent of the front building facade; both front and side facades may be counted when on a corner lot. Signs chosen to comprise the total sign area shall be consistent with the following provisions:

a. Freestanding sign, not more than one sign per subject property. Sign area may not exceed 50 square feet with a maximum height of 20 feet.

b. Wall, canopy or marquee sign, not more than one sign per subject property, or two signs, one per building side, where a freestanding sign is not utilized. Individual sign area may not exceed 60 square feet with the height maximum set at top of parapet or eaves.

(g) *B-4 general business district.*

(1) *Area identification.* Only one sign may be erected on the subject property.

Freestanding sign, not more than 75 square feet nor higher than 20 feet.

(2) *Institutional and single or double occupancy business structure identification.* The total sign area for the subject property may not exceed 15 percent of the front building facade; both front and side facades may be counted when on a corner lot. Signs chosen to comprise the total sign area shall be consistent with the following provisions:

a. Freestanding sign, not more than one sign per subject property. Sign area may not exceed 50 square feet with a maximum height of 20 feet.

b. Wall, canopy and marquee sign, not more than one sign per subject property, or two signs, one per building side, where a freestanding sign is not utilized. Individual sign area may not exceed 70 square feet with the height maximum set at top of parapet or eaves.

(h) *I-1 and I-2 light and general industrial districts.*

(1) *Area identification.* Only one sign may be erected on the subject property.

Freestanding sign, not more than 75 square feet nor higher than ten feet.

(2) *Institutional and single or double occupancy business structure identification.* The total sign area for the subject property may not exceed 15 percent of the front building facade; both front and side facades may be counted when on a corner lot. Signs chosen to comprise the total sign area shall be consistent with the following provisions:

a. Freestanding sign, not more than one sign per subject property. Sign area may not exceed 50 square feet with a maximum height of ten feet.

b. Wall, canopy and marquee sign, not more than one sign per subject property, or two signs, one per building side, where a freestanding sign is not utilized. Individual sign area may not exceed 70 square feet with the height maximum set at top of parapet or eaves.

(i) *PUD planned unit development district.* In a planned unit development district signing restrictions shall be based upon the individual uses and structures contained in

the complex. Signs shall be in compliance with the restrictions applied in the most restrictive zoning district in which the use is allowed.

(Code 1982, § 15.134)

Sec. 74-326. Special district regulations.

(a) *Applicability.* The regulations set out in this section refer to certain signs in all appropriate zoning districts unless otherwise specified.

(b) *Motor fuel station.* Signs for motor fuel stations shall be regulated by the single occupancy business structure sign provisions for the zoning district in which the station is located. In addition, motor fuel stations may also display signs which identify current fuel prices ~~and car wash facilities~~. Such signs shall be limited to a maximum of 16 square feet each. This additional sign area, however, shall be counted against the maximum allowable sign area for the subject property. Video displays with or without sound are prohibited.

(c) *Wall, canopy or marquee signs in B-1, B-2, B-3, B-4, I-1 and I-2 zoning districts.* Where no freestanding signs are utilized and where principal structures have a front yard setback in excess of that which is required under the applicable zoning district regulations, the maximum property signage percentage limitation or maximum square feet restriction may be increased one percent for every five feet of additional setback beyond the zoning district front yard setback requirement. This increase shall be limited to a 25 percent maximum and shall be applied only to signs located in the yard for which the calculation was made.

(d) *Multiple occupancy business and industrial structures.* When a single principal building is devoted to three or more businesses, or industrial uses, a comprehensive sign plan for the entire structure shall be submitted and shall be of sufficient scope and detail to permit a determination as to whether or not the plan is consistent with the following regulations. Such plan shall be subject to the review of the planning commission and approval of the city council. No permit shall be issued for an individual use except upon a determination that it is consistent with the approved comprehensive sign plan. The effect of such comprehensive sign plan is to allow and require the owner of a multiple occupancy structure to determine the specific individual sign requirements for the tenants of his structure. As sign locations and size, etc. may be of significant importance in lease arrangements between owner and tenant, it is the city's intention to establish general requirements for negotiation by the owner with his individual tenants on their specific sign needs.

(1) The maximum individual sign sizes for multiple occupancy structures and individual uses which may display signs shall not exceed the maximum provisions for single or double occupancy structures in the same zoning district. The bonus provided in subsection (c) of this section shall not apply in calculating maximum sign size.

(2) Multiple occupancy structures may display an area identification sign consistent with the applicable district provisions in section 74-325. Individual freestanding signs identifying the tenants' business shall not be displayed.

(3) Except as provided in subsection (d)(4) of this section, individual tenants of multiple occupancy structures shall not display separate identification signs unless the tenants' business has an exclusive exterior entrance. The number of signs shall be limited to one per entrance and each sign shall be limited to the maximum wall size sign permitted in the district. Such signs shall be located only on exterior walls which are directly related to the use being identified.

(4) In any multiple occupancy structure qualifying as a shopping center, directory signs shall be permitted for each common public entrance. Each directory sign area shall not exceed a total of 50 square feet and shall be located within 50 feet of the common public entrance being served. The size of individual business identification signing within the directory shall be resolved during the site plan review process. Attention shall be given to the possible number of tenant or occupant bays which may be served by the common public entrance for which the directory sign is intended.

(e) *Industrial uses covering more than 40 acres of land.* Where industrial uses cover more than 40 acres of land, two area identification signs may be displayed in accordance with the maximum sign size provisions per area identification sign of the applicable zoning district.

(Code 1982, § 15.135)

Sec. 74-327. Construction standards.

The design and construction standards as set forth in chapter 4 of the Uniform Sign Code, 1973 edition, as amended, are hereby adopted and incorporated in this article by reference thereto.

(Code 1982, § 15.136)

Sec. 74-328. Maintenance and inspection.

(a) *Maintenance.* All signs, together with all of their supports, braces, guys, and anchors, shall be kept in repair and in proper state of preservation. The display surfaces of all signs shall be kept neatly painted or posted at all times. Every sign and the immediate surrounding premises shall be maintained by the owner or person in charge thereof in a clean, sanitary, and inoffensive condition and free and clear of all obnoxious substances, rubbish, and weeds. Notice shall be given to the city administrator of any change in sign user, sign owner or owner of the property on which the sign is located.

(b) *Inspection.* All signs for which a permit is required shall be subject to inspection by the city administrator. The city administrator, or his designated agent, is hereby authorized to enter upon any property or premises to ascertain whether the provisions of this article are being obeyed. Such entrance shall be made during business hours unless an emergency exists. The administrator may order the removal of any sign that is not maintained in accordance with the maintenance provisions of this article.

(Code 1982, § 15.137)

Sec. 74-329. Application, permit and variance procedures.

(a) *Sign application.* The following information for a sign permit must be supplied by an applicant:

- (1) Name, address and telephone number of person making application.
- (2) Name, address and telephone number of person owning sign.
- (3) A site plan to scale showing the location of lot lines, building, structures, parking areas, existing and proposed signs and any other physical features.
- (4) Plans, location and specifications and method of construction and attachment to the building or placement method in the ground.
- (5) Copy of stress sheets and calculations showing that the structure is designed for dead load and wind pressure in any direction in the amount required by this article and all other laws and ordinances of the city.
- (6) Written consent of the owner or lessee of any site on which the sign is to be erected.
- (7) Any electrical permit required and issued for such sign.
- (8) Proof of contract purchase price.
- (9) Such other information as the city administrator shall require to show full compliance with this article and all other laws and ordinances of the city. The city administrator may waive the requirements of subsections (a)(4) and (a)(5) of this section.
- (10) No permit shall be issued until payment in full of the fee set forth in chapter 42 of this Code.

(b) *Permit issuance.* It shall be the duty of the city administrator upon the filing on an application for a permit under this article to examine such plans, specifications and other data and the premises upon which it is proposed to erect the sign. If it shall appear that the proposed structure is in compliance with all the requirements of this article and all other laws and ordinances of the city, the permit shall then be issued. If the work authorized under a permit has not been completed within 60 days after the date of issuance, the permit shall be null and void.

(c) *Variances.* In order to provide additional flexibility in the enforcement of this article and to alleviate hardship and injustice, the city council, serving as the board of adjustment and appeals, may, upon application, grant a variation from the terms of this article. Upon application from the person seeking a permit for the erection or installation of a sign, the request for variance shall be processed in accordance with applicable provisions of section ~~74-326~~ Sections 74-121 through 74-124.

(Code 1982, § 15.138; Ord. No. 595, § 1, 7-21-03)

Sec 74-330. Severability. If any section, subsection, sentence, clause, or phrase of this Sign Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Sign Ordinance. The City Council hereby declares that it would have

adopted the Sign Ordinance in each section, subsection, sentence, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Secs. 74-331--74-360. Reserved.