

ORDINANCE NO. 11-1988

AN ORDINANCE AMENDING CHAPTER 23, "PLANNING AND COMMUNITY DEVELOPMENT", SUBPART C, "SIGNS AND BILLBOARDS", OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW: PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY AND CALLING A PUBLIC HEARING.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 23, Subpart C, "Signs and Billboards", of the Abilene Municipal Code be amended as set out in Exhibit "A", attached hereto and made a part of this ordinance for all purposes.

PART 2: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PASSED ON FIRST READING this 25 day of February,
A.D. 19 88.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 7 day of March, 19 88, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance shall become effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING this 10 day of March
 , A.D. 19 88.

ATTEST:

Patricia Hancock
CITY SECRETARY

Dale Ferguson
MAYOR

APPROVED:

Harry Cangel 00026
CITY ATTORNEY

CHAPTER 23

Subpart C. Signs and Billboards - 23-126--23-250

ARTICLE I. IN GENERAL

SECTION 23-126 Goals

In order to assure continuity and effectiveness in the regulation of signs, the City of Abilene has adopted the following goals to be attained by these regulations:

- (A) Sign regulation in the City of Abilene will recognize and appreciate the value of advertising and signage to a successful business climate.
- (B) Sign regulation in Abilene will address contemporary and future needs of Abilene by responding to:
 - 1. Public Safety
 - 2. New Patterns of Growth
 - 3. More Flexible Zoning and Land Use Practices
 - 4. The Quality of the Visual Environment
- (C) Sign regulation in Abilene will be understandable to the public in order to encourage maximum voluntary compliance.
- (D) Sign regulation in Abilene will be simplified to the greatest extent possible so as to improve enforcement and compliance.

SECTION 23-127 General Statement of Purpose

It is the purpose of this ordinance to further those goals of the City of Abilene set forth in Section 23-126 and to provide uniform sign standards which promote a positive city image reflecting order, harmony, and pride, thereby strengthening the economic stability of Abilene's business, cultural, and residential areas. Objectives to be pursued in applying specific standards are as follows:

- (A) To identify individual business, residential, and public uses without creating confusion, unsightliness or visual obscurity of adjacent uses;
- (B) To assure that the size, scale, height, and location of all signs are directly related to the size and character of the sites upon which the signs are located; and,

SECTION 23-127 (C) To assure that all signs, sign supports, and sign bases shall be so constructed and designed to provide for safety.

SECTION 23-128 Definitions

(A) The following definitions shall apply in the interpretation and the enforcement of this Article. In the event a word or term is not defined in this Article but is defined in Article 23 of this Chapter, the definition set forth in Article 23 shall be deemed controlling. In the event of conflict between the definition of a word or term set forth in this Article and the definition of the same word or term set forth in Article III of this Chapter, the definition set forth in this Article shall be deemed controlling as to the interpretation and enforcement of this Article.

- (1) Advertising. To seek the attraction of or to direct the attention of the public to any goods, services, or merchandise whatsoever.
- (2) Area. The area shall be considered to be the entire area within any geometric figure, including, but not limited to, all elements of the matter displayed but not including blank masking, frames, or structured elements outside the sign bearing no advertising or graphic matter.
- (3) Business entity. Any person, corporation or group of persons associated for the common purpose of engaging in a commercial or mercantile activity legally permissible under federal, state, and local laws.
- (4) Commercial vehicle. Any vehicle which is used on a regular basis during working hours to transport persons, goods, or services for the purpose of engaging in business activities.
- (5) Crown of street. The highest point of grade elevation of a cross section of a street, usually at a point approximately on the center line of a street.
- (6) Development site. A parcel or abutting parcels of land that have definite boundaries, which is improved or that is to be improved as a single unit of use.
- (7) Height. Height shall be considered to be the vertical distance between the highest part of the sign or its supporting structure, whichever is higher, and that point on the crown of the street

which is nearest to the point on the sign which is used to establish the setback of the sign, as setback is hereinafter defined. For signs located 200 feet or further from a street, height shall be considered to be the vertical distance between the highest part of the sign or its supporting structure, whichever is higher, and the highest adjacent grade. Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the structural support of the sign.

- (8) Mansard roof. A roof having two slopes on all sides, with the lower slope steeper than the upper slope.
- (9) Primary use or service. A use or service that is the principal activity on a site.
- (10) Secondary use or service. A use or service that is subordinate and incidental to and serves a principal use or service.
- (11) Setback. A line parallel to, and the required distance from, the lot frontage adjacent to any street abutting the lot or tract in question, or a line parallel to and the required distance from any lot abutting the side of the lot or tract in question. For purposes of determining the requirements of this section, no portion of any sign or its support shall project or extend beyond the required setback line.
- (12) Sign. Any words, numbers, figures, devices, designs, trademarks, or other symbols, which attract attention to or make known such things as an individual, firm, profession, business, commodity, or service, and which are visible from any public street. This definition of "sign" shall include any structure designed to be used for said display.
- (13) Sign, abandoned. Any sign not in compliance with all regulations which no longer correctly directs or exhorts any person or advertises a bona fide business lessor, owner, product, service, or activity and the owner of the sign cannot be located.
- (14) Sign appendage. A subordinate or accessory sign or object attached to a primary sign.
- (15) Sign, construction. A temporary, non-portable, on-site sign indicating the names of architects, engineers, builders, contractors, or craftsmen involved in the design and construction of a project.

- (16) Signs, church or institutional. Any structure, device, display board, screen, surface, or wall with characters, letters or illustrations placed thereon, by any method or means, showing names, activities and services provided by a church or other public services non-profit institution; such sign shall be located on property occupied by such church or non-profit institution. Portable signs are not considered church or institutional signs.
- (17) Sign, damaged. Any sign which has become hazardous and requires the replacement of broken or damaged glass or other materials, or the straightening of any sign support or other portion of the sign when the sign structure is leaning to such a degree as to be in danger of falling or collapse. A sign shall be considered damaged whenever the cost of repairing such damage is equal to or greater than 50% of the cost, excluding sign supports, of erecting a new sign of the same type at the same location.
- (18) Sign, electrical. Any illuminated sign or sign utilizing any electrical devices.
- (19) Sign, freestanding. Any sign permanently affixed to the ground and which is not affixed to a building and which is not used for off-premises advertising.
- (20) Sign, freestanding (monument). A sign with a display surface that is an integral part of the support structure, which in turn is affixed or permanently fixed in the ground, as contrasted to any other freestanding sign that has separate support or supports attached to the display surface. For the purposes of interpretation in this Article, "freestanding signs" shall include monument signs but "freestanding monument signs" shall not include other types of freestanding signs.
- (21) Sign, garage sale. Any sign for sale of twenty (20) or more items of used personal property from a residence, including "patio sales," "porch sales" and "driveway sales," "yard sales," and similar terminology.
- (22) Sign, government. Any sign indicating public works projects, public services or other programs or activities conducted or required by any governmental subdivision.
- (23) Sign, instructional (private). A permanent, on-site sign used to provide warning, identification, information, or directions such as traffic signs, parking signs, and loading area signs.

- (24) Sign, moving message. Any sign which has automatically changing advertising or which has any moving message.
- (25) Sign, multi-party. Any sign which is used or intended to be used for advertising purposes by more than one business entity located on the development site.
- (26) Sign, off-site advertising or billboard. A sign which advertises or directs attention to commodities, services, entertainment, business, or activities offered off the premises where the sign is located. This category includes the conventional painted bulletin or poster panel.
- (27) Sign, on-site business and/or identification. A sign directing attention to or presenting commodities, services, or activities conducted, sold or offered on the premises where the sign is located, and may include name of the establishment or business offering such commodities, services or activities. An on-site sign which does not advertise commodities or services, but calls attention to name and/or address of the business located on the premises is included within this category.
- (28) Sign, political or non-commercial. A sign erected on private property by or with approval of the property owner solely for the purpose of advocating certain political candidates; or for a specific identifiable date or certain election; or propositions. This definition shall not apply to portable signs.
- (29) Sign, portable. A sign which is not designed or manufactured to be permanently anchored or affixed to the ground, building or other structure, but rather is designed or primarily used as a sign which is movable from place to place and which includes but is not limited to signs affixed to a trailer or other portable structure and "A" frame or sandwich signs.
- (30) Sign, non-portable. A sign designed or manufactured to be anchored or affixed to the ground, buildings or other structures in a manner restricting easy movement from place to place. Non-portable signs do not include portable signs which have had wheels removed or have been modified in such a way as to be anchored to the ground or other structures by means of chains, cables, stakes, or similar devices unless such modifications will prohibit removal of the sign and reinstallation at another location.

Non-portable signs may, however, include signs utilizing posts, poles, beams, and similar structural components that may be affixed to the ground in a temporary fashion. Non-portable signs may also include signs utilizing braces, hangers, wall anchors and similar structural components that may be affixed to buildings or other structures in a temporary fashion. In either case, non-portable signs will conform to the Uniform Building Code.

- (31) Sign, realty. A sign located on real property that is for rent, lease or sale, said sign being for the purpose of advertising the rent, lease or sale of said property.
- (32) Sign, special development temporary. A temporary, non-portable on-site sign indicating the name of a project or subdivision under development, including the name and address of the project developer, contractors and builders involved in the construction of the development.
- (33) Sign, structural. A non-portable sign other than wall signs.
- (34) Sign, temporary. Any sign which is displayed, as permitted under the terms and provisions of this Article, for a limited period of time for the purposes of sales promotion or providing information concerning an event or activity occurring upon the property where the sign is displayed, which sign shall be removed promptly upon the conclusion of any such sale, event or activity.
- (35) Sign, wall. Any sign affixed flat against and parallel to a building wall. For the purpose of this definition, wall shall include window areas.
- (36) Visibility triangle. A triangle formed by a diagonal line extending through two points on the two curb lines or edge of pavement line thirty feet (30') from the street corner intersection.

SECTION 23-129 General Provisions

- (A) All signs, other than address identification signs, shall pertain to the identification of the primary uses, by name of the occupant or business, and/or primary services provided or primary products sold on the premises. All other signs may be considered off-site advertising (or billboards) signs, other noncommercial, and private instructional signs as hereinafter provided.

- (B) Where applicable, a sign shall, at the time the sign is permitted, meet all requirements of Chapter 8 of the Code of Ordinances of the City of Abilene and any other applicable requirement of said Code.
- (C) All signs, including those painted on the walls of buildings, shall be permanently maintained in a safe condition. All braces, bolts, clips, supporting frames and fastening shall be free from deterioration, termite infestation, rot or loosening. All signs shall further be maintained in compliance with any additional requirements for signs as are specified in Chapter 8 of the Code of Ordinances of the City of Abilene and any other applicable requirements of said Code.
- (D) No sign in any zoning district shall project into the public right-of-way of any street or alley except in the Central Business district. In a Central Business district, no sign shall extend outward from any building face into the public right-of-way for a distance of more than within two feet (2') of the street curb, nor shall be erected so as to overhang a sidewalk or public right-of-way at a height of less than eight feet (8').
- (1) Exception: Waiting benches and other items providing a public service having advertising affixed to them shall be considered signs and allowed in the public right-of-way, subject to the approval of the City Council, to include issuance of a street use license, and all other conditions deemed appropriate to ensure the public safety.
- (E) Every business location shall be adequately identified by a street address, i.e. street numbers and/or street name, which is clearly visible from the street adjacent to the front entrance of such business. However, the area of a sign which is erected for the sole purpose of providing such street address identification shall not be subtracted from or count against the total allowable sign area requirements for the several districts as hereinafter specified in this Article. Further, such street address identification may be incorporated into any sign permitted under the terms and provisions of this Article so long as such street address identification does not increase the maximum allowable sign area of any sign by more than ten percent (10%). The incorporation of such street address identification shall not change the height or setback requirements from the maximums or minimums allowable for such sign prior to incorporation thereof.

- SECTION 23-129 (F) All lighting shall be so shielded as to prevent intensive light or glare on adjacent property and roadways.
- (G) Fees and charges for services provided by the City (permit fees, hauling and storage fees) shall be determined from time to time and placed on file in the office of the City Secretary.

SECTION 23-130
THROUGH
SECTION 23-145 RESERVED

ARTICLE II. Permits

SECTION 23-146 Permits Required

Except as provided in Section 23-147, a permit shall be obtained from the City of Abilene for a proposed sign.

(A) Structural Signs

For purposes of design of structural members on signs, the current Uniform Building Code of the City of Abilene shall be utilized.

(B) Electrical Signs

All illuminated signs or signs utilizing any electrical devices shall require an electrical permit and shall be wired in accordance with the Electrical Code of the City of Abilene.

(C) Permit to Enlarge, Alter, Repair, Etc.

No sign shall be altered, rebuilt, enlarged, extended, replaced or relocated, nor shall sign faces be renewed or neon tubing be rearranged when the values of such work exceeds 50% of the cost of erecting a new sign of the same type at the same location, except upon the issuance of a permit, and all work done under such permit shall be in conformity with the requirements of this Chapter.

The changing of movable parts of signs which are designed for changing, or the repainting of display matter or the repairing of damaged neon tubing while a sign is in place shall not be deemed to be alterations for the purpose of this Section.

SECTION 23-147 Signs Exempted from Permit Requirements

- (A) No permit shall be required to erect any of the signs set forth in this section:
- (1) Signs indicating only the name and/or address of the occupants of residential units;
 - (2) Non-illuminated signs located on private property that are no greater than six (6) square feet in area;
 - (3) Non-illuminated signs pertaining to construction on residential property upon which the signs are located, as permitted under Article III of this Article;
 - (4) Non-illuminated political signs located on private property in residential zones or on private property in commercial/office zones, for the purpose of advocating certain political candidates, or for a specific, identifiable date or certain election, or propositions. This provision shall not apply to portable signs.

No person shall place any political sign on any telegraph, telephone or electric light pole located on any street, alley, sidewalk,, or park or parkway within the City. Furthermore, political signs in any residential area shall not:

- (a) be placed or erected within any public right-of-way
 - (b) exceed a size of six (6) square feet;
 - (c) be posted or erected more than forty-five (45) days prior to the election to which they pertain or be allowed to remain posted or erected more than fourteen (14) days subsequent to such election.
- (5) Non-illuminated temporary business promotional signs placed in or on windows of structures in commercial/office use, except as provided in Article IV Special Regulations for Portable Signs;
 - (6) Non-illuminated community service signs placed in or on windows of structures in commercial/office use.

SECTION 23-148 Prohibited Signs

The following signs shall be prohibited in all zoning districts:

- SECTION 23-148
- (A) Signs or posters of miscellaneous character, not otherwise regulated, which are tacked, painted, pasted or otherwise affixed to trees, poles, posts, fences or other structures in rights-of-way or easements;
 - (B) Banners, pennants, searchlights, twirling signs or any other advertising sign of a similar nature, located upon the sidewalk, curb or right-of-way.
 - (C) Flags, banners, or pennants which obstruct the view of traffic.
 - (D) Any signs which resemble official traffic-control signs, signals or devices, which bear the words, "Stop," "Go Slow," "Caution," "Danger," "Warning," or similar words;
 - (E) Signs which, by reason of their size, location, content, coloring, manner of illumination, or devices causing motion or movement may be confused with or construed as traffic-control signs, signals or devices, or the lights of an emergency or road equipment vehicle, or which hide from view any traffic-control or street signs, signals or devices; or any sign which may, in the opinion of the Director of Traffic and Transportation, create or cause a hazard.
 - (F) Any sign or advertising device attached to or located on any vehicle or trailer parked on a public right-of-way or public property for the basic purpose of direction, advertising, etc.
 - (F) 1. Exception: This subsection shall not be construed so as to prohibit typical vehicular signage such as is lettered on a commercial vehicle;
 - (G) Any sign which emits audible sound, odor, or visible matter.

SECTION 23-149 Bonding

(A) Performance Guarantee

No permit for the installation, erection, and/or maintenance of signs shall be issued to any person or entity until a performance guarantee has been filed with the City of Abilene to guarantee performance under Chapter 23 of the Code of the City of Abilene.

SECTION 23-149

Said guarantee shall be in the form of a bond issued by a corporate surety, licensed to do business in the State of Texas, or an individual bond, or any other acceptable financial guarantee (such as a letter of credit or cashiers check) shall be approved by the City Manager or his designee and be in the sum of Three Thousand dollars (\$3,000).

Said guarantee shall insure that permittee shall install, erect, repair, and/or demolish signs in accordance with the provisions of this and all other applicable ordinances of the City of Abilene, in a good and workmanlike manner and in accordance with the prevailing standards of the trade. Upon final approval of sign installation, erection, repair and/or demolition, permittee shall be released from the obligation of the performance guarantee.

(A) 1. Exception: Wall signs shall be exempted from bonding requirements.

SECTION 23-150
THROUGH
SECTION 23-160 RESERVED

ARTICLE III. LOCATION STANDARDS

SECTION 23-161 Area, Height, Placement and Number

- (A) All non-portable signs not specifically exempted from permits (by the terms of Section 23-147) shall be permitted only for the purposes identified herein this Section 23-161 and within the limitations prescribed by this Section 23-161.
- (B) Area shall be considered to be the entire area within any geometric figure, including, but not limited to, all elements of the matter displayed, but not including blank masking, frames, or structured elements outside the sign bearing no advertising or graphic matter.
- (C) Height shall be considered to be the vertical distance between the highest part of the sign or its supporting structure, whichever is higher, and that point on the crown of the street which is nearest to the point on the sign which is used to establish the setback of the sign, as setback is herein defined. For signs located 200 feet or further from a street,

height shall be considered to be the vertical distance between the highest part of the sign or its supporting structure, whichever is higher, and the highest adjacent grade. Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the structural support of the sign.

(D) Setback shall be considered to mean a line parallel to, and the required distance from, the lot frontage adjacent to any street abutting the lot or tract in question, or a line parallel to and the required distance from any lot abutting the side of the lot or tract in question. For purposes of determining the requirements of this section, no portion of any sign or its support shall project or extend beyond the required setback line.

(E) Visibility triangle shall be considered to mean a triangle formed by a diagonal line extending through two points on the two curb lines or edge of pavement line thirty feet (30') from the street corner intersection. No sign or supporting structure shall be placed within the visibility triangle unless there is a minimum height of eight feet (8') from the ground to the lowest point on the sign or structure projecting over the triangle. In no instance, however, shall such projections extend or project beyond the required setbacks.

(F) Footnotes

(1) No off-site advertising signs shall be permitted less than 135 feet from a lot in a Residential Single-Family or RM-3 district.

No off-site advertising signs shall be permitted less than 400 feet from a lot in a Residential Single-Family or RM-3 district when adjacent to Interstate or Primary systems.

In A0 zoning districts, off-site advertising signs may be permitted upon issuance of a Special Exception by the Zoning Board of Adjustment after a public hearing. In determining the suitability of a site for placement of an off-site advertising sign, the Board shall consider the proximity of the proposed location to existing or proposed residential uses as may be indicated on the zoning map of the City of Abilene or any land use plans that have been approved by either the Planning and Zoning Commission or the City Council. Setbacks for off-site advertising signs on Interstate/Primary roads shall be established by the State of Texas.

SECTION 23-161

- (2) The minimum separation shall be measured from signs on the same side of the street.
- (3) Freestanding institutional signs (identifying churches and other public service non-profit institutions) located within residential districts are permitted to be up to 80 square feet in area and up to 25 feet in height. Such institutions are permitted only one freestanding sign per street front. In addition, such institutions shall be permitted one wall sign (for identification purposes) per street frontage so long as such sign exceeds no more than 100 square feet in area. A permit from the City shall be required for installation of all signs identifying churches and other institutions within residential districts. Except as otherwise stated above, all other requirements for identification signs in residential districts shall be applicable to those identifying churches and other institutions.
- (4) Front setback shall be a minimum of ten feet (10') from back of curb or edge of pavement where there is no curb, provided, however, that no sign shall project into the public right-of-way of any street or alley except in the Central Business district as provided in Section 23-129 (D), "General Provisions."

Side setbacks shall be ten feet (10') from any side abutting a lot or tract in an AO, RS, RM, MH, or CU district. In all other cases there shall be no side setback.

- (5) Freestanding signs shall have a minimum grade clearance of 8 feet. Freestanding monument signs shall not exceed a height of 42 inches.

Exception: Freestanding signs (including monument signs) setback a minimum 25 feet from all street-side property boundaries do not need a minimum grade clearance of 8 feet. A sign so located may also exceed the 42 inch height limitation, but shall not exceed the maximum area or height of signs allowed.

SECTION 23-162
THROUGH
SECTION 23-170 RESERVED

ARTICLE IV. PORTABLE SIGNS

SECTION 23-171 Special Regulations for Portable Signs

- (A) Portable signs are prohibited in residential areas, including multi-family and mobile home developments. Prior to the use or placement of any portable sign, a permit must be obtained pursuant to the following terms and conditions. Permits for portable signs may be issued to persons other than sign contractors and no bonds are required.
- (1) A portable sign permit may be issued for shopping centers, commercial, retail, or office developments; however, only one portable sign per business location is allowed.
 - (2) Portable signs shall be located no closer than ten feet (10') to the street and a greater distance if necessary to be located off of the right-of-way. In no case shall the portable sign be located within the public right-of-way. Further, said signs shall not be located in the area described as the intersection visibility triangle area.
 - (3) No portable sign shall be placed so as to project into the public right-of-way of any street or alley.
 - (4) Portable signs shall permanently display on the sign in easily readable form the name, address, city, zip code and telephone number of the owner of said sign.
 - (5) Portable signs may be internally or indirectly lighted. Any accessory lighting, if present, surrounding the message display area, shall contain only lamps not to exceed 60 watts. All portable signs utilizing electrical power shall be wired in accordance with the City of Abilene's electrical code. Electrical outlets serving the sign must be located entirely beneath the frame of the sign and must be equipped with a ground-fault interrupter device.
 - (6) Unsafe signs listed in Section (B) shall not be eligible for a permit.
 - (7) A permit shall be obtained for each portable sign.
 - (8) If required, each portable sign shall satisfy any permit requirements in the Building Code and Electrical Code.

- (9) Church and school facilities located in residential areas shall be allowed one portable sign for not more than six (6) non-consecutive two (2) week periods during any calendar year, regardless of street frontage. This provision shall not exempt the requirements for permitting described herein.

For purposes of this section, residential areas shall be defined as all single family, multi-family and mobile home zoning districts.

- (10) Portable signs shall be allowed in residential multi-family districts, for purposes other than church or school identification as provided for above, subject to a Special Exception being granted by the Board of Adjustment. As with any Special Exception request, the Board of Adjustment may attach any conditions to its approval deemed necessary to protect the public health, safety, and welfare.

(B) Unsafe Signs Prohibited

It is hereby expressly declared that the following signs are in fact unsafe signs causing immediate danger, and it shall be the duty of the owner of the sign, the lessee of the sign, the owner of the property on which the sign is located, and the owner and manager of any business advertised on the sign to immediately remove the sign, or correct the unsafe conditions, and the refusal to do so will constitute a violation of this ordinance.

- (1) Any portable sign erected, placed, used, altered, or maintained in the public right-of-way.
- (2) Any portable sign or sign-supporting structure which is located within the area defined as the intersection visibility triangle.
- (3) Any portable sign which becomes insecure, in danger of falling or otherwise unsafe, or any portable sign which is erected or maintained in violation of the provisions of the Building Code or Electrical Code.
- (4) Any portable sign located nearer than ten feet (10') from the street.
- (5) Any portable sign which is located or constructed so as to interfere with or confuse the control of traffic on the public streets.

- (6) Any portable signs which resemble an official traffic sign or signal or which bear the words "Stop," "Go Slow," "Caution," "Danger," "Warning," or similar words are prohibited.

(C) Impoundment.

- (1) The owner or occupant of any property upon which there is located a sign in violation of this ordinance or the owner or lessee of any portable sign, or the owner and manager of any business advertised on a portable sign which is in violation of this ordinance as herein defined shall be given written notice by the City Manager or his designee stating the nature of the violation and ordering that the violation be corrected or removed from said property within seventy-two (72) hours.
- (2) If the owner, lessor, lessee, or the representative of the lessor or the owner and manager of any business advertised on a portable sign fails to remove such sign within seventy-two (72) hours of written notification, or by publication if the address is unknown, the portable sign may be removed by the City at the expense of the sign owner or the person erecting, leasing, using, or maintaining it.
- (3) Any portable sign so removed from public or private property shall be stored or impounded by the City until all applicable charges have been paid, or until sixty (60) days have passed.
- (4) If any sign remains unclaimed for a period of sixty (60) days after its removal, or if the removal and storage costs are not paid within such sixty (60) days period, the City may sell or otherwise dispose of the sign. In calculating the length of the storage period and the storage fee, the first working day after the date of the impoundment shall be considered day number one; thereafter, all days including weekends and holidays shall be counted.
- (5) The City Manager or his designee may enter upon private property which is accessible to the public for the purposes specified in this ordinance to examine signs or their location, obtain information as to the ownership of signs and to remove or cause the removal of a sign declared to be a nuisance pursuant to this ordinance.

SECTION 23-171 (D) Appeal Procedures.

Appeals of the provisions of this section shall be in accordance with the procedures set forth in Section 23-184.

(E) Applicability.

The provisions of this ordinance shall be applicable to all portable signs in the City of Abilene and non-conforming status or rights will not be granted to existing portable signs.

SECTION 23-172
THROUGH
SECTION 23-180 RESERVED

ARTICLE V. ENFORCEMENT

SECTION 23-181 Enforcement Responsibility

The City Manager of the City of Abilene shall designate a member of the City's staff who shall have the responsibility for enforcement of the provisions of this Article. References herein made to the performance of certain functions by the City shall be deemed references to performance by the City Manager's designee. The duties of such designee shall include not only the issuance of permits as required by this Article but also the responsibility of ensuring that all signs conform with this Article and with any other applicable laws, requirements and regulations of this Code of Ordinances or of the City of Abilene and that all signs for which permits are required do in fact have permits. The City Manager or his designee shall have the authority to adopt regulations and procedures not inconsistent with the terms of this Chapter, necessary to implement the provisions of this Article.

SECTION 23-182 Violations.

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use or maintain any sign or structure in the City, or cause or

SECTION 23-182 permit the same to be done, contrary to or in violation of any of the provisions of this Article. The regulations of this Article are not intended to permit any violation of the provisions of any other lawful ordinance or regulation of the City.

SECTION 23-183 Stop Orders, Revocation of Permit; Repair or Removal Required.

The City of Abilene shall have the power to issue stop orders, to require the repair or removal of certain signs and/or to revoke sign permits, as provided in this Section. In so doing, the City shall comply with all procedural requirements specified in this Section for the giving of notice, the issuance of orders, the removal of signs and storage and/or sale thereof by the City, and the conduct of hearings on permit revocations.

(A) Stop orders. If the City shall determine that work on any sign is being performed without a permit or in a dangerous or unsafe manner, upon written notice and issuance of a stop order by the City, such work shall be immediately stopped. Such notice shall be given to the owner of the property or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed. However, where an emergency exists, written notice shall not be required.

Following the issuance of a stop order, the City shall initiate proceedings to revoke any permit issued for the work covered by such stop order unless the cause of the stop order is resolved to the City's satisfaction.

(B) Revocation of permit. The City shall have, and is hereby granted, the power and authority to revoke any and all permits authorized by this Code for violation of the terms and provisions of this Code, subject to the procedural requirements of this Code for notice and hearing. Permits may be revoked if they were issued in error or as a result of misinformation or misinterpretation of the facts associated with their issuance.

(C) Repair or removal required. The City is authorized to require the repair or removal of signs within the City under the following conditions. Should the responsible party or parties fail or refuse, after due notice, to bring a sign into conformity with this Code or to remove the same, the City is authorized to remove said sign and to store and dispose of the same in accordance with the

procedural requirements of this Code of Ordinances. The City shall also file against the property a lien in the amount of the cost of all such work.

1. Signs erected without permit. In the event any sign shall be erected within the City without a permit, when such sign shall require a permit, the City is authorized to remove said sign and to store and dispose of the same in accordance with the procedural requirements of this Code of Ordinances.
- (D) All abandoned signs shall be removed within forty-five (45) days from the date of notification, if such sign is proven to be a hazard. The City Manager or his designee shall have the authority to grant a time extension not exceeding an additional 15 days during which period an abandoned sign must be removed.
- (E) All damaged signs shall be repaired or removed within forty-five (45) days from the date of notification, if such sign is proven to be a hazard. The City Manager or his designee shall have the authority to grant a time extension not exceeding an additional fifteen (15) days during which period a damaged sign must be repaired or removed.

A sign shall be considered damaged whenever the cost of repairing such damage is equal to or greater than 50% of the cost, excluding sign supports, of erecting a new sign of the same type at the same location.
- (F) A legally nonconforming sign that has been blown down or otherwise destroyed or dismantled for any purpose may be re-erected to its original condition, size, and location.
- (G) Any sign which in the opinion of the City Manager or his designee clearly presents an immediate hazard to the public must be removed or repaired upon notice to the owner of the sign, the lessee of the sign, the owner of the property on which the sign is located, or the owner and manager of any business advertised on the sign to immediately remove the sign or correct the unsafe condition.
- (H) Signs not properly maintained. If the City shall determine that any sign is not being maintained as required by the terms and provisions of this Code, the City shall give written notice to the owner or lessee thereof to so maintain the sign or to remove the sign.
- (I) Unlawful signs. Should any sign be installed, erected, constructed or maintained in violation of any of the terms of this Code, the City shall give written

SECTION 23-183

notice to the owner, lessee or person responsible for said sign, ordering that the sign be altered so as to comply with this Code or to remove the sign.

1. If a sign is determined to have been erected, installed, or constructed in violation of the regulations applicable at the time of its erection, installation, or construction, the City shall give written notice to the owner, lessee, or person responsible for said sign ordering that the sign be altered so as to comply with this code or to remove the sign.

SECTION 23-184 Appeals, Interpretations, Variances

(A) Except as provided herein this Section, the Zoning Board of Adjustment is authorized to hear and decide appeals, provide interpretation, and grant variances subject to the rules and procedures for the Zoning Board of Adjustment as set forth in 23-356.2., "Administration," of the Zoning Ordinance of the City of Abilene, Texas, provided however:

- (1) The Board of Adjustment may not grant a variance to the terms of this ordinance the effect of which would allow erection or placement of any sign prohibited by Section 23-148, "Prohibited Signs."
- (2) The Board of Adjustment may not grant a variance to the terms of this ordinance the effect of which would allow placement of any sign in any district where such sign is prohibited in that district.
- (3) The Board of Adjustment may not grant a variance which will allow any sign erected in violation of any previous ordinance in effect at the time of the sign's erection to violate the terms of this ordinance.
- (4) The Board of Adjustment may not waive any requirement for any permit, bond, or inspection required under the terms of this ordinance.
- (5) The Board of Adjustment shall not hear any appeal, interpretation, or variance from the provisions of the Building Code of the City of Abilene as they apply to the construction of any sign. In instances where such questions arise, it shall be the responsibility of the Board of

Building Standards of the City of Abilene to hear and decide those questions in accordance with its rules and procedures.

- (6) The Board of Adjustment shall not hear any appeal, interpretation, or variance from the provisions of the Electrical Code of the City of Abilene as they apply to any electrical aspects of any sign. In instances where such questions arise, it shall be the responsibility of the Board of Electrical Examiners of the City of Abilene to hear and decide those questions in accordance with its rules and procedures.
- (B) Any person who is required to remove or modify a portable sign as a result of Article IV, "Special Regulations for Portable Signs," may, within a seventy-two (72) hour period after service of notice is given, request in writing a hearing to determine whether he or she is in violation of this ordinance. If such hearing is requested, it will be held at the next regularly scheduled meeting of the Zoning Board of Adjustment subject to meeting the requirements of the Open Meetings Act and appropriate notice provisions.
- (1) If the Board of Adjustment, after considering the evidence, decides that the sign in question is in fact in violation, then, the sign shall be removed or brought into compliance within seventy-two (72) hours from the time the Board's decision is rendered.
- (2) This section shall not in any way negate the right of the City to immediately remove any portable sign creating a real and immediate danger to life or property.

SECTION 23-185 Penalties and Violations

Violations of provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with approval of variances) shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined in accordance with Section 1-9 "General Penalties" of this code. Each day such violation continues shall be considered a separate offense.

The owner or occupant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits,

SECTION 23-185 participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

It is further the intent and declared purpose of this Ordinance that no offense committed, and no liability, penalty, or forfeiture, either civil or criminal, incurred prior to the time that the existing Ordinance was repealed and such Ordinance adopted shall be discharged or affected by such repeal, but prosecutions and suits for such offenses, liabilities, penalties, or forfeitures may be instituted, and causes presently in process may be prosecuted in all respects as if such prior Ordinance had not been repealed.

SECTION 23-186
THROUGH
SECTION 23-250 RESERVED

-END-