

ORDINANCE NO. 419

AN ORDINANCE AMENDING THE CITY OF BANDERA CODE OF ORDINANCES CHAPTER 3 BUILDING REGULATIONS ARTICLE 3.09 ENTITLED "SIGNS"; PROVIDING A REPEALING SECTION; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Bandera (City) has previously adopted an ordinance to provide uniform, content neutral sign standards and regulations in order to ensure public safety and efficient communication and promote a positive city image reflecting order, harmony, and pride, thereby strengthening the economic stability of the city's business, cultural, historical, and residential areas; and,

WHEREAS, the originally adopted ordinance provided that a person could apply for a special use permit to install a changeable electronic variable message (CEVMS); a sign which permits light to be turned on or off intermittently or which is operated in a way whereby light is turned on or off intermittently, including any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use, including an LED (light emitting diode) or digital sign, and which varies in intensity or color; and,

WHEREAS, a special use permit requires the City Council to determine that the proposed use at the specified location is consistent with the goals, objectives and policies contained in the City's Comprehensive Land Use Plan, as may be adopted and amended; the proposed use is consistent with the general purpose and intent of the applicable zoning district regulations; the proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and, as required by the particular circumstances, includes improvements or modifications either on-site or within the public rights-of-way to mitigate development-related adverse impacts; and that the proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity; and,

WHEREAS, since the adoption of the sign ordinance allowing CVEMS by Special Use Permit, the City has updated its Comprehensive Plan and Zoning regulations; and,

WHEREAS, the City Council has determined that allowing CVEMS within the City is no longer inconsistent with the Comprehensive Plan and the stated intent of the community to "Keep Bandera, Bandera", and they should be allowed within the sign ordinance as a permitted sign in certain place types; and,

WHEREAS, the City Council hereby finds it to be in the best interest of the citizens of Bandera to amend the City Code to permit CVEMS.

NOW THEREFORE: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BANDERA, TEXAS:

SECTION 1. AMENDMENT.

This Ordinance amends Chapter 3 Building Regulations, Article 3.09, Signs of the City of Bandera Code of Ordinances as set forth in the attached Exhibit A

SECTION 2. RELATION TO OTHER ORDINANCES.

This ordinance shall not be construed to require or allow any act which is prohibited by any other ordinance.

SECTION 3. EFFECTIVE DATE.

This ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

SECTION 4. SAVINGS CLAUSE.

The repeal or amendment of any ordinance or part of ordinances effectuated by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue or as affecting any rights of the City of Bandera under any section or provisions of any ordinances in effect at the time of passage of this ordinance.

SECTION 5. CUMULATIVE.

The provisions of this ordinance shall be cumulative of all ordinances not repealed by this ordinance and ordinances governing or regulating the same subject matter as that covered herein. This ordinance shall not be construed to require or allow any act which is prohibited by any other ordinance.

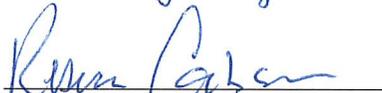
SECTION 6. SEVERABILITY.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance be severable, and, if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared invalid by judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance and the remainder of this ordinance shall be enforced as written.

SECTION 7. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED, this, the 3rd day of January, 2023.



Rebeca Gibson

Mayor
City of Bandera

ATTEST:



Jill Shelton
City Secretary



EXHIBIT A

CHAPTER 3 BUILDING REGULATIONS, ARTICLE 3.09 SIGNS is hereby amended as set forth below.

ARTICLE 3.09 SIGNS

Sec. 3.09.001 Relation to other ordinances

This article shall not be construed to require or allow any act which is prohibited by any other ordinance. This article is specifically subordinate to any ordinance or regulations of the city pertaining to building and construction safety or to pedestrian and traffic safety.

Sec. 3.09.002 Purpose

The purpose of this article is to provide uniform, content neutral sign standards and regulations in order to ensure public safety and efficient communication and promote a positive city image reflecting order, harmony, and pride, thereby strengthening the economic stability of the city's business, cultural, historical, and residential areas, as follows:

- (1) Public safety. To promote the safety of persons and property by ensuring that signs do not:
 - (A) Create a hazard due to collapse, fire, decay, or abandonment;
 - (B) Obstruct firefighting or police surveillance; or
 - (C) Create traffic hazards by confusing, distracting, or obstructing the view of pedestrians or vehicles.
- (2) Efficient communications. To promote the efficient transfer of information in sign messages by ensuring:
 - (A) Those signs which provide public safety messages and information are given priority;
 - (B) Businesses and services may identify themselves;
 - (C) Customers and other persons may locate businesses or services;
 - (D) No person or group is arbitrarily denied the use of sight lines from public rights-of-way for communication purposes;
 - (E) Persons exposed to signs are not overwhelmed by the number of messages presented and are able to exercise freedom of choice to observe or ignore such messages according to the observer's purpose; and
 - (F) The right of free speech exercised through the reasonable use of signs is preserved.
- (3) Landscape quality and preservation. To protect the public welfare and enhance the appearance and economic value of the landscape by ensuring that signs:
 - (A) Do not interfere with scenic views;
 - (B) Do not create a nuisance to persons using public rights-of-way;
 - (C) Do not create a nuisance to occupants of adjacent and contiguous property by their brightness, size, height, or movement;
 - (D) Are not detrimental to land or property values;
 - (E) Do not contribute to visual blight or clutter; and

(F) Are architecturally compatible and harmonious with the structure to which they pertain and to neighboring structures.

Sec. 3.09.003 Compliance

No person may construct, reconstruct, place, install, relocate, alter, or use a sign after the effective date of this article unless such installation, construction, reconstruction, placement, relocation, alteration, or use meets all the provisions of this article and all other applicable ordinances adopted by the city council.

Sec. 3.09.004 Area of jurisdiction

The provisions of this article shall apply within the city limits and ETJ of the city as defined by state law.

Sec. 3.09.005 Definitions

Words and phrases used in this article shall have the meanings set forth in this section. Other words and phrases shall be given their common ordinary meaning unless the context clearly requires otherwise. Headings and captions are for reference purposes only and shall not be used in the interpretation of this article. In the event of conflicting regulations or definitions thereupon, the stricter definition or regulation shall apply.

Abandoned/obsolete sign. A sign that advertises a product, service, or business no longer available or in operation or not being maintained for a certain period of time as hereinafter described in this article.

A-frame. An A-framed style sign, which is typically but not necessarily foldable or collapsible and meant to be easily moved.

Area.

(1) The entire sign surface within a single contiguous perimeter, excluding support structures. A sign structure with two faces back to back, oriented in opposite directions and separated by not more than three feet, with the same copy on both sides, shall be counted as a single sign.

(2) In cases where a sign is composed only of letters, figures, or other characters, the dimensions used to compute the area are the smallest simple imaginary figure (circle, triangle, rectangle, or other) which fully contains the sign content.

Auxiliary sign. Any sign attached to the building or canopy indicating general information, such as pricing, trading stamps, credit cards, official notices or services required by law, or trade associations, or giving directions to offices, restrooms, exits, and like facilities.

Awning. A structure hung from the surface of a building, designed to provide protection from sun, rain, wind and other weather conditions or to provide decoration to the building facade. An awning is typically composed of canvas, fabric or other similar lightweight material supported by a metal or wood frame.

Awning sign. A sign that is painted or applied directly on an awning.

Banner. Any sign intended to be hung either with or without frames, possessing colors, characters, letters, illustrations, or ornamentation applied to paper, plastic, fabric, or netting of any kind, supported by wire, rope, webbing, or similar means or through the grommets of the sign.

Beacon. Includes any light with a beam directed into the atmosphere or directed at a point which is not on the same property as the light source, or a light with one or more beams that move.

Billboard. All commercial signs containing at least two hundred square feet face area and owned by a person, corporation or other entity that engages in the business of selling the advertising space on the sign.

Changeable copy sign. [A sign] or part of a sign, on which content can be changed or rearranged without altering the face or surface of the sign, including but not limited to a theater marquee or a gasoline price sign.

City. The City of Bandera, Bandera County, Texas, an incorporated municipality, and its associated ETJ.

Code enforcement officer (CEO). The city administrator or person designated by the city administrator to enforce city codes and this article.

Commercial complex. Any property such as a shopping center, office park, or industrial park, which consists of two or more establishments on a single platted lot, or which is designed, developed, and managed as a unit.

Decorative/vintage sign. Any sign in the residential districts that expresses distinctive characteristics or aesthetics of an earlier period and provide character to property and is often only a visual reminder of long-forgotten businesses and modes of commercial advertising.

Digital/dynamic signage. Signs that use either a LCD or plasma screen or LED boards or other emerging display type that allows for display of digital content and images.

EMC signs. Electronic message center signs utilizing variable electronic technology and systems used in electronic displays.

Flag/patriotic. National, state, church, or school flags, or any other flag that constitutes protected noncommercial free speech. A fabric sheet attached at one end to a pole, cable, or rope.

Flashing sign. Message boards that are electronically controlled by intermittent light impulses or alternating panels consisting of letters, words, or numerals that can either change sequentially or travel across the display area. Other than time and temperature signs, emergency signs, school zone signs, or other governmental signs.

Freestanding sign. Any sign not attached to or part of a building. Including, but not limited to, monument signs and self-supported signs.

Height/ground clearance. The distance from ground level to the bottom of the sign structure, exclusive of structural supports. The ground level is the lower of:

- (1) The existing grade prior to construction of the sign; or
- (2) The newly established grade after construction, unless the curb elevation at the street in front of the sign is higher than the established ground level, in which case the height shall be measured from curb level.

Height/maximum. The distance from ground level to the top of the sign structure. The ground level is the lower of:

- (1) The existing grade prior to construction of the sign; or
- (2) The newly established grade after construction, unless the curb elevation at the street in front of the sign is higher than the established ground level, in which case the height shall be measured from curb level.

Historic sign. A sign that is an integral part of the historical character of a landmark building, historic district, or that signifies a historically significant person, place or event in the history of Bandera or Bandera County. To be qualifying, the sign must be representative of events or dates equal to or greater than fifty years in the past and be used for decorative purposes only.

Illuminated sign. Any sign illuminated in any manner by an artificial light source of any kind, either detached from the sign or a part thereof. Signs that are only incidentally and indirectly illuminated as a result of a lighting plan primarily designed as security lighting or landscape lighting are not

illuminated signs.

LED signs. Light emitting diode signs utilizing light emitting semiconductor diodes that emit light when conducting current and used in electronic displays and outdoor lighting.

Monument sign. A sign which is mounted on a base at least as wide as the sign. The opening between the base and the sign must be no greater than two inches.

Mural. A large picture/image (including but not limited to painted art) which is painted, constructed, or affixed directly onto a vertical building wall, which may or may not contain text, logos, and/or symbols.

Nonconforming sign. Signs which have been installed prior to the effective date of this article, are in use as of the effective date of this article, and which do not conform to this article.

Pennant. A pennant is any lightweight plastic, fabric, or other material, whether or not containing a message letters, illustrations, or characters, tapering to a point or swallow tail, suspended from a rope, wire or string, usually in series, and designed to move in the wind and which is not permanently affixed to a sign support.

Portable changeable copy sign. A transportable sign, whether on attached wheels or otherwise, of durable construction, skids, legs, or framing, including trailers and searchlights, the principal intent of which is for advertising or promotional purposes, and which is not designed nor intended to be permanently affixed to a building, other structure, or the ground. A portable sign that only has its wheels removed shall be considered a portable sign.

Poster size enclosure sign. A metal or plastic frame with or without glass or Plexiglas and which can be secured or locked (not to exceed three feet in length, four feet in height, and five inches in depth (3' x 4' x 5")), and is affixed to the outside of a building, which permits an individual to insert a paper advertisement into the enclosure for outside display and regularly change out the paper display. It is the intent of the city council for such poster size enclosure signs to be similar to the enclosures typically and traditionally used to display movie posters outside of movie theaters.

Premises. A lot or tract within the city or its ETJ, and contiguous tracts in the same ownership, which are not divided by any public highway, street, alley, or right-of-way.

Residential area. Any property within the city limits which is zoned for residential use. Any un-zoned property within the city limits, or any property within the city's ETJ, which is vacant, in any form of agricultural use, on which a residence is the principal use, and any portion within 200 feet of any such property.

Responsible party. The owner of the property upon which the sign is located, the lessor of the property, and/or the owner of the sign.

Sail, teardrop, feather, or bow banner. A self-supported wing, feather, blade, cone, or rectangular shaped flag mounted on a flexible pole.

Seasonal decorations. Various displays including lighting which are a nonpermanent installation celebrating national, state, and local holidays, religious or cultural holidays, or other holiday seasons.

Sign. Any medium for visual communication or its structure used or intended to attract the attention of the public.

Sign, changeable electronic variable message (CEVMS). A sign which permits light to be turned on or off intermittently or which is operated in a way whereby light is turned on or off intermittently, including any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use, including an LED (light emitting diode) or digital sign, and which varies in intensity or color. A CEVMS sign does not include a sign located within the right-of-way that functions as a traffic-control device and that is described and identified in the manual on

uniform traffic-control devices (MUTCD) approved by the federal highway administrator as the national standard.

Sign code application area. The corporate limits of the city and the area of its extraterritorial jurisdiction as defined by Tex. Loc. Govt. Code section 42.021.

Single commercial building. A structure containing a single commercial establishment, office, business, school, church, nonprofit organization, charity, or government agency.

Snipe sign. A sign tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences, public benches, streetlights, or other objects, or placed on any public property or in the public right-of-way or on any private property without the permission of the property owner.

Stadium/arena/sports complex signage. Signs within a stadium, open-air theater, or arena which are designed primarily to be viewed by patrons within such structure or complex.

Street banner. A banner suspended above a right-of-way.

Temporary sign. Not permanent; signs meant to be exhibited on a limited basis as outlined in this article.

Trailer sign. A permanent or temporary sign affixed to a trailer. The primary purpose of said display is to attract the attention of the public to the subject matter advertised on the sign rather than to serve the customary identification purpose of said trailer.

Variance. Written approval to depart from the strict application of the provisions of this article.

Vehicular sign. A permanent or temporary sign affixed to a vehicle. The primary purpose of said display is to attract the attention of the public to the subject matter advertised on the sign rather than to serve the customary identification purpose of said vehicle.

Wall sign. A sign attached to and extending not more than twelve (12) inches from the wall of a building. This definition includes painted, individual letters, and cabinet signs.

Sec. 3.09.006 Enforcement

(a) Generally. The city shall have the power to administer and enforce the provisions of this article as may be required by governing law. Any person violating any provision of this article is subject to suit for injunctive relief as well as prosecution for criminal violations.

(b) Criminal prosecution: penalty. Any person violating any provision of this article shall, upon conviction, be fined a sum not exceeding \$500.00, except that the fine for a violation that relates to fire safety, zoning, or public health and sanitation may not exceed \$2,000.00. Each day that a provision of this article is violated shall constitute a separate offense. An offense under this article is a class C misdemeanor.

(c) Civil remedies. Nothing in this article shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this article and to seek remedies as allowed by law, including but not limited to the following:

(1) Injunctive relief to prevent specific conduct that violates this article or to require specific conduct that is necessary for compliance with this article;

(2) A civil penalty up to \$250.00 a day, except that a fine for a violation that relates to fire safety, zoning, or public health and sanitation may not exceed \$1,000.00, when it is shown that the defendant was actually notified of the provisions of this article and after receiving notice committed acts in violation of this article or failed to take action necessary for compliance with this article; and

(3) Any and all other available relief allowed by law.

(d) Removal of sign.

(1) In addition to remedies otherwise provided in this article, whenever the city has evidence of a sign which after the effective date of this article was constructed, reconstructed, placed, installed, repaired, maintained, relocated, altered, or used in violation hereof, or is otherwise in violation hereof, the city council or the code enforcement officer shall require the party responsible for such sign to remove it. If the responsible party fails to remove the sign within 72 hours after being notified to do so or if it appears to the city council or the code enforcement officer that the sign poses an immediate danger to the public, then such sign may be removed by the city and the city's actual cost of removal shall be charged to the responsible party. Any sign so removed shall be impounded and shall not be returned to the party responsible until all applicable charges are paid. If any sign remains unclaimed for a period of more than thirty (30) days, the city may destroy, sell, or otherwise dispose of the sign.

(2) The city shall have the authority to immediately remove and dispose of signs deemed in violation of this article, if such signs are placed on or attached to trees, utility poles, or pedestals, or located on any public land or public right-of-way. The city may enforce this section without notice and without returning the removed signs to the responsible party.

Sec. 3.09.007 Variances

(a) Application; fee.

(1) Any person, business, or other organization desiring to continue to construct, reconstruct, place, install, relocate, alter, or use any sign which does not conform to the provisions of this article may make application to the city council for a variance to the provisions of this article. The application will be reviewed at the next regularly scheduled city council meeting. The application shall be filed with the code enforcement officer, accompanied by the appropriate fee established by city council, and conform to all requirements established in [section 3.09.009](#) of this article relating to sign permit applications.

(2) The fee shall be as established and adopted by the city council and on file with the city secretary and shall not be refundable.

(b) Request for variance after permit denial. Within ten (10) days after denial of a sign permit by the code enforcement officer or the city council, an applicant may file a written request for a variance with the city council.

(c) Time limit for action by board. Unless an extension or postponement is sought by the applicant, the city council must consider and take action on the written request for a variance within forty-five (45) days of receipt of the filing of the appeal.

(d) Standards for approval. The city may approve a variance only if it makes affirmative findings, reflected in the minutes of the city council's proceedings, as to all of the following:

- (1) The variance will not authorize a type of sign which is specifically prohibited by this article;
- (2) The variance is not contrary to the public interest;
- (3) The spirit and purpose of this article will be observed and substantial justice will be done; and
- (6) The applicant has not sought a variance from the city council within the past twelve (12) months.

(e) Conditions. The city council may impose such conditions or requirements in a variance as are necessary in the council's judgment to achieve the fundamental purposes of this article. A violation of such conditions or requirements shall constitute a violation of this article. A variance, if granted, shall be for a specific event, use, or other application of a business and shall not continue with the property. If a variance is granted and the sign so authorized is not substantially under construction within three (3) months of the date of approval of the variance, the variance shall lapse and become of no force or effect.

Sec. 3.09.008 Exemptions for certain types of signs

The following are exempt from regulation under this article:

- (1) Any sign attached to a window or door of a building.
- (2) Commemorative plaques and historical markers mounted on the face of a building or erected on a site as a freestanding monument sign when placed or approved by a governmental entity, historical society, religious organization, or other nonprofit entity to commemorate a person, event, or other matter of historical interest.
- (3) Any sign installed or required to be installed by any governmental entity or public utility to give information, directions, or warnings to the general public, regardless of the sign's location on public or private property.
- (4) Historic signs.
- (5) Signs within a stadium, open-air theater, or arena which are designed primarily to be viewed by patrons within such structure or complex.
- (6) Seasonal decorations.
- (7) Decorative/vintage signs, in residential districts only.

Sec. 3.09.009 Permit required; issuance; fee

(a) Permit required; fee.

- (1) Except as otherwise provided in this article, no person may construct, reconstruct, place, install, or relocate any sign without first obtaining a sign permit from the city. Changing of the complete sign message, alterations to the sign, or major repairs (replacement of more than twenty (20) percent of the original sign) shall not be considered normal maintenance and will require a permit. Each application for a sign permit must be accompanied by the appropriate fee established by the city.
- (2) The permit fee for signs shall be as established and adopted by the city council and on file with the city secretary and shall not be refundable.
- (3) No permit will be issued for a proposed sign that will cause the aggregate of all signs on the property to exceed the square footage allowed for in this article.

(b) Expiration. Properly issued permits shall expire as provided by law.

(c) Application.

(1) A person proposing to erect or display a sign shall file an application for permit with the city secretary. The application must be made on a form provided by the city and shall contain and have attached to it the following information:

- (A) Name, address and telephone number of the applicant;
- (B) Name, address, telephone number, and firm of the person erecting the sign;
- (C) If the applicant is not the owner of real property where the sign is proposed to be erected, written consent of and name, address, and telephone number of the property owner and a copy of the executed lease agreement;
- (D) Location of the building, structure, address, or legal lot and block to which or upon which the sign is to be attached or erected;
- (E) A site plan indicating position, height, and size of the proposed sign and other existing advertising structures on the property in relation to nearby buildings or structures, north arrow and scale of drawing, property lines, curblines, adjacent streets, alleys, curb cuts, and setback clearance zone;
- (F) Specifications for the construction and display of the sign;

(G) Copy of stress diagrams or plans, when needed, containing information as to safety and structural integrity of the sign. The city assumes no liability for safety and structural integrity of any sign;

(H) Statement indicating whether the sign will require electricity. If so, the sign must comply with the International Electrical Code or any successor code as may be adopted and amended by the city;

(I) Copy of the permit approved by the state department of transportation, the state transportation commission, the county or successor agencies, if state law requires a state permit;

(J) Date on which the sign is to be erected or displayed;

(K) Any variance or special use permit that will be requested; and

(L) Such other information as the city requests to show full compliance with this article and all other standards of the city.

(2) The city is not required to act upon a permit application until it is deemed by the city to be administratively complete.

(d) Approval or denial; appeals.

(1) The code enforcement officer shall promptly review an administratively complete application upon receipt and upon payment of applicable fees by the applicant. The code enforcement officer shall grant or deny an administratively complete permit application within forty-five (45) days after the date that the application was administratively complete, including the payment of all fees. The code enforcement officer shall examine the application, plans, and specifications and may inspect the premises upon which the proposed sign shall be erected, as needed. The code enforcement officer shall issue a permit if the proposed sign complies with the requirements of this article and all other regulations of the city, to include building, electrical, or other similar codes adopted by the city. If the code enforcement officer denies a permit, the code enforcement officer shall state the reasons for the denial in writing and shall mail a certified letter or hand deliver to the applicant stating the reasons for the denial.

(2) Any applicant whose permit application is denied by the code enforcement officer may appeal the denial to the city council. Such an appeal must be filed, in writing, with the city secretary, within ten (10) days after receipt of the denial. The city council shall review the denial and determine if the code enforcement officer incorrectly concluded the proposed sign did not comply with the requirements of this article and all other regulations of the city. If the code enforcement officer fails to grant or deny any application by the forty-fifth day after the application is administratively complete, the applicant may appeal the refusal to grant or deny the application to the city council as if it were a denial.

(e) Modifications. After a sign permit has been issued by the code enforcement officer or at the direction of the city council, it shall be unlawful to change, modify, alter or otherwise deviate from the terms and conditions of the permit without prior written approval by the code enforcement officer or the city council.

Sec. 3.09.010 Exemptions from permit requirement

The following are exempt from the requirement to obtain a permit, provided that they comply with all other provisions of this article and other ordinances of the city. Signs shall be allowed without a permit as follows:

(1) General provisions. Temporary residential signs are exempt from the requirement to obtain a permit, provided that they comply with all other provisions of this and other ordinances of the city. Signs shall be allowed without a permit as follows:

(A) A person exercising the right to place temporary residential signs on a property as described in

this must limit the number of signs on the property at any one time to 12.

(B) Unless otherwise stated, the sign face of any exempt temporary residential sign, must not exceed six (6) square feet.

Sec. 3.09.011 General regulations

(a) Historic signs. Historic signs existing prior to the effective date of this article that are part of the unique architectural, historic, or scenic characteristics of the building, that enhance its visual character, and that are compatible with the building shall be allowed to remain in place after the effective date of this article.

(b) Prohibited locations and other restrictions. This section shall apply to all signs located within the city limits or the city's ETJ, with the exception of those referenced in [section 3.09.008](#). No sign or part of a sign shall:

(1) Be placed on or attached to any utility pole or pedestal, except by a utility company owning the pole or pedestal or operating facilities mounted on the pole or pedestal;

(2) Be placed upon real property without the consent of the property owner;

(3) Be located in, on, or over any right-of-way, except for directional or informational signs erected by government agencies. Any such sign, other than informational signs erected by government agencies, shall constitute a nuisance;

(4) Be located so that it blocks vehicle or pedestrian views and/or safe sight distances at any intersection, curve, or corner. This includes signs located on private property. Any such sign shall constitute a nuisance;

(5) Imitate or resemble an official traffic-control device or railroad sign or signal, attempt to direct the movement of traffic, or hide from view or hinder the effectiveness of an official traffic-control device or railroad sign or signal. Any such sign shall constitute a nuisance;

(6) Be placed closer than ten (10) feet to the edge of a road surface. Exception: Monument signs that are placed in the center of a divided roadway as an island or pole mounted signs administratively determined to be safer in a proposed location even when said location is closer than ten (10) feet to the edge of the road surface;

(7) Have unreasonably bright flashing lights or other distracting features. This does not include signs with slowly changing messages such as time or temperature;

(8) Be located so that it is on, or in any way obstructs, any sidewalk, walkway, or pathway used by the public for normal pedestrian access. Any such sign shall constitute a nuisance; or

(9) Be located closer than 10 feet to any power line. Any such sign shall constitute a nuisance.

(c) Required signage. The following signs are an important component of measures necessary to protect the public safety and serve the compelling governmental interest of protecting traffic safety, serving the requirements of emergency response and protecting property rights or the rights of persons on property and are therefore authorized under [section 3.09.015](#) in every district and do not count against a property's maximum signage square footage:

(1) Traffic control devices on private or public property and directional signs, including but not limited to, signs depicting one-way traffic, entrances, and exits, which are not greater than ten (10) square feet per sign that are erected and maintained to comply with the manual on uniform traffic-control devices adopted in this state.

(2) Each property owner must mark their property using numerals that identify the address of the property so that public safety departments can easily identify the address from the public street. Where required under this code or other law the identification must be on the curb, if such exists, and may be

on the principal building on the property. The size and location of the identifying numerals and letters if any must be proportional to the size of the building and the distance from the street to the building and in no case larger than three square feet. In cases where the building is not located within view of the public street, the identifier must be located on the mailbox or other suitable device such that it is visible from the street.

(3) Where a federal, state or local law requires a property owner to post a sign on the owner's property to warn of a danger or to prohibit access to the property either generally or specifically, the owner must comply with the federal, state or local law to exercise that authority by posting a sign on the property.

(d) Flags. A flag that has been adopted by the federal government, state or a local government or school district may be displayed as provided under the law that adopts or regulates its use.

(e) Lessor rights. For purposes of this article the lessor of a property is considered the property owner as to the property the lessor holds a right to use exclusive of others (or the sole right to occupy). If there are multiple lessors of a property, then each lessor must have the same rights and duties as the property owner as to the property the lessor leases and has the sole right to occupy and the size of the property must be deemed to be the property that the lessor has the sole right to occupy under the lease.

Sec. 3.09.012 Size, number and design

When determining whether to issue a permit, the following regulations apply:

(1) Signs on property in other than residential areas.

(A) Single commercial building.

(i) Signs on the facade and each side of a building shall not exceed forty-eight (48) square feet, unless they are certified by a state registered professional engineer as being able to withstand a wind pressure load of at least thirty (30) pounds per square foot and support the weight of the sign.

(ii) One freestanding sign per premises may be permitted that does not exceed fifty (50) square feet in area. The maximum height of such a sign shall not exceed fifteen (15) feet. If the commercial establishment borders two (2) or more streets then an additional freestanding sign will be permitted on the secondary street.

(iii) One additional freestanding sign not to exceed fifty (50) square feet in area may be permitted for premises with frontages of one hundred and forty (140) feet or more.

(iv) A premises that displays a monument sign may increase its size to one hundred (100) square feet.

(v) A maximum of two poster size enclosure signs may be permitted on a single commercial building.

(vi) Additional signs may be installed if a commercial establishment chooses to reduce the square footage of the other onsite signage so that the total onsite square foot area of all signage does not exceed that authorized by this section.

(B) Commercial complex.

(i) Signs on the facade or on the side of a building identifying the complex may not exceed forty-eight (48) square feet, unless they are certified by a state registered professional engineer as being able to withstand a wind pressure load of at least thirty (30) pounds per square foot and support the weight of the sign.

(ii) Signs on the facade or on the side of a building identifying a business within a commercial complex may not exceed forty-eight (48) square feet.

(iii) One freestanding sign per premises may be permitted that does not exceed one hundred twenty-

eight (128) square feet in area. The maximum height of such a sign shall not exceed fifteen (15) feet. If the commercial establishment borders two (2) or more streets then an additional freestanding sign will be permitted on the secondary street.

(iv) If the structure of a freestanding sign contains or supports more than one (1) sign, then each sign shall be of the same construction.

(v) One additional freestanding sign not to exceed seventy-five (75) square feet in area may be permitted for premises with frontages of one hundred and forty (140) feet or more.

(vi) A premises that displays a monument sign may increase its size to one hundred fifty (150) square feet.

(C) Awning signs.

(i) A sign that is painted or applied directly on an awning.

(ii) An awning sign is not defined as a projecting sign, canopy sign, or a wall sign.

(iii) Awning signs are permitted to the extent provided hereinbelow:

a. An awning shall have a minimum clearance of eight feet above any sidewalk/pedestrian travel surface, and 14 feet above any vehicular parking or circulation surface.

b. In cases where a sign applied to an awning, or a portion of a sign applied to an awning, is composed only of letters, figures, or other characters standing against the surface of an awning, then the sign face area is the area of the smallest simple imaginary figure (circle, triangle, rectangle, or other) which fully contains the sign content.

c. Maximum size/area. Not to exceed 75 percent of the awning's vertical surface area; the copy/artwork on an awning sign shall not exceed the area and size that are allowed for a wall sign on the wall upon which it is attached, and the total combined area of wall signs and awning signs on any wall surface shall not exceed the area and size allowed for a single wall sign.

d. One-half (1/2) of the area of an awning sign shall be counted toward the limit on the total area of wall signs on the wall to which the awning is attached.

e. Consistency. The sign shall be consistent with the character and intent for the city as described in the city's comprehensive plan.

(D) Temporary inflatable signs. Business-related inflatable signs with a volume no greater than twenty-seven (27) cubic feet may be permitted but may not be displayed for more than fourteen (14) days in succession and must be removed no more than three (3) days following any event to which they relate. Such signs may not be placed on any site more than two (2) times within a twelve (12) month period.

(E) Temporary banner signs.

(i) Banners must be kept in good repair throughout the time of their display;

(ii) No more than one banner may be displayed at any one time at an establishment;

(iii) Banners may not exceed eighteen (18) square feet in area;

(iv) Banners may not be displayed for more than fourteen (14) days in succession and must be removed no more than three (3) days following any event to which they relate. Such banners may not be placed on any site more than five (5) times within a twelve (12) month period;

(v) On-premises banners that announce the location or relocation of newly located or relocated businesses are permitted. The banner may be exhibited during a period of no more than forty-five (45) days commencing at the time that the temporary banner permit is issued. Such banners may not exceed eighteen (18) square feet in area; and

(vi) Banners for commercial purposes may not face a residential area.

(F) New business temporary signs. Temporary signs constructed of wood, metal, or other solid material type announcing the locating or relocating of a newly located or relocated business are permitted. The sign shall not exceed forty-eight (48) square feet in area nor be more than eight (8) feet high. The sign shall not be illuminated or have any moving elements. The sign shall be exhibited during a period of no more than twelve (12) months commencing at the time the temporary sign permit is issued. The sign must be removed within (3) days upon the installation of the permanent sign.

(G) Sign, changeable electronic variable message, digital/dynamic signage, EMC's, (collectively herein CEVMS).

(i) One (1) CEVMS is permitted per site or multi-tenant complex and shall only be allowed as part of a permanent freestanding or wall sign.

(ii) The CEVMS portion of a freestanding sign may be no higher than twelve (12) feet above existing ground level.

(iii) The CEVMS portion of a sign may not exceed twenty-four (24) square feet in area.

(iv) CEVMS must be set at least ten (10) feet from all property lines.

(v) CEVMS portion of a sign will have its area calculated at a rate two (2) times that of other signs.

(vi) No temporary sign is allowed on a site or multi-tenant complex if a CEVMS is utilized that is capable of displaying more than twelve (12) characters at one time or more than five (5) characters in a row. Double-faced electronic changeable copy signs shall be allowed up to twelve characters on each sign face.

(vii) CEVMS must be permanently mounted to the ground or a structure.

(viii) To be permitted under this section, a CEVMS must meet the following standards:

a. The sign may not be illuminated by a flashing light or a light that varies in intensity.

b. The sign may not have a display surface that creates the appearance of movement.

c. The sign must not operate at an intensity level of more than 0.3 footcandles over ambient light as measured at a distance of 150 feet.

d. The sign must be equipped with a light sensor that automatically adjusts the intensity of the sign according to the amount of ambient light.

e. The sign must be designed to either freeze the display in one static position, display a full black screen or turn off in the event of a malfunction.

f. The change from one message to another message may not be more frequent than once every thirty seconds and the actual change process must be accomplished in two seconds or less.

g. The sign must be fully compliant with the city outdoor lighting regulations, if any.

h. Located on property within the P5 place type that does not face or abut property within a P3 place type, and within the Outpost or Gateway Districts as identified on the Master Plan and Zoning Map

(H) Murals.

(i) A permit must be obtained for a mural, and the application must include a detailed rendering of the proposed mural including content, colors, and type of paint/material, and a plan for maintenance after completion.

(ii) A mural must be compatible with the architectural and aesthetic components of the building, not detract from the character of the district in which it is located, and not be detrimental to the public health, safety, and welfare.

Sec. 3.09.013 Prohibited signs

The following signs are prohibited within the city or its ETJ:

(1) Abandoned/obsolete signs.

(A) A sign that advertises a product, service, or business no longer available or in operation or not being maintained for a period of one (1) year after the cessation of a product, service, or business at said location (or, in the case of leased premises, two (2) years after the most recent tenant ceases to operate on the premises) shall be presumed abandoned.

(B) If a sign is determined to be abandoned and/or obsolete under this article by the code enforcement officer, sign(s) shall be removed by the owner/lessor of the property. The city may agree with the owner/lessor of the sign(s) or sign structure to remove only a portion of the sign(s) or sign structure.

(2) Beacons.

(3) Billboards.

(4) Flashing signs.

(5) Portable changeable copy signs.

(6) Satellite dishes. Any type of satellite dish whose primary use is for advertising, rather than to serve the customary purpose.

(7) Trailer signs.

(8) Vehicular signs. When the vehicle is used with the intent to substitute a stationary sign instead of to be used as vehicle or when a sign is erected in the bed of a truck or on the roof of a vehicle and intended to advertise a business, person, or event. Vehicle signs which are either painted onto the body of the vehicle for advertising purposes or are affixed to the vehicle by magnetic means for advertising purposes are permitted.

(9) Snipe signs.

(10) Temporary sail, teardrop, feather or bow banner signs.

(11) Pennants.

(12) Obscene or pornographic signs that exhibit statements, words, or pictures as determined by the city council in applying city community standards. As used herein, city community standards means: whether to the average person, applying contemporary community standards, the dominant theme of the material, taken as a whole, appeals to the prurient interest.

(13) Other signs:

(A) Painted on any roof surface or installed so that it faces contiguous residential property;

(B) That are placed upon a building or structure in a manner which would disfigure, damage, or conceal any significant architectural feature or detail of the building;

(C) That are brighter than necessary to permit the sign to be read from a reasonable distance. No sign shall be illuminated to such intensity or in such a manner as to cause glare or brightness to a degree that it constitutes a traffic hazard;

(D) That are hung with less than 7-1/2 feet of vertical clearance above the sidewalk, or less than eighteen (18) feet of vertical clearance above the street, drive, or parking area (this applies to any part of a sign, including mounting fixtures and supporting structures, which is mounted above or projects over any sidewalk, street, drive, or parking area, whether on public or private land);

(E) Any other signs not specifically authorized under this article.

Sec. 3.09.014 Maintenance; nuisances

(a) Sign maintenance. All signs must be maintained in a structurally safe condition and in good repair at all times. No permit shall be required for the normal maintenance of any existing sign or repainting of the original sign message, provided that the area of the sign is not enlarged, the height of the sign is not increased, the location of the sign is not changed, and the content of the sign does not materially change. Changing of the complete sign message, alterations to the sign, or major repairs (replacement of more than twenty (20) percent of the sign to the original condition) shall not be considered normal maintenance and will require a permit. All signs shall be kept neatly painted or otherwise maintained, including all metal parts and supports thereof that are not galvanized or of rust-resistant material. The code enforcement officer shall inspect and have authority to order the painting, repair, alteration, or removal of a sign that constitutes a nuisance or a hazard to safety, health, or public welfare by reason of inadequate maintenance, dilapidation, or obsolescence. Changing of the sign message (limited to signs originally designed with removable letters) is limited to changing messages without changing the sign or its components and is considered to be normal maintenance.

(b) Maintenance of area around sign. The area around the sign shall be kept clean at all times by cutting vegetation around the sign and the supporting structure.

(c) Nuisances.

(1) A sign shall constitute a nuisance if it causes injury or threatens to injure the public health, peace, or comfort or is a nuisance per se under the law and is declared to be a nuisance by the code enforcement officer pursuant to this article. The code enforcement officer shall notify, by certified mail or hand delivery, the responsible party of any sign that constitutes a nuisance in order to allow the responsible party the opportunity to cure such nuisance. The responsible party shall cure such nuisance by repair or remove the sign or may seek an appeal of the nuisance determination to the city council within ten (10) days of receipt of the notice. Any appeal must be filed, in writing, and received by the city secretary no later than the tenth (10th) day after receipt of the notice of nuisance.

(2) If the responsible party chooses not to take the instructed action or institute an appeal, the city may remove the sign, to the extent necessary to abate the nuisance. The city may charge to the responsible party all costs associated with the sign's removal.

(3) The city may not remove any sign declared to be a nuisance if an appeal of the nuisance determination is pending. If the city council does not issue a ruling within thirty (30) days after a written appeal is filed with the city secretary, the code enforcement officer's determination of a nuisance shall be deemed affirmed. Any determination that a sign does not constitute a nuisance does not prejudice the city, foreclose or prevent a later determination a sign is a nuisance.

(d) Imminent hazards. Any sign which in the judgment of the city council or the code enforcement officer has become an imminent hazard to public health and safety shall be removed by the responsible party without delay. Notice of the existence of the hazard shall specify the maximum time which may be allowed for repairs or removal and the notice may be served upon the responsible party by any means available. A sign which constitutes an imminent hazard and is not repaired or removed within the time specified in the notice may be removed by the city. The city may charge to the responsible party all costs associated with the sign's removal.

(e) Removal and impound fees; disposal of impounded signs. The cost of removal and an impound fee as established in appendix A [sic] to this code for the storage of any removed sign shall be charged to the responsible party. If a sign has been removed by the city and the sign remains unclaimed for a period of thirty (30) days, the city may destroy, sell, or otherwise dispose of the sign.

Sec. 3.09.015 Nonconforming signs

(a) Transfer to new owner or other location. Nonconforming signs are not transferable to a new owner and may not be transferred to another location within the city municipal limits or ETJ without such signs first being brought into full compliance with all requirements of this article, including

obtaining a properly authorized permit.

(b) Removal of destroyed or deteriorated signs. A nonconforming sign shall be considered destroyed if the cost of repairing the sign, after a part of it has been destroyed or deteriorated, is more than 60 percent of the cost of erecting a new sign of the same type at the same location. It shall be the responsibility of the responsible party to supply the city with a quote from a reputable sign company that shows the replacement value and the cost to restore the sign to full compliance upon request by the city council or the code enforcement officer within fifteen (15) days of said request. If the sign is determined to be destroyed by the city council or the code enforcement officer, it must be removed by the responsible party without compensation by the city within ten (10) days of the determination. A replacement sign must fully comply with this article and shall require a permit to be obtained from the city at the set fee.

(c) Continuation of use. All nonconforming signs existing prior to the effective date of this article shall be allowed to remain in place without the requirement of a permit provided that they otherwise comply with the twenty (20) percent repair standard, this section 3.09.015 (nonconforming signs), and with:

- (1) Section 3.09.011 (general regulations); and
- (2) Section 3.09.014 (sign maintenance and nuisances).

(d) Temporary signs. Nonconforming signs existing prior to the effective date of this article that are of a type that are limited to a specified time period for use in this article must abide by those specified time periods beginning with the effective date of this article.