

ORDINANCE NO. 2016-19

AN ORDINANCE OF THE CITY OF IOWA COLONY, TEXAS, FOR THE PURPOSE OF REGULATING SIGNS WITHIN THE CITY LIMITS AND EXTRA-TERRITORIAL JURISDICTION; PROVIDING FOR SCOPE, DEFINITIONS, EXEMPTIONS, DEFENSES, PROHIBITIONS, CONFLICTS OF TERMS, AND FINDINGS OF FACT; PROVIDING FOR APPLICATIONS, ISSUANCE, AND REVOCATION OF SIGN PERMITS; APPEALS, VARIANCES, CLASSIFICATIONS OF SIGNS, NONCONFORMING SIGNS, CONSTITUTIONAL PROTECTIONS, OFFENSES, PENALTIES, REMEDIES, CUMULATIVE REMEDIES, NO ELECTION OF REMEDIES, NON-WAIVER BY NONENFORCEMENT, PERFORMANCE BY THE CITY, NON-WAIVER OF IMMUNITY, AND REPEAL OF ORDINANCE NO. 2001-9, THE SIGN ORDINANCE, AS PREVIOUSLY AMENDED; AND PROVIDING A SAVINGS CLAUSE, SEVERANCE CLAUSE, AND EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF IOWA COLONY, TEXAS:

WHEREAS, the City Council of the City of Iowa Colony, Texas finds that: (1) the unregulated construction of signs within the extra-territorial jurisdiction of the City of Iowa Colony, Texas can present structural hazards to the health and safety of the public; (2) the unregulated placement of signs can present impediments and dangers to traffic along public streets, highways, and sidewalks; (3) sign regulations promote and enhance the efficient and safe use of public streets, highways, and sidewalks; (4) sign regulations help maintain and enhance the aesthetic environment both within the city limit and the extra-territorial jurisdiction of the City of Iowa Colony and the City's ability to attract sources of economic development and growth by reducing the visual blight caused by unregulated signs; (5) sign regulations minimize the possible adverse effect signs have on nearby public and private properties; (6) the unregulated use of off-premise signs results in the proliferation of signs, adversely impacts the aesthetic environment and leads to the diminution in values of adjacent properties; (7) portable signs present special traffic hazards when towed on public streets and highways or displayed on the public right-of-way and present dangers to the health and safety of the citizens because of their propensity to be blown about if not properly anchored; and (8) sign regulations are necessary to promote the general health, safety, and welfare of the public; and

WHEREAS, it is the intent and determination of the City Council of the City of Iowa Colony, Texas that the regulations in this ordinance be and are the minimum necessary and least burdensome to accomplish the purposes stated; and

WHEREAS, the County of Brazoria, Texas does not have signage regulations

that apply to the un-incorporated area of Brazoria County; and

WHEREAS, The City Council of the City of Iowa Colony, Texas has no present Ordinance that is in conflict with this ordinance, this ordinance will remain in full effect until superseded by any other ordinance adopted by the City Council of the City of Iowa Colony, Texas.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF IOWA COLONY, TEXAS:**

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# **ARTICLE I. - IN GENERAL**

## **Sec. 1. - Purpose.**

This Ordinance is enacted to provide uniform standards for the location, spacing, height, lighting, and other regulation of Signs within the City and it's extra-territorial jurisdiction. The purpose of this Ordinance is to protect the health, safety, welfare, and enjoyment of the general public and to protect the public from injury that may be caused by the unregulated construction of Signs. The regulations in this Ordinance intend to:

- A. Enhance the economic value of the landscape by avoiding visual clutter, which is potentially harmful to property values and business opportunities;
- B. Promote the safety of persons and property by providing that signs do not create a hazard, due to collapse, fire, collision, weather or decay;
- C. Protect the safety and efficiency of the City's transportation network by reducing the confusion or distraction to motorists and enhancing motorists' ability to see pedestrians, obstacles, other vehicles and traffic signs;
- D. Protect adjacent and nearby properties from the impact of lighting, size, height and location of Signs; and
- E. Preserve, protect and enhance areas of historical, architectural, scenic and aesthetic value.

## **Sec. 2. - Application.**

This Ordinance applies to all Signs within the City's corporate limits and within the City's extra-territorial jurisdiction, including both On-premises and Off-premises signs.

## **Sec. 3. - Definitions.**

- A. In this Ordinance:

*Agricultural Activity Signs* means any temporary sign indicating an agricultural related activity that occurs on an agricultural use property, such as sale of agricultural products produced on site,

*Balloon Sign* means an inflatable bag made of nonporous material that is filled with air or gas and when inflated exceeds 24 inches in diameter. Balloon Signs are a type of Wind Device Sign.

*Banner Sign* means a Sign with or without characters, letters, illustrations, or ornamentations applied to cloth, paper, flexible plastic, or fabric of any kind with only such material for backing. Banner Signs are a type of Wind Device Sign and includes pennants and streamers.

*Celebratory Signs* means any temporary sign announcing personal or family celebrations, such as a personal birthday, wedding anniversary, birth of a child relating to the property owner or the property owner family and would be considered an on-premises sign without any commercial advertising.

*Construction Sign* means a temporary sign announcing new buildings or projects, erected after the commencement of building construction or site development.

*Construction Site* means a tract or parcel of land under the same ownership where construction activity relating to a single building or structure or an associated group of buildings or structures occurs. Each individual building or structure can be considered a construction site when multiple buildings or structures are under construction on a single combined site.

*Curb-line* means an imaginary line drawn along and parallel to the back of curb edge of the pavement of a Street, public or private, that provides primary access to a property,

*Effective Area* means the surface area of a sign face or panel, but does not include the supporting structure of a sign. Other provisions of this ordinance provide additional specifications for measuring the Effective Area.

*Electronic Sign* means a Sign with the ability to have a fixed or changing display or message composed of a series of lights that may be changed through electronic means. An Electronic Sign is also referred to as a digital sign and is not considered an Illuminated Sign.

*Flagpole* means a freestanding pole with an attached lanyard that is permanently affixed to the ground or a building and is designed for and is intended to be used for the display of 1 or more flags.

*Flag Sign* means a flexible fabric material, usually rectangular in shape, that is specifically designed for display by attaching it to the lanyard of a flagpole.



*Freestanding Sign* means a detached Sign anchored in or attached to the ground. Freestanding Signs include Monument Signs, Temporary Freestanding Signs, and Temporary Freestanding Special Activity Signs.

*Human Sign* means a Sign held by or attached to a human or living being for the purposes of advertising or otherwise drawing attention to a business, commodity, service or product. This may also include a person dressed in costume for the purpose of advertising or drawing attention to a business, commodity, service or product.

*Illuminated Sign* means a Sign internally lighted by any electrical light source behind the Sign face. Illuminated Signs do not include Signs illuminated by an exterior light source shining upon the Sign.

*Monument Sign* means A free-standing sign, generally having a low profile with a horizontal length exceeding the vertical height where the base of the sign structure is on the ground or a maximum of six inches (6") above the lowest point of the ground adjacent to the sign such that the sign has the appearance of a solid base. The Effective Sign Area shall cover no more than 60% of the total sign area.

*Non-Residential District* means, within the city limit of the City of Iowa Colony, any area within a zoning district designated as a MU, Mixed-Use zoning district; a MH, Manufactured Housing zoning district; or a BR, Business Retail zoning district which are not considered a residential zone in this ordinance or any non-residential area within a Planned Unit Development overlay zone.

*Non-Residential Use* means, within the extra-territorial jurisdiction of the City of Iowa Colony, any area, property, or tract that is not vacant and does not include a single family detached residential use or any area, property or tract that is vacant with no definable structural use. Vacant includes any land used for agricultural purposes.

*Off-Premises Sign* means any Sign that pertains to any business, commercial transaction or activity, or any commercial or noncommercial good, product, service, entity, organization, or activity not located on the same premises where the Sign is located, or which directs persons to any premises other than where the Sign is located. In addition, any Sign that is not an On-Premises Sign is an Off-Premises Sign.

*On-Premises Sign* means any sign which pertains only to any of the following located on the same premises as the Sign: any business, commercial transaction or activity, or any commercial or noncommercial good, product, service, entity, organization, or activity, other than the Sign itself.

*Pennant Sign* means any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, string, stake or



temporary pole, usually in a series, designed to move in the wind. Pennants also include streamers and are a type of Banner Sign.

*Personal Property Activity Signs* means a sign which pertains to restrictions of personal use on a private property, such as No Hunting, No Trespassing, Posted that does not exceed 2 square feet in area.

*Portable Sign* means a Sign whose principal supporting structure is intended, by design, use or construction to be used by resting upon the ground for support and which may be easily moved or relocated or reused. Portable Signs shall include, but not be limited to, signs mounted upon or designed to be mounted upon a trailer, bench, wheeled carrier or other non-motorized mobile structure, with or without wheels, and A-frame and other similar Signs, resting or leaning on the ground or other structures, but not permanently attached thereto.

*Premises* means:

1. For any developed property, the area of real property which encompasses all the Buildings, Structures, appurtenances and contiguous land devoted to a common use and not separated by a public Street, such as a shopping center; or

2. For undeveloped property, the area of real property designated as a Lot on a Plat approved in accordance with law and filed with the County Clerk's Office, or an un-platted tract of land as conveyed by deed or operation of law and recorded in the deed records of the county.

*Residential District* means, within the city limit of the City of Iowa Colony, any area within a zoning district designated as SFR, Single Family Residential Dwelling and includes those residential areas within a Planned Unit Development overlay zone. Within this Ordinance; a MU, Mixed-Use zoning district; a MH, Manufactured Housing zoning district; and a BR, Business Retail zoning district are not considered a residential zone.

*Residential Use* means, within the extra-territorial jurisdiction of the City of Iowa Colony, any area, property, or tract that includes a single family detached residential use or any area, property or tract that is vacant with no definable structural use. Vacant includes any land used for agricultural purposes.

*Right-of-Way (ROW)* means a strip of land that allows for the passage of people or goods. Right-of-Way includes passageways such as freeways, streets, bike paths, alleys, and walkways. A public Right-of-Way is dedicated or deeded to the public for public use.

*Setback* means the amount of space required between a property line and a point where a structure or sign can be built.

*Sign* means any surface, material, structure, or device used for visually advertising, visually publicizing, visually displaying information about, or visually communicating about a business, commercial transaction or activity, or any commercial or noncommercial good, product, service, entity, organization, or activity, with or without the display of letters, words, characters, designs, pictures, symbols, or other information.

*Sign Base* means the area of the sign that does not contain letters, words, characters, designs, pictures or other information and serves as the structure or support for the Sign Face. A Sign base on a permanent Sign must be a solid form; Poles are a permitted Sign Base for Temporary Freestanding Signs and Temporary Freestanding Special Activity Signs.

*Sign Face* means the display area of a sign that includes the Effective Area of the sign.

*Special Exception* means a City Council approved adjustment to a requirement of this Ordinance that is issued under Section 14 of this Ordinance.

*Stake Sign* means a Sign whose supporting structure is so designed and shaped, usually by making one end pointed, so as to be erected and used by pushing, pounding, hammering or forcing it into the ground so as to allow quick and easy placement, removal or relocation. Examples of Stake Signs include real estate, contractor services, and event signs.

*Subdivision Entrance Sign* means a Sign identifying an entrance or exit of a neighborhood or subdivision. Subdivision Entrance Signs are only allowed to be located at entrances/exits along portions of streets that do not have adjacent single family residential use with direct driveway access between the single family residential lot and the street and would be allowed along major arterials, minor arterials and collectors designated on the City of Iowa Colony Major Thoroughfare Plan and as otherwise designated major thoroughfares or collectors within an approved PUD plan.

*Temporary Freestanding Sign* means a Freestanding Sign located on a property temporarily. Temporary Freestanding Signs are classified as either Temporary Freestanding Signs or Temporary Freestanding Special Activity Signs as defined in this Ordinance.

*Wall Sign* means any Sign wholly affixed to, supported by or painted upon the exterior wall or window of any Building. Signs on permanent awnings attached to Buildings are classified as Wall Signs.

*Window and Door Sign* means a sign affixed to or mounted behind the interior surface of a window or door or placed immediately behind a window pane.

*Wind Device Sign* means any Banner, Pennant, Balloon or similar Sign made of cloth, canvas, plastic or other flexible material, with or without a frame or other supporting structure, that moves or is designed or intended to move or blow in the wind.

B. General definitions may be found in other ordinances adopted by the City of Iowa Colony.

## **Sec. 4. – Exemptions and Affirmative Defenses.**

### **A. Exemptions**

Except for the prohibitions in **Section 5**, this Ordinance does not apply to the following types of Signs, which may be erected or constructed without a sign permit:

:

1. Governmental Signs. Any Sign that is:
  - a. Erected or maintained pursuant to and in discharge of any governmental function;
  - b. Required by law, ordinance or governmental regulation; or
  - c. Located on property owned, leased or under the control of a Governmental Entity.
2. Private traffic control. Signs on private property, containing no advertising, that include directional information and use information (i.e. amenities area with directional arrow) including parking, entrance and exit Signs. The maximum effective area for private traffic control signs shall be three (3) square feet and the maximum overall height above the ground shall not exceed four (4) feet.
3. Railways Signs. Any Sign on railway property placed or maintained in reference to the operation of the railway.

4. Utility and hazard Signs. Signs marking utility or underground communication or transmission lines and hazards.
5. Plaques. Historical and commemorative plaques of recognized historical societies and organizations, if the Signs are less than 15 square feet in Effective Area.
6. Mailboxes and addresses. Addresses, address markers, and names located on mailboxes.
7. Vehicle Signs. Signs displayed or used upon vehicles and trailers, unless the vehicle or trailer is permanently stationed or regularly used at a fixed location to serve the same or similar purpose of a permanent or Portable Sign.
8. Athletic Field Signs. Signs located on the field side of scoreboards and fences of athletic fields no taller than the height of the fence.
9. Signs not visible from Street. Any Sign not visible from a public Street.
10. Holiday Signs. Temporary Signs, including holiday lights, containing only holiday messages and no commercial advertising.
11. Unused Signs. Signs being manufactured or transported and not used for advertising.
12. Signs on outdoor machines, devices, and equipment. Signs located on outdoor machines, devices or equipment which display the trademark, trade name, manufacturer, cost, or operating or service instructions or similar information but do not advertise the business where located. This exemption includes Signs on coin-operated vending machines, fuel-dispensing pumps, telephone facilities, automatic teller machines, automotive vacuum cleaners, amusement rides, and similar machines, devices, or equipment.
13. Political signs. Signs that contain only a political message and that are located either:
  - a. 1) on public or private real property with the consent of the property owner, but
  - 2) unless the City consents, not in the right-of-way of a City street or highway, and not on the portion of any other real property

subject to an easement or other encumbrance that allows the City to use the property for a public purpose; or

b. during the Early Voting Period or the Voting Period, on property of the City used as a polling place, provided that:

1) no such sign shall be located closer than one hundred feet to an outside door through which a voter may enter the building in which a polling place is located;

2) no such sign shall be placed where it significantly blocks the public's view of another sign that was already lawfully in place before the sign doing the blocking; and

3) there shall not be more than two signs under this subsection on the same premises on the same side (whether for or against) of the same candidate or proposition. [NOTE: See also Texas Election Code sections 61.003 and 85.036, concerning signs on premises of polling places.]

c. For purposes of this exemption:

1). A political sign may not:

a. Have an Effective Area greater than 36 square feet, including the surface area of a Sign face or panel, but not the supporting structure of the Sign;

b. Be more than 8 feet high;

c. Be Illuminated or Electronic; or

d. Have any moving element.

2) 'Early Voting Period' as used herein shall be defined by Section 85.001 of the Texas Election Code.

3) 'Voting period' shall mean the period beginning when the polls open for voting and ending when the polls close or the last voter has voted, whichever is later."

4) Signs advertising for or against the passage of any measure or the election of any candidate in a then

scheduled election must be removed within 14 days after the election to which they relate. However, such signs may remain in place between a primary election and general election, and between an election and a run-off, provided that the measure or candidate will be on the general or run-off election ballot, as applicable; and such signs must be removed within 14 days after such general election or run-off.

14. Electronic Signs operated by a public agency that communicate a public service or public announcement, such as, but not limited to, Texas Department of Public Safety and Texas Department of Transportation electronic message signs.
15. Signs permitted by court order.
16. Agricultural Activity Signs, Celebratory Signs, and Personal Property Activity Signs, as defined in this Ordinance.
17. Permanent markers of any type used to identify the location of buried remains, also known as grave markers.
18. Any sign legally and in accordance with all other signage regulations in this Ordinance, erected by a single family residential lot owner, other than any stake sign or Temporary Freestanding Sign either on-premises or off-premises, shall not require a sign permit.

## **B. Affirmative Defenses**

Antique Signs. It is an affirmative defense to prosecution under this ordinance that the sign is an antique sign. "*Antique Sign*" means a sign that is all of the following: (1) at least thirty-five years old; (2) not displayed for commercial purposes; (3) generally acknowledged and understood to have value as an antique to dealers and collectors of antiques; (4) not taller than eight feet; and (5) not larger than 64 square feet.

## **Sec. 5. - Prohibited Signs.**

It is unlawful for any person to erect, install, construct, display, maintain, reconstruct, place, locate, relocate or make use of any of the following Signs for Advertising

purposes, and the prohibitions in this section govern and control over the exemptions and affirmative defenses in **Section 4**:

- A. Revolving or moving Signs including any sign that has parts that are caused to physically move by electrical motors or non-motorized means and the movement is visible from the exterior of the sign.
- B. Portable Signs.
- C. Signs located on a roof or attached to a Building if it projects above the highest point of the facade or parapet.
- D. Signs that are deteriorated, dilapidated, or unsafe as determined by the Building Official or his assign.
- E. Signs located on or attached to a Street light, utility pole, hydrant, bridge, traffic-control device, Street Sign, or other City-owned Building, facility, Structure, or equipment, without the consent of the City. However, street light poles that were originally designed and installed with integral brackets intended to support banners will be allowed to have banner signs.
- F. Signs that do not comply with this Ordinance or other City ordinances.
- G. Signs located on Trees and Shrubs.
- H. Signs located or illuminated so that they obscure or interfere with the effectiveness of an official traffic Sign, signal, or device, or obstruct or interfere with the view of approaching, emerging or intersecting traffic, or prevent any traveler on any Street from obtaining a clear view of approaching vehicles as determined by the Building Official or his assign.
- I. Signs, illuminated from within or without, which:
  - 1. Are illuminated to such intensity or without proper shielding so as to constitute a hazard to the operation of motor vehicles upon a public Street or substantially interfere with the reasonable enjoyment of residential property as determined by the Building Official or the City Engineer using the criteria indicated in Section 30- Electronic Signs as a point of reference; or
  - 2. Have any type of intermittent illumination, including flashing, fading, revolving or blinking lights, or any type of moving, traveling or changing message by means of lights or illumination.

- J. Any Sign that violates any sight visibility regulations of the City.
- K. Off-premises Wall Signs.
- L. A Freestanding Sign located on any railroad Right-of-Way that is not used for or related to railroad operations.
- M. Any Sign which is located on or is part of an awning if the awning is translucent and contains any form of interior illumination that is intended to or has the effect of making the Sign more readily visible from a public Street.
- N. Human Signs.

**Sec. 6. - Conflicts.**

When any regulation governing Signs contained in the zoning or subdivision platting regulations conflict with provision contained in this Ordinance, the more restrictive regulation will apply.

**Sec. 7. – Findings of Fact**

The City Council hereby finds the following facts:

- A. All statements of fact in the preamble or any other part of this ordinance are true;
- B. This ordinance promotes public health and safety by, among other methods, reducing distractions of drivers of motor vehicles;
- C. This ordinance promotes the public welfare; and
- D. A sign that violates this ordinance is a public and private nuisance.

**Secs. 8 — 10. - Reserved.**



## **ARTICLE II. - ADMINISTRATION AND ENFORCEMENT**

### **Sec. 11. - Application and Permits.**

A. The application for a Sign permit and the applicable fee, as identified in the Fee Schedule adopted by the City of Iowa Colony, must be submitted on such forms provided by the City and must be accompanied by the information, drawings and descriptive data required by the Building Official or his assign to ensure proper regulation of the Sign and to ensure compliance with this Ordinance.

B. Except as otherwise provided by this ordinance, no sign shall be constructed, erected, placed, installed, altered except for the message thereon, relocated within the City or its extraterritorial jurisdiction, or used, without a valid Sign permit issued by the City under this ordinance.

### **Sec. 12. - Issuance of Permits.**

If the plans and specifications for a Sign set forth in any application for a permit conform to all of the requirements of this Ordinance and other City regulations, the Building Official or his assign will issue the appropriate permit. The City shall review and respond to a completed Sign permit application within 30 days.

### **Sec. 13. - Revocation.**

A Sign permit may be revoked for a violation of this Ordinance. The Building Official or his assign shall give prior written notice of a proposed revocation to the permittee and an opportunity to respond to the reasons for revocation prior to making a decision thereon.

### **Sec. 14. – Appeals/Variances/Special Exceptions.**

A. Appeals. Any person aggrieved by a decision of the Building Official or his assign in the application of this Ordinance may appeal the decision to the Planning Commission of the City of Iowa Colony, who, after due deliberation, will forward a recommendation to the City Council for final determination by the City Council. The aggrieved person appealing shall have the opportunity to be heard by the Planning Commission before it makes its recommendation to the City Council, and the opportunity to be heard by the City Council before it makes its decision. The City Secretary shall notify the appealing

person, in writing, of the times, dates, and places of the consideration of the appeal by the Planning Commission and the City Council.

B. Variances. The Planning Commission may also hear a variance request and make a recommendation to City Council following these criteria if a variance recommendation is requested directly from the Planning Commission without a decision by the Building Official or his assign:

1. The Planning Commission shall have the authority to recommend a variance from the provisions of this Ordinance, if:
  - a. The granting of the variance would not in any way be materially detrimental to the subject property where the proposed sign is to be located, to any other property or improvements, or to the integrity, soundness, or safeness of the sign;
  - b. The granting of the variance would not be materially detrimental to the public health, safety, or well-being;
  - c. The literal enforcement of this Ordinance would create an undue hardship in the case in question; and
  - d. The granting of the variance would not in any way be contrary to the purpose or intent of this Ordinance.
2. The Planning Commission may recommend appropriate conditions to the granting of a variance, in order to safeguard the character of the area, to protect property owners, and to protect the public, and such other conditions as the Planning Commission deems appropriate for the public health, safety, and welfare. Those conditions shall be expressed in the recommendation of the Planning Commission concerning the variance. Violation of any such condition, if approved by City Council, shall be a violation of this Ordinance.
3. The Planning Commission may also recommend to the City Council to reverse, affirm, or modify, in whole or in part, an order, requirement, decision, or determination of the Building Official or his assign, or other person enforcing this Ordinance, provided that an appeal from such action of the enforcing official is filed with the City Secretary no later than thirty days after such action.

4. An applicant for a variance must be an owner of an interest in the sign or subject property to be affected by the variance or must have a contractual interest in such sign or property.
  5. An applicant for a variance must provide all information requested by the Planning Commission, the Building Official or his assign, the City Manager, City Attorney, or any other person enforcing this Ordinance. An applicant for a variance may provide other relevant information, but the Planning Commission shall have discretion to determine what information is relevant and to limit the quantity of information.
  6. The City Council will review the recommendation of the Planning Commission and render a final decision that agrees with, disagrees with, or agrees with conditions the recommendation of the Planning Commission using the same review criteria as indicated above in Section 14 (B), (1) through (4), inclusive.
  7. The applicant for a variance shall have the opportunity to be heard by the Planning Commission before it makes its recommendation to the City Council, and the opportunity to be heard by the City Council before it makes its decision. The City Secretary shall notify the applicant in writing of the times, dates, and places of the consideration of the application by the Planning Commission and the City Council.
- C. Special Exceptions
1. The Planning Commission shall have the authority to consider and recommend a Special Exception from the provisions of this Ordinance, other than those in Section 5, when the Planning Commission finds that each of the following conditions exist:
    - a. Special circumstances exist that are unique to the land or the proposed development and that are not generally applicable to all other land or developments in the city or its extra-territorial jurisdiction that justify modification to the standards that otherwise apply;
    - b. The proposed Special Exception will achieve a result contemplated by the standards criteria of this Ordinance;
    - c. The modification of the standard requested is not disproportionate to the requirement of the standard, provided

however that the Planning Commission cannot consider a Special Exception if the modification of the standard is 33 percent or greater. A modification of a measurable standard by 10 percent or less shall be presumed to be not disproportionate;

d. The intent and general purposes of this Ordinance will be preserved and maintained, and

e. The granting of the Special Exception would not in any way be injurious to the public health, safety, or welfare.

2. The Planning Commission may recommend appropriate conditions to the granting of a Special Exception, in order to safeguard the character of the area, to protect property owners, and to protect the public, and such other conditions as the Planning Commission deems appropriate for the public health, safety, and welfare. Those conditions shall be expressed in the recommendation of the Planning Commission concerning the Special Exception. Violation of any such condition, if approved by City Council, shall be a violation of this Ordinance.
3. An applicant for a Special Exception must be an owner of an interest in the sign or subject property to be affected by the Special exception or must have a contractual interest in such sign or property.
4. An applicant for a Special Exception must provide all information requested by the Planning Commission, the Building Official or his assign, the City Manager, City Attorney, or any other person enforcing this Ordinance. An applicant for a Special Exception may provide other relevant information, but the Planning Commission shall have discretion to determine what information is relevant and to limit the quantity of information.
5. The City Council will review the recommendation of the Planning Commission and render a final decision that agrees with, disagrees with, or agrees with conditions the recommendation of the Planning Commission using the same review criteria as indicated above in Section 14 (C) (a) through (e), inclusive.
7. The applicant for a Special Exception shall have the opportunity to be heard by the Planning Commission before it makes its recommendation to the City Council, and the opportunity to be heard by the City Council before it makes its decision. The City

Secretary shall notify the applicant in writing of the times, dates, and places of the consideration of the application by the Planning Commission and the City Council.

**Secs. 15 -22. - Reserved.**

## **ARTICLE III. - REGULATIONS**

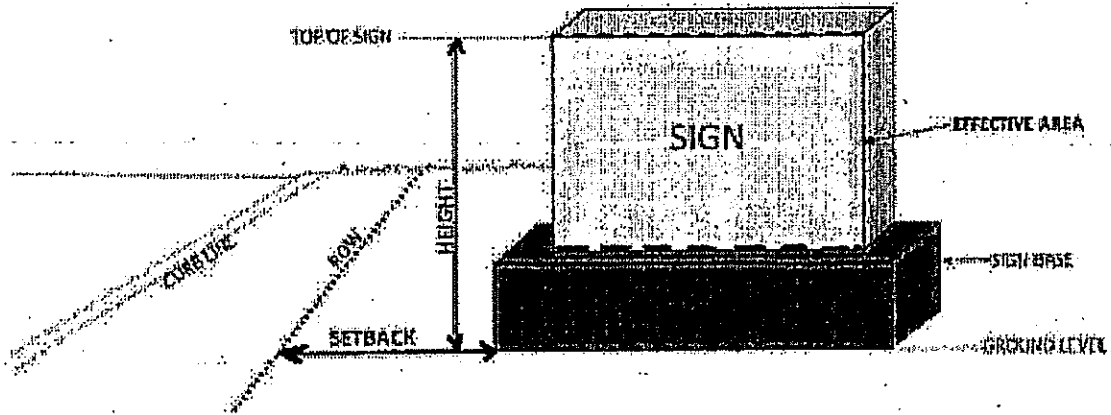
### **Sec. 23. - Classification of Signs.**

- A. For purposes of applying these regulations, all Signs are defined and classified, as follows:
  - 1. Freestanding Signs.
    - a. Monument Signs;
    - b. Temporary Freestanding Signs (not including Temporary Freestanding Special Activity Signs); and
    - c. Temporary Freestanding Special Activity Signs
  - 2. Wall Signs.
  - 3. Window and Door Signs.
  - 4. Stake Signs.
  - 5. Wind Device Signs.
    - a. Banner Signs; and
    - b. Balloon Signs.
  - 6. Flags and Flagpoles.

### **Sec. 24. - Freestanding Signs.**

- A. Manner of Measurement.
  - 1. Size. The size of a Sign is determined by its Effective Area.
    - a. For Monument Signs, the Effective Area includes the entire structure on which the Sign is placed or mounted, but not including the portion of the Sign Base that extends directly below the Sign Face (see Figure 24.A)

Figure-24.A



- b. Temporary Freestanding Signs, Temporary Freestanding Special Activity Signs and Subdivision Entrance Signs are measured by the length and height of the Sign Face or display area only, not including the measurements of the support structure (see Figure 24.B and Figure 24.C).

Figure  
24.B

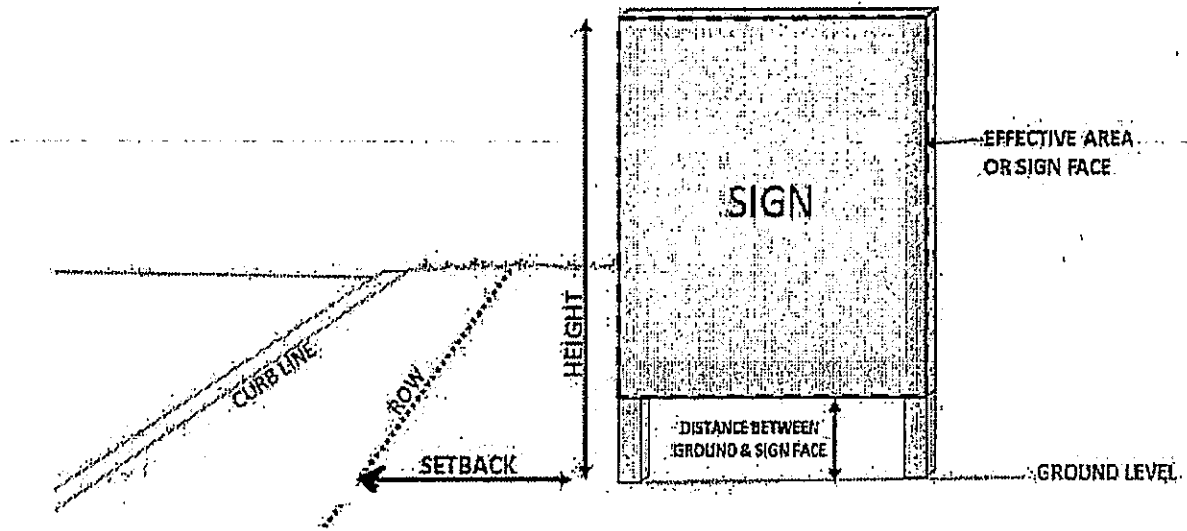
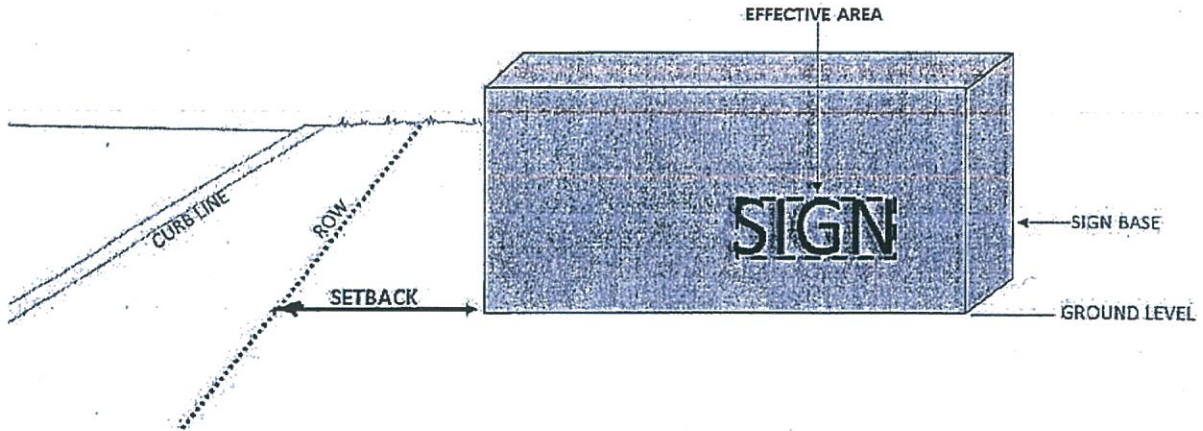




Figure 24.C



2. Setback. The Setback is measured perpendicularly from the property line to the closest point of the Sign.
3. Height. The Height of a Freestanding Sign is measured from the natural ground level at the base of the Sign to the highest point of the Sign.
4. Width. The width of a Freestanding Sign is measured along a line drawn from the outermost edges of the Sign, parallel to the ground.

B. Monument Signs. Except as otherwise provided in this section, Monument Signs must comply with the following requirements:

1. Size. The following table details size requirements for Monument Signs:

Table 24. Requirements for Monument Signs

Requirements	Residential Zoning District or residential use	Non-residential Zoning District or non-residential use not having frontage on State Highway 288 or having frontage on State Highway 6	Non - residential Zoning District or non-residential use with frontage on State Highway 288
Maximum Effective Area (sq. ft.)	36	60	96
Maximum Height (ft.)	4	6	8
Minimum Setback (ft.) <sup>a</sup>	3	0	0
Number per feet of frontage	1/500	1 for the first 250, 1 for each additional 250, maximum 2 per tract	1 for the first 250, 1 for each additional 500
a Measured from the property line..			

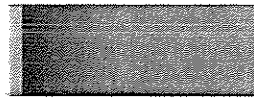
2. Location.

Additional Spacing Requirements.

- a. A Monument Sign may not be located within 50 feet of another Freestanding Sign on another premises.
- b. A Monument Sign may not be located within 125 feet of another Freestanding Sign on the same premises.
- c. A Monument Sign may not be placed or located within the public Right-of-Way unless the City gives its written consent to the encroachment.



3. **Materials.** All Monument Signs must be designed and constructed to substantially appear as a solid mass, such as a cinder-block, rectangle, or square, from ground level to the highest portion of the Sign. All Monument Signs must be made of masonry, metal, routed wood planks or beams, or durable plastic, with durable surface ornamentation such as ceramic tile or such.
4. **Number.** All Signs with one common supporting structure are counted together as one Sign for purposes of applying the regulations on the number of Monument Signs allowed on any one Premises.
5. **Permit.**
  - a. It is unlawful for any person to place, locate, relocate, erect, construct, replace or alter the size or shape of any part of a Monument Sign, including the face or other integral part, or to thereafter make use of a Sign without having first secured a Sign permit from the City as required, except as otherwise provided in this Ordinance.
  - b. A Sign permit is not required to repaint a Sign or to restore a conforming Sign to its original condition if the Sign otherwise complies with this Ordinance, or to periodically change only the letters, numbers or message portion of a conforming Sign.
  - c. Unless earlier revoked, a Sign permit to construct, erect or place a Monument Sign is valid for 180 days from the date of issuance.
6. **Additional Regulations.**
  - a. **Size Exception for Monument Signs in Non-Residential Districts or Non-Residential uses with State Highway 288 frontage.** Any real property located in a Non-Residential District or Non-Residential use with State Highway 288 frontage that would be allowed to have 3 or more Monument Signs under Table 24.1 of this Ordinance, may choose to have one Monument Sign with a maximum Effective Area of 120 square feet and a maximum height of 10 feet and another Monument Sign with a maximum Effective Area of



96 square feet and a maximum height of 8 feet, in lieu of all other Monument Signs allowed under Table 24.1 of this Ordinance.

- b. Off-Premises Signs and On-Premises Signs in the ETJ. The regulations of Table 24.1 applicable to Nonresidential Zoning Districts apply to all Off-Premises and On-Premises Monument Signs located in the City's extraterritorial jurisdiction based on land use.
- c. Subdivision Entrance Signs must meet the requirements for Monument Signs in this Ordinance but have a different method of calculating the maximum Effective Area, see Sec. 24.A: Manner of Measurement.
- d. A Monument Sign shall not contain off-premises advertising.

C. Temporary Freestanding Sign.

- 1. Size. A Temporary Freestanding Sign must have a maximum Effective Area of 32 square feet and a maximum Height of 8 feet.
- 2. Location. A Temporary Freestanding Sign must comply with the following requirements:
  - a. Spacing Requirements:
    - 1. For properties in residential zoning districts or residential uses, spacing requirements are 1 per 500 feet.
    - 2. For properties in nonresidential zoning districts or non-residential uses, spacing requirements are 1 per the first 125 feet and 1 per each additional 250 feet.
    - 3. A Temporary Freestanding Sign may not be located within 50 feet of any Freestanding Sign on other premises.
    - 4. A Temporary Freestanding Sign may not be located within 125 feet of any Freestanding Sign on the same premises.

5. A Temporary Freestanding Sign may not be placed or located within the public Right-of-Way unless the City gives its written consent to the encroachment.
  3. Materials. A Temporary Freestanding Sign must be made of plywood, fiber cement board, or durable plastic. Temporary Freestanding Signs may not be lighted or illuminated and may not be an Electronic Sign.
  4. Permit.
    - a. It is unlawful for any person to place, locate, relocate, erect, construct, or alter the size or shape of any part of a Temporary Freestanding Sign, including the face or other integral part, or to thereafter make use of a Sign without having first secured a Sign Permit from the City as required, except as otherwise provided in this Ordinance.
    - b. A new Sign permit is not required to repaint or maintain a Temporary Freestanding Sign or to restore a conforming and permitted Temporary Freestanding Sign to its original condition if the Sign otherwise complies with this Ordinance, or to periodically change only the letters, numbers or message portion of a conforming Temporary Freestanding Sign.
    - c. A Temporary Freestanding Sign permit is valid on any one Temporary Freestanding Sign on one Premises for a maximum of 75 days in any one calendar year. If locating a Temporary Freestanding Sign for more than 75 days, the Temporary Freestanding Sign permit must be renewed prior to the expiration of the then valid sign permit.
  5. Additional Regulations. A Temporary Freestanding Sign shall not contain Off-Premises Advertising.

D. Temporary Freestanding Special Activity Signs

  1. Types of Temporary Freestanding Special Activity Signs:

- a. Temporary Special Events Signs: Signs announcing special events including, but not limited to auction, grand opening, new management, going out of business, and events sponsored by religious, charitable, or public service groups and organizations. Businesses, individuals, or organizations may display up to six (6) times in a 12-month period, a maximum of two (2) signs for up to seven (7) continuous days prior to a special event. Such signs shall not exceed sixteen (16) square feet in area, and shall be removed immediately following the end of the event.
  - b. Temporary Farm Products Signs. Temporary on-premise signs announcing the availability of seasonal farm products for sixty (60) days which may be renewed on a case by case basis. The number of signs shall not exceed two and the total area of all such signs shall not exceed 20 square feet, nor shall any sign exceed six feet in height.
  - c. Temporary Business Occupation Signs: Temporary on-premise signs identifying a business in shopping centers, multiple establishment on the same lot, or office and/or industrial centers until the completion of the signs of the shopping center, office and/or industrial center. The length of time for displaying a Temporary Business Occupation Sign shall not exceed 90 days.
  - d. Temporary Construction Signs. Temporary Construction Signs announcing new buildings or projects, temporary geographical directional signs, erected after the commencement of building construction or site development shall be limited to two construction signs per construction site, each sign not to exceed 24 square feet in area and 8 feet in height. The temporary sign shall be removed by the time a permanent sign is erected or a certificate of occupancy for the building is issued, whichever occurs first. Temporary geographical directional signs shall be removed when the initial development of the subdivision is complete.
2. Size. If not indicated otherwise in this Section, a Temporary Freestanding Special Activity Sign must have dimensions of 4 feet in width and 8 feet- 6 inches in Height. The plywood face of the Sign must be 4 feet by 8 feet where no part of the frame or posts extend beyond the Sign faces at the sides or top of the Sign. The face of the Sign must extend down to within 6 inches of the ground.

3. Location. If not indicated otherwise in this Section, a Temporary Freestanding Special Activity Sign shall comply with the following Setback and spacing requirements:
  - a. Spacing Requirements:
    1. For properties in residential zoning districts or residential use, spacing requirements are one Sign per 500 feet of frontage.
    2. For properties in non-residential zoning districts or non-residential use, space requirements are on Sign for the first 125 feet of frontage and one Sign for each additional 125 feet of frontage.
    3. A Temporary Freestanding Special Activity Sign may not be located within 50 feet of any Freestanding Sign on another premise.
    4. A Temporary Freestanding Special Activity Sign may not be located within 125 feet of any Temporary Freestanding Special Activity Sign on the same premises.
    5. An Off-premises Temporary Freestanding Special Activity Sign may not be located within 2,000 feet of another Off-premises Temporary Freestanding Activity Sign.
    6. A Temporary Freestanding Special Activity Sign may not be placed or located within the public Right-of-Way unless the City gives its written consent to the encroachment.
    7. Temporary Freestanding Special Activity Signs located on sites with SH 288 frontage shall be allowed a maximum area and height of 2 times the standard required herein, but spaced twice the minimum distance indicated.
4. Materials. If not indicated otherwise in this Section, a Temporary Freestanding Special Activity Sign shall be constructed as follows:

- a. The Sign Face must be fabricated of ½ inch thick medium density overlay plywood of treated wood or fiber cement board mounted on both sides of a frame if the sign is placed perpendicular to the property line;
  - b. A Temporary Freestanding Special Activity Sign may not be electronic, lighted or illuminated;
  - c. A Temporary Freestanding Special Activity Sign must be anchored by 2-4" x 4" treated wood posts or steel posts anchored in sand or concrete filled holes extending down at least two (2) feet in the ground, and
  - d. The plywood face must be securely held to the frame by galvanized nails or screws installed with the heads flush to the surface; all seams are tight; all holes are filled and sanded smooth; and all surfaces are coated with primer and painted with good quality exterior grade paint.
5. Permit. Unless indicated otherwise in this Section:
- a. It is unlawful for any person to place, locate, relocate, erect, construct, replace or alter the size or shape of any part of a Temporary Freestanding Special Activity Sign including the face or other integral part, or to thereafter make use of a Temporary Freestanding Special Activity Sign without having first secured a Sign permit from the City as required, except as otherwise provided in this Ordinance.
  - b. A Sign permit, valid for one year and renewable for one additional year, may be issued for one Temporary Freestanding Special Activity Sign on any one premises.
  - c. Unless earlier revoked, a Sign permit to construct, erect or place a Temporary Freestanding Special Activity Sign valid for 180 days from the date of issuance.
6. Master Signage Plan. An overall master plan signage plan if submitted for recommendation by the Planning Commission will substitute for the requirements of this section with only one sign permit required for all signs indicated in the approved master signage plan.

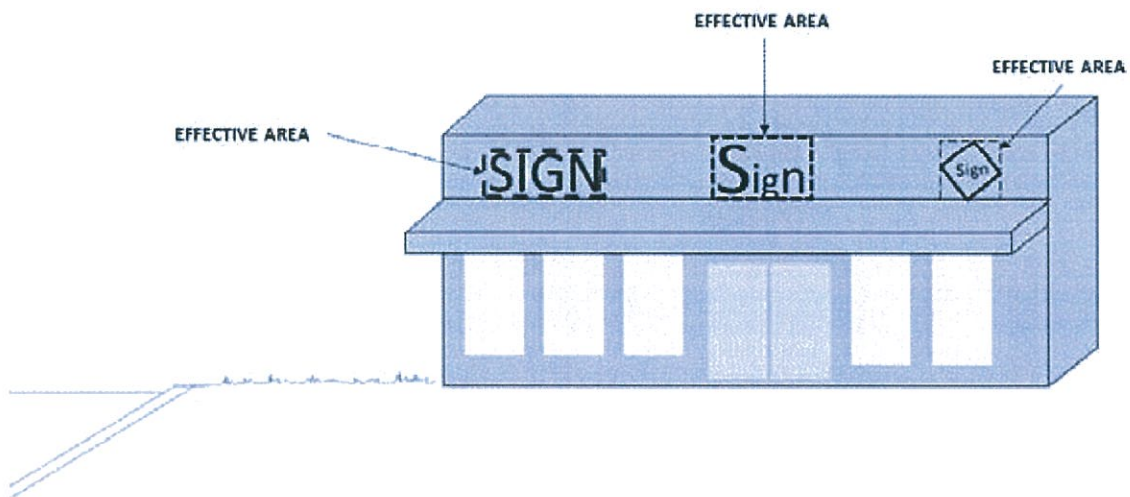


## Sec. 25. - Wall Signs

### A. Manner of Measurement.

1. Size. The size of a Sign is determined by its Effective Area. For Wall Signs, the Effective Area includes the entire area enclosing the extreme limits of the Sign display, excluding any adjacent parts of the Sign structure (see Figure 25.A).
2. Height. The Height of a Wall Sign is measured between the lowest and highest vertical extremes of the Sign display.
3. Width. The Width of a Wall Sign is measured between the right-most and left-most horizontal extremes of the Sign display.
4. Illustration.

Figure 25.A



B. Wall Signs.

1. Size. The following regulations apply:
  - a. Maximum Effective Area.
    1. Principal Buildings. The Effective Area of all Wall Signs located on a Principal Building devoted to a Residential Use may not exceed 1% of the area of the wall or facade upon which they are located. The Effective Area of all Wall Signs located on a Principal Building serving as a Nonresidential Use may not exceed 15% of the area of the wall or facade upon which they are located, or 300 square feet, whichever is less.
    2. Accessory Buildings and Structures. Wall Signs are prohibited on Accessory Buildings serving a single-family or two-family residential use. The Effective Area of all Wall Signs located on an Accessory Building or Structure serving a Nonresidential Use may not exceed 5% of the area of the wall or facade upon which they are located, or 100 square feet, whichever is less.
    3. Measurements. In measuring the area of the wall or facade of a Principal Building or an Accessory Building or Structure in this Section, the area of all doors and windows are included. In measuring the area of a wall or facade of an Accessory Structure that contains open space (i.e., not occupied by walls, glass, or other material used to permanently enclose the interior space) such as a canopy or porte-cochere, the area of the open space is not included (see Figure 25.B and Figure 25.C).

Figure.25.B

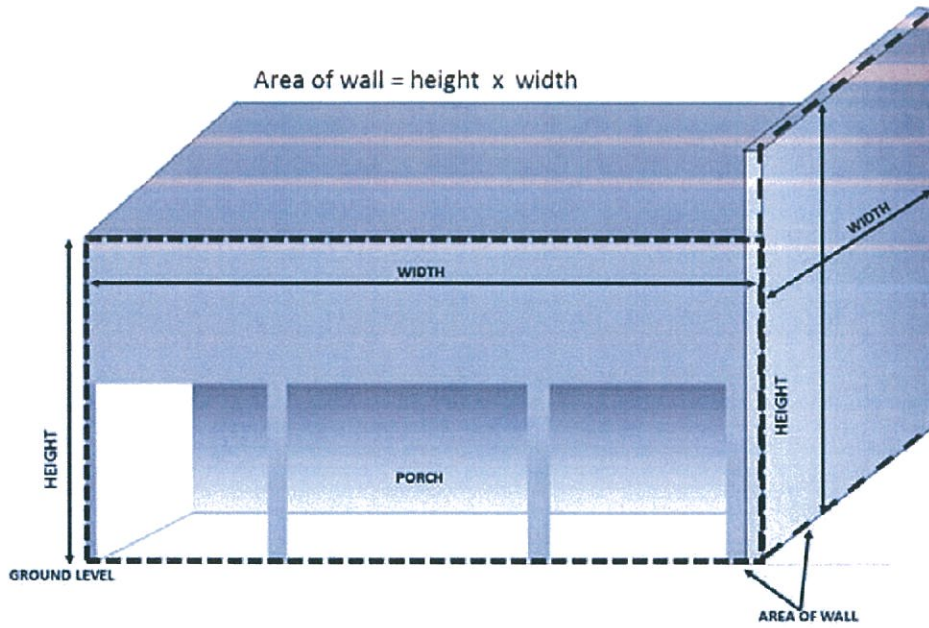
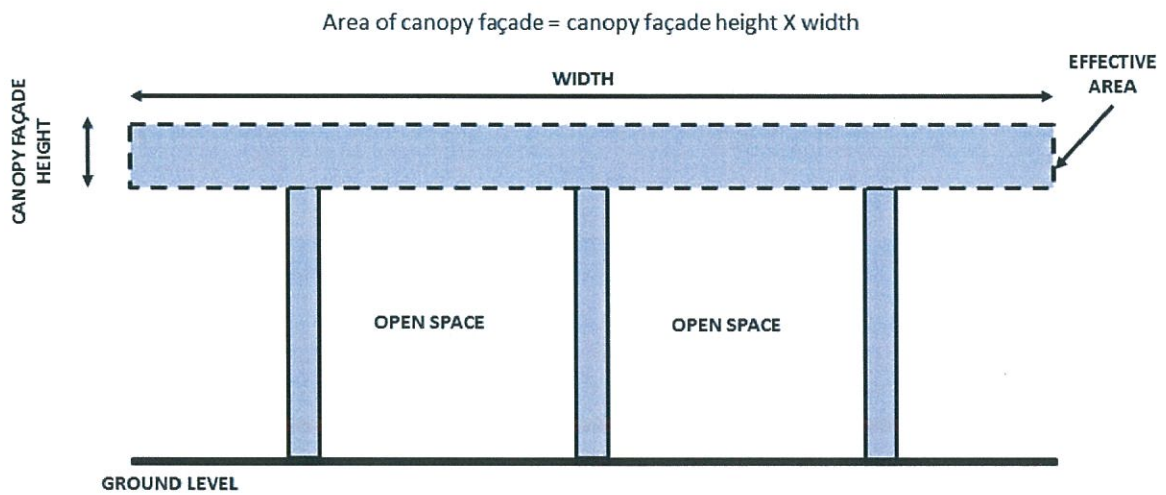
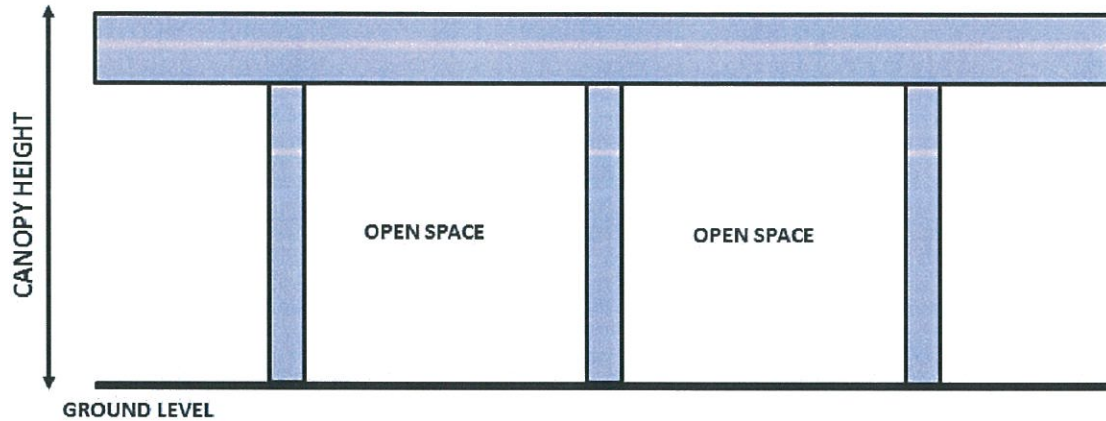


Figure 25.C



- b. Multi-tenant Buildings. For multi-tenant Buildings, the Effective Area regulations apply to that portion of the Building facade leased by each tenant.
2. Height.
- a. For Buildings containing 10,000 square feet or more of floor space, the maximum height of the Wall Sign is 2 inches in height for every 1 foot of height of the wall to which it is attached.
  - b. For Buildings containing less than 10,000 square feet in Floor Area, the maximum height of the Wall Sign is 1½ inches for every 1 foot of height of the wall to which it is attached. Under this provision, the height of the wall is measured from the base of the wall vertically to the highest point of the wall to which the sign is affixed.
  - c. For wall signs on motor vehicle canopies, such as drive-thrus or gas sales, the maximum height of the sign shall be 2 inches in height for every 1 foot of height of the canopy. Under this provision, the height of the canopy is measured from ground level to the top of the vertical canopy façade. In no case shall the sign extend below or above the vertical façade of the canopy (see Figure 25.D).

Figure  
25.D



3. Location.
  - a. A Wall Sign may not extend more than 12 inches beyond the perimeter of any part of the wall to which it is attached. A Wall Sign may be placed on a canopy or roof if there is a solid wall of the same building visible behind the entire sign.
  - b. Wall Signs may be illuminated; however, illuminated Wall Signs on rear building facades shall be prohibited if facing a residential zoning district or use.
4. Materials.
  - a. Wall Signs should be constructed of durable, weather-resistant materials such as metal, plastic, or other durable materials approved by the Building Official or his assign.
  - b. Wall Signs must be attached to the wall of a Building in accordance with current building code.
5. Permit.
  - a. It is unlawful for any person to place, locate, relocate, erect, construct, replace or alter the size or shape of any part of a

Wall Sign, including the face or other integral part, or to thereafter make use of a Sign without having first secured a Sign permit from the City, except as otherwise provided in this Ordinance.

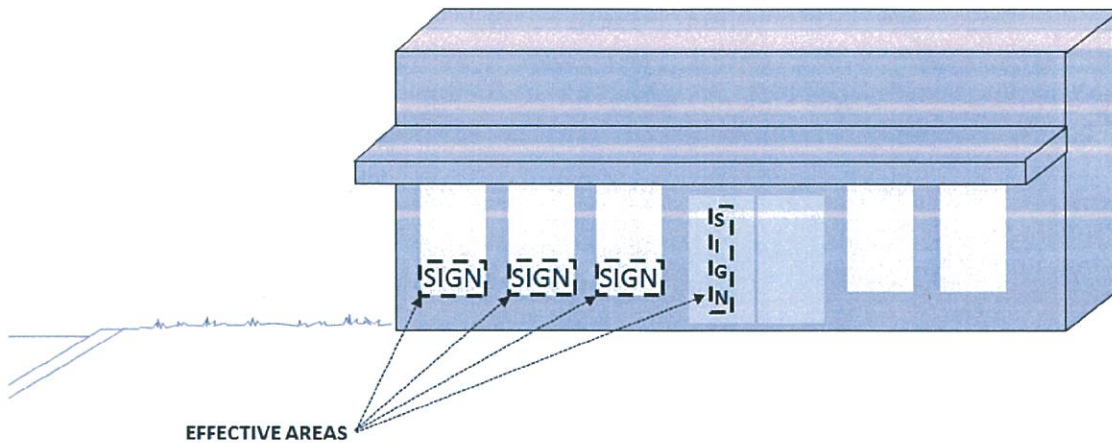
- b. Unless earlier revoked, a Wall Sign permit to construct, erect or place a Wall Sign is valid for 180 days from the date of issuance.

## **Sec. 26. - Window and Door Signs.**

### **A. Manner of Measurement.**

1. **Size.** The size of a Sign is determined by its Effective Area. For Window and Door Signs, the Effective Area includes the entire area enclosing the extreme limits of the Sign display, excluding any adjacent parts of the Sign structure (see Figure 26.A).
2. **Height.** The Height of a Window and Door Sign is measured between the lowest and highest vertical extremes of the Sign display.
3. **Width.** The Width of a Window and Door Sign is measured between the right-most and left-most horizontal extremes of the Sign display.
4. **Illustration.**

Figure 26.A



B. Window and Door Signs.

1. Size. The total area of Window and Door Signs shall not exceed 25% of the total window and door area of the Building elevation identified for placement of the Sign.
2. Location. Window and Door Signs are limited to the ground floor of a building. Window and Door Signs must be affixed to the interior face of the window surface. Signs affixed to the exterior face of a window or door are Wall Signs.
3. Materials. Window and Door Signs include any material painted, etched, or affixed to the interior side of a window or door. Window and Door Signs include Electronic and Illuminated Signs hanging within the interior space and viewable from the public Street through the window or door.
4. Permits. A Sign permit is not required for the placement or use of Window and Door Signs.

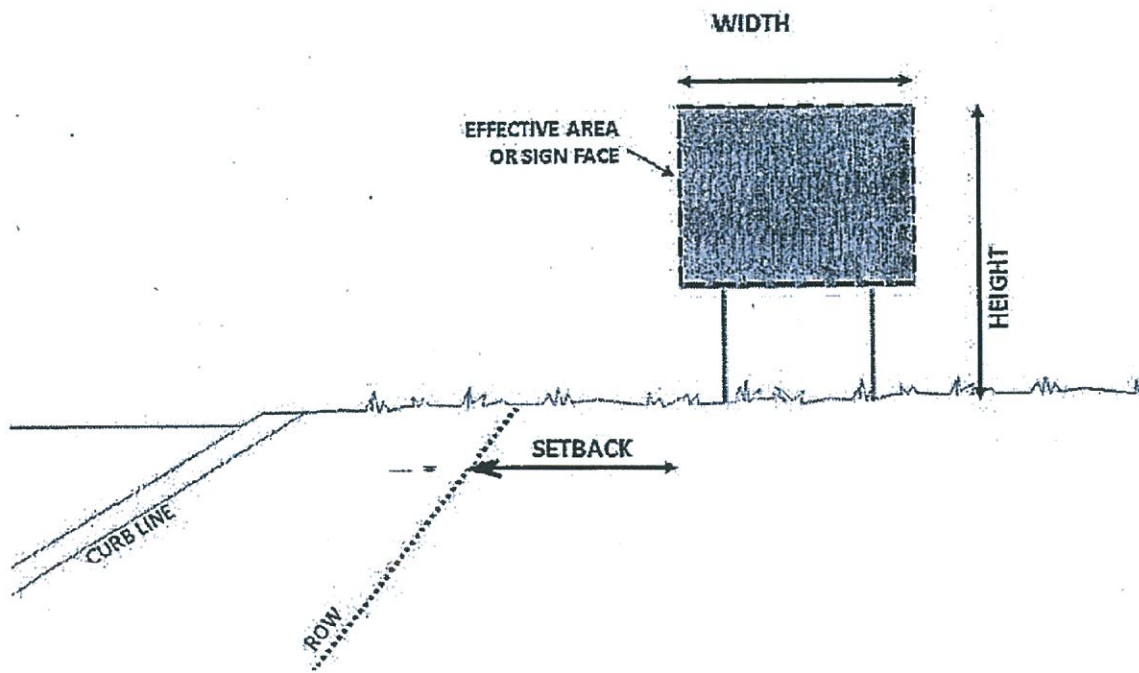


## Sec. 27. - Stake Signs.

### A. Manner of Measurement.

1. Size. The size of a Sign is determined by its Effective Area. For Stake Signs, the Effective Area includes the entire Structure on which Signs are placed or mounted. (See Figure 27.A)
2. Setback. The Setback is measured perpendicularly from the curb-line to the closest point of the Sign.
3. Height. The Height of a Sign is measured from the natural ground level at the base of the Sign to the highest point of the Sign.
4. Width. The width of a Sign is measured along a line drawn from the outermost edges of the Sign, parallel to the ground.
5. Illustrations.

Figure 27.A





**B. Stake Signs.**

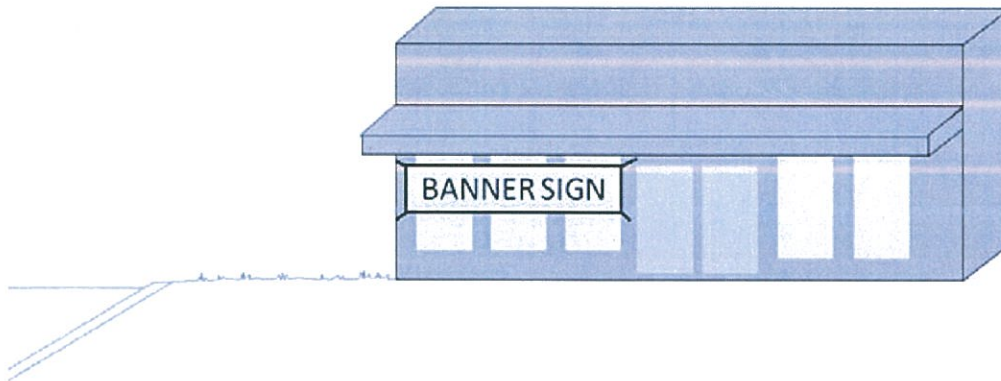
1. **Size.** A Stake Sign may not have an Effective Area in excess of 9 square feet or a Height in excess of 4 feet.
2. **Location.** A Stake Sign may not be located within the Right-of-Way of a public Street or within a railroad Right-of-Way and a minimum of 20 feet from the curb-line. A stake sign may not be located on SH 288 frontage.
3. **Materials.** Stake Signs may include materials such as wood or metal stakes with a wood, plastic or metal Sign Face.
4. **Number.** No more than 2 Stake Signs are allowed on a non-residential property at any time. Stake Signs may not be located within 25 feet of another Sign on the same Premises or on an adjacent Premises. However, every property is allowed at least 1 Stake Sign.
5. **Permit.** A Sign permit is not required for the placement or use of a Stake Sign. A Stake Sign that advertises a particular event or happening must be removed within 3 days after the conclusion of the event by the owner of the Premises on which it is located.

**Sec. 28. Wind Device Signs.**

**A. Manner of Measurement.**

1. **Size.** The size of a Sign is determined by its Effective Area. For Wind Device Signs, the Effective Area includes the entire Sign display area or Sign Face, excluding the Structure on which Signs are placed (see Figure 28.A).
2. **Setback.** The Setback is measured perpendicularly from the curb-line to the closest point of the Sign.
3. **Height.** The Height of a Wind Device Sign is measured from the natural ground level below the Sign to the highest point of the Sign.
4. **Width.** The width of a Sign is measured along a line drawn from the outermost edges of the Sign, parallel to the ground.
5. **Illustrations.**

Figure 28.A



- B. Banner Signs. Banner Signs are a type of Wind Device Sign and include Pennant Signs. The following regulations apply to Banner Signs:
1. Size. A Banner Sign may not project above the roofline or parapet walls of a Building. Banner Signs may not extend to a greater Height than the maximum Height of the Building on the Premises. Banner Signs on vacant Premises may not exceed 10 feet in Height.
  2. Location. Banner Signs may not extend beyond the property lines of the Premises where located or over any Public Highway, Street or sidewalk.
  3. Materials. A Banner Sign must be constructed of weather-resistant materials, be unlighted, and may not be an Illuminated Sign or Electronic Sign.
  4. Permit.
    - a. It is unlawful for any person to place, erect or make use of a Banner Sign on a Premises devoted to a Non-residential Use without having first secured a Sign permit from the City. For Buildings leased to multiple tenants, the permit applies to each leased Premises.

- b. A permit to make use of one or more Wind Device Signs on a Premises devoted to a non-residential use may not exceed a period of use of 28 consecutive days in one calendar year or 2 periods of use in 14 consecutive days in on calendar year.
- C. Balloon Signs. Balloon Signs are a type of Wind Device Sign and the following regulations apply:
  - 1. Size. A Balloon Sign may not project above the roofline or parapet walls of a Building. Balloon Signs may not exceed or be a greater Height than the maximum Height of the building on the Premises. Balloon Signs on vacant properties may not exceed 10 feet in Height.
  - 2. Location. Balloon Signs may not extend beyond the property lines of the Premises where located, or over any Public Highway, Street or sidewalk.
  - 3. Permit.
    - a. It is unlawful for any person to place, erect or make use of a Balloon Sign on a Premises devoted to a Non-residential Use without having first secured a Sign permit from the City. For Buildings leased to multiple tenants, the permit applies to each leased Premises.
    - b. A permit to make use of 1 or more Balloon Signs on a Premises devoted to a Non-residential Use may not exceed a period of use of 28 consecutive days in 1 calendar year or 2 periods of use of 14 consecutive days in 1 calendar year.
    - c. A permit is not required for up to 3 Balloon Signs less than 24 inches in diameter displayed for less than 3 days.

**Sec. 29. - Flags and Flagpoles.**

A. Flags.

*Flag signs.* A flag sign may be located in any zoning district or use. Governmental flag signs only include: the flag of the United States of America, the flag of the State of Texas, any flag of a governmental entity, foreign or

domestic, or an official or replica flag of any branch of the United States armed forces.

#### Manner of Measurement

##### 1. Size

a. In a non-residential district or use: A flag's effective area may not exceed 60 square feet. No portion of a flag shall be displayed in a manner that will allow the flag to touch the ground, even when displayed at the half-mast location.

b. In a residential district or use: A flag's effective area may not exceed 40 square feet. No portion of a flag shall encroach in a minimum 7 feet high area above the ground when displayed at the half-mast location.

##### 2. Type

In a non-residential district or use: Flag signs in nonresidential zoning districts or uses may only consist of governmental flag signs or flag signs containing commercial messages which may only consist of registered or unregistered logos, trademarks, or service marks and must be located on the premises of the businesses or commercial enterprises which the signs advertise.

##### 3. Display

In a non-residential district or use: All flag signs located in nonresidential zoning districts or use shall be displayed in accordance with the rules of etiquette for the display of United States of America flags contained in the United States Flag Code, 4 U.S.C. § 1 et seq. including specific rules for the flag of the United States to be displayed in accordance with 4 U.S.C. Sections 5-10. The flag of the State of Texas shall be displayed in accordance with Chapter 3100, Government Code. Flag signs shall not be displayed on or from roofs.

##### 4. Number

a. In a non-residential district or use: No more than 1 flag sign per flagpole.

- b. In a residential district or use: No more than 2 flag signs per flagpole.

## B. Flagpoles

### 1. Height

a. In a non-residential district or use: Freestanding flagpoles shall be no more than 50 feet in height. The minimum height of a flagpole shall be that distance necessary to ensure the displayed flag will not touch the ground, even when displayed at the half-mast location.

b. In a residential district or use: Freestanding flagpoles shall be no more than 25 feet in height. The minimum height of a flagpole shall be that distance necessary to ensure the displayed flag(s) will not touch the ground, even when displayed at the half-mast location.

### 2. Location

A flagpole may be placed adjacent to the public right-of-way provided it does not encroach on the sight visibility triangle as identified in the Code of Ordinances and is setback a minimum of 10 feet from the property line.

Flagpoles mounted on the walls of buildings shall not extend more than ten feet above the wall on which they are mounted and shall be no more than 35 feet in height.

The display of a flag, or the location and construction of the supporting flagpole shall comply with all applicable zoning ordinances, easements, and setbacks of record. Flagpoles shall not be mounted on roofs.

### 3. Construction

Flagpoles shall be constructed of permanent, long-lasting materials, with a finish appropriate to the materials used in the construction of the flagpole and harmonious with the primary structure and permanently mounted.

### 4. Number

The maximum number of individual flag poles allowed within single family residential zones or single family residential use area is three (3) per lot or contiguous tract of land.

The maximum number of individual flag poles allowed within non-single family residential zones or non-single family residential use area is three (3) per contiguous tract of land.

5. Permits

It is unlawful for any person to place, erect or make use of flagpoles on a premises located in a non-residential zone or use without first securing a sign permit from the City of Iowa Colony. For buildings leased to multiple tenants, the permit applies to each leased premises. Flags mounted to a permitted flagpole do not require a permit. No permit is required for flagpoles located in a residential district or use.

**Sec. 30. –Electronic Signs.**

- A. Electronic signs as defined herein, are only allowed as Freestanding Monument (On-Premises Use Only) Signs and do not qualify for any other sign type, using the following criteria:
1. Size: In a Non-residential District or non-residential use (including vacant use): The electronic portion of a freestanding monument sign may not exceed 2/3 of the total effective area and in no case may exceed the total effective area as allowed for monument signs.
  2. Location. An Electronic Sign may be placed adjacent to the public Right-of-Way, but not within the public Right-of-way, provided it does not encroach on the sight visibility triangle as identified in other Ordinances and is setback a minimum of 20 feet from the curb.
  3. Maintenance. Electronic sign lighting must be maintained. When more than ¼ of the total electronic sign area is not properly functioning, the entire electronic sign must be turned off until the electronic sign can be repaired.
  4. Number: In a Non-residential District or non-residential use: The total number of allowed monument signs with an electronic sign component is the same as the total number of monument signs allowed

5. Illumination Level:. No automatic changeable copy sign shall exceed a brightness level of 0.3 foot-candles above ambient light as measured using a foot-candle (Lux) meter at a pre-set distance in accordance with the following procedure:
  - a. At least 30 minutes past sunset, record the ambient light while the sign is off or displaying all black copy, or with the sign's illumination blocked.
  - b. The light meter shall be held five feet above the finished grade in front of the sign.
  - c. The meter shall be aimed toward the center of the automatic changeable copy sign.
  - d. From the same location, a second reading shall be recorded while the sign is on and not blocked.
  
9. If the difference between the measurements is 0.3 foot candles or less, the brightness is properly adjusted; otherwise, the brightness must be adjusted to comply with the brightness adjustment standard set forth above.
  
10. The measurement distance shall be determined as shown in Table 30 A, which is derived and generalized from the formula shown for 180 square feet in the table; (the square root of) (the automatic changeable copy area times 100):

Table 30 A. Distances from which to measure the brightness of on-premises automatic changeable copy graphics.

<b>Area of automatic changeable copy in square feet</b>	<b>Measurement distance in linear feet</b>
10	32
20	45
30	55
40	63
50	71
60	77
70	84
80	89

Area of automatic changeable copy in square feet	Measurement distance in linear feet
90	95
100	100
120	110
140	118
160	126
$180 \times 100 = 18000; \sqrt{18000} = 134$	134
200	141
220	148
240	155
260	161
280	167
300	173
350	187
400	200
450	212
500	224
550	234
600	245
650 and greater	254

11. Image Timing: The electronic image on an electronic sign must remain constant for a minimum time period of 15 seconds at those locations that do not have frontage on State Highway 288 or State Highway 6 and a minimum time period of 7 seconds for those locations that have frontage on State Highway 288 or State Highway 6.

B. Permit.

It is unlawful for any person to place, erect or make use of an Electronic Sign on a Premises devoted to a Non-residential Use without having first secured a Sign permit from the City. For locations leased to multiple tenants, the permit applies to each leased Premises. Electronic Signs are not allowed in Residential Districts and are not allowed on a Premises either vacant or containing a residential use.



### **Sec. 31. –Abandoned On-Premises Signs**

- A. Except as otherwise provided in this ordinance, an On-Premises Sign must be removed on the first anniversary of the date the business, person, entity, organization, or other matter advertised or identified in the Sign ceases to operate or be located on the premises where the Sign is located.
- B. Except as otherwise provided in this ordinance, if the premises containing an On-Premises Sign are leased, then the Sign must be removed on the second anniversary after the date the most recent tenant ceases to operate on the premises.
- C. This section also applies to Nonconforming Signs. A Nonconforming Sign that is required to be removed under this section loses its nonconforming status.

### **Sec. 32. –All Signs - Building Codes and Other Laws.**

Except as otherwise provided herein for nonconforming Signs, each Sign of any type shall comply with all applicable building codes and other applicable ordinances and laws of any nature. The City of Iowa Colony Building Official or his assign shall be designated as the person responsible for interpretation and execution of all regulations contained in this Ordinance.

## **ARTICLE IV. - NONCONFORMING SIGNS**

### **Sec. 33.- Definition.**

A Sign is nonconforming if it does not comply with a regulation of this Ordinance, but either: 1. was erected in compliance with all local ordinances, laws, and regulations applicable at the time of its erection; or 2. was lawfully in place on the effective date of this ordinance or the effective date of any amendment of this ordinance with which the Sign fails to comply.

### **Sec. 34. - Registration.**

The owner of a nonconforming Sign must register the Sign with the City by completing a form provided for that purpose by the City.

### **Sec. 35. - Portable Signs.**

A nonconforming Portable Sign that is removed from a Premises loses its nonconforming status.

### **Sec. 36. - Destruction; Repair.**

- A. If a nonconforming Sign or a substantial part of it is blown down, dilapidated, deteriorated, or otherwise destroyed or dismantled for any purpose other than maintenance operations or for changing the letters, symbols, or other matter on the Sign; and if replacement, repair or renovation thereof would cost more than 60% of the cost of erecting a new Sign of the same type at the same location; then each owner of any interest in the Sign must either: (1) remove the Sign; or (2) bring the Sign into full compliance with this ordinance, without relying on the exceptions for nonconforming Signs. Any reference in this section to a Sign shall also include the support structure of the Sign. A person may not repair, renovate or alter a nonconforming Sign without first receiving a Sign permit. A permit is not required to repaint a Sign.
- B. The Building Official or his assign may, whenever he or she deems necessary to reasonably determine the applicability of subsection A. of this Section, require the owner of the nonconforming Sign to submit 2 or more independent estimates from established Sign companies of the cost of replacing, repairing or renovating, in whole or in part, the existing

nonconforming Sign and 2 or more independent estimates from established Sign companies of the reproduction cost of a new Sign, including its supporting Structure, which is substantially the same or similar to the nonconforming Sign destroyed, damaged, dilapidated or deteriorated.

- C. Any part of a Sign or the supporting structure of a Sign that is a nonconforming use may be repaired or renovated only by the use of the types of materials and dimensions of materials that are the same as the parts of the Sign or supporting structure being repaired or renovated.

**Sec.-37. - Relocation.**

The State may relocate a nonconforming Freestanding Sign, including its supporting structure, that is located within a proposed Right-of-Way to another location within the same Right-of-Way so that the State may widen, construct, or reconstruct a public roadway under the State's jurisdiction. The Sign and its supporting structure, as relocated, must be placed within 250 feet of its original location and may not be increased in size or height or otherwise altered to increase or add any nonconforming characteristic to the Sign.

## **ARTICLE V. - GENERAL**

### **Sec. 38. - Protection of First Amendment Rights**

Although this ordinance regulates the manner and location of communications by Signs, for example by regulating the size, dimensions, location, spacing, illumination, and other aspects of Signs, nothing herein shall be construed to regulate the substantive content of a message on a Sign.

### **Sec.39. – Offenses, Penalties, and Remedies**

A. **Offenses.** No person shall participate in any way in causing or doing any of the following:

1. violating any provision of this ordinance;
2. constructing, erecting, placing, installing, owning, renting, leasing, operating, or using a Sign that violates this ordinance in any way;
3. repairing, renovating, or moving a Sign that violates this ordinance in any way, unless such action causes the Sign to comply with this ordinance;
4. owning any interest of any nature in a Sign or in real property where a Sign that violates any provision of this ordinance is located.

B. **Criminal Penalty.** Any person who violates or participates in any way in any violation of any provision of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed five hundred dollars (\$500.00). Each day or portion of a day that a violation continues or is repeated shall constitute a separate offense.

C.. **Civil Remedies and Penalties.** Any and/or all of the following civil remedies and penalties may be imposed for violation of any provision of this Ordinance:

1. Revocation of any or all permits hereunder; and/or
2. Injunctive relief, declaratory relief, monetary damages, attorney's fees and all other expenses incurred in enforcing this ordinance, costs of court, interest as provided by law, and all other remedies at law or in equity.

## **Sec 40 - Cumulative Remedies/No Election of Remedies**

All remedies and penalties in favor of the City or against any person other than the City under this ordinance or from any source whatsoever are cumulative. The pursuant or receipt by the City of any one or more penalties or remedies shall not constitute an election of remedies, and shall not prevent the City from pursuing and receiving any and all other remedies and penalties.

## **Sec. 41. - Non-waiver**

The failure or omission of the City, upon one or more occasions, to enforce any right, obligation, or remedy hereunder shall never be construed as a waiver of the City's right to strictly enforce such right, obligation, or remedy, and the City may resume such strict enforcement without advance notice.

## **Sec. 42. - Performance by City When Another Person Fails to Perform**

If any person other than the City fails or refuses to promptly perform any obligation pursuant to this Ordinance, then the City may perform such obligation at the expense of that person, but the City shall not be required to do so. The person whose obligation the City performed shall reimburse the City for the cost of doing so immediately upon request by the City, together with all attorney's fees and costs incurred in connection with such nonperformance by the person, performance by the City, or collection of any amount hereunder. Nothing herein shall be construed to make the City an agent or fiduciary of any other person.

## **Sec.43. - Non-waiver of Immunity**

Nothing herein or in any permit or other document issued pursuant hereto shall ever be construed as a full or partial waiver of governmental immunity, official immunity, or any other immunity of the City or its personnel or agents.

## **Sec. 44. - Repeal of Former Sign Ordinances**

Ordinances Nos. 2001-9, 2002-4, 2015-10, and 2016-3A which together constitute the former Sign Ordinances of the City, as amended, are hereby repealed; provided, however, that no violation or offense committed under said former sign ordinances while they were in effect shall be excused by this repeal, and said Ordinances Nos. 2001-9, 2002-4, 2015-10, and 2016-3A shall remain in full force and effect as to any violation or offense committed under said ordinances while they were in effect.



**Sec. 45. - Savings Clause**

All other ordinances and portions of ordinances of the City shall remain in full and effect.

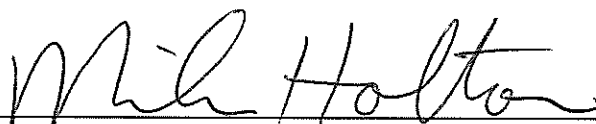
**Sec.46. - Severability**

In the event any clause phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

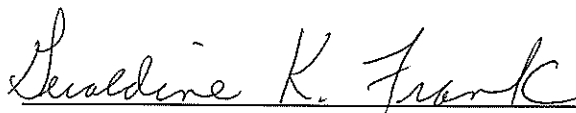
**Sec.47. - Effective Date**

This ordinance shall be effective upon its passage and approval.

PASSED AND APPROVED BY THE CITY COUNCIL ON THE 15<sup>th</sup>  
DAY OF August, 2016

  
\_\_\_\_\_  
Michael B. Holton, Mayor

ATTEST:

  
\_\_\_\_\_  
Geraldine K. Frank, City Secretary