

**ORDINANCE NO. 65-2018**

**AN ORDINANCE REPEALING CHAPTER 23, "PLANNING AND COMMUNITY DEVELOPMENT," SUBPART C, "SIGNS AND BILLBOARDS," OF THE CODE OF THE CITY OF ABILENE, AND AMENDING CHAPTER 4, "SITE DEVELOPMENT REGULATIONS," ARTICLE 2, "DEVELOPMENT STANDARDS," DIVISION 8, "SIGN REGULATIONS," OF THE LAND DEVELOPMENT CODE, PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.**

**WHEREAS**, the United States Supreme Court has ruled in *Reed v. Town of Gilbert* that a local government's regulation of signs and billboards is severally restricted when the regulation is "content-based"; and

**WHEREAS**, in order to comply with the ruling by the U.S. Supreme Court, amendments to the City sign ordinance is required; and

**WHEREAS**, Chapter 216, Local Government Code, governs the ability of a city to regulate the relocation, reconstruction or removal of signs; and

**WHEREAS**, the Local Government Code provides that if the owner of a sign is required to relocate, reconstruct, or remove any sign, the owner is entitled to be compensated by the city for associated costs, unless the city requires the removal of an on-premise sign or sign structure not sooner than the first anniversary of the date the owner ceases to operate on the premises on which the sign is located; and

**WHEREAS**, the Local Government Code provides for the creation of a municipal board of sign control, which has the duty to determine the amount of compensation due to an owner of a sign that is required to be relocated, reconstructed or removed; and

**WHEREAS**, the Local Government Code provides that the compensation provisions do not apply to a sign: (1) that was erected in violation of local ordinances, laws, or regulations applicable at the time of its erection; or (2) is required to be removed because the sign, or a substantial part of it, is blown down or otherwise destroyed or dismantled for any purpose other than maintenance.

**WHEREAS**, the City has determined that the sign ordinance should be amended to comply with the provisions of the Local Government Code pertaining to the relocation, reconstruction or removal of signs; and

**WHEREAS**, the City has determined that the sign ordinance provisions should be removed from the Code of Ordinance and recodified in the Land Development Code.

**NOW, THEREFORE, 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 Code of Ordinances of the City of Abilene, Texas, is hereby repealed as set out in Exhibit A, attached and made a part of this ordinance for all purposes.
- PART 2:** That Chapter 4, Article 2, Division 8, Sign Regulations, of the Land Development Code of the City of Abilene, Texas, is hereby amended as set out in Exhibit B, attached and made a part of this ordinance for all purposes.
- PART 3:** That if the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not effect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.
- PART 4:** That any person, firm, or corporation violating the provisions of this Ordinance shall be deemed to have committed a misdemeanor, and upon conviction thereof shall be fined in accordance with Chapter 1 (Section 1-9) of this Code.

**PASSED ON FIRST READING this 1<sup>st</sup> day of November, 2018.**

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 11<sup>th</sup> day of November, 2018, the same being more than 24 hours prior to a public hearing being held in the Council Chamber of City Hall in Abilene, Texas, at 4:30 p.m. on the 15<sup>th</sup> day of November, 2018, to permit the public to be heard. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its publication the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

**PASSED ON SECOND AND FINAL READING this 15<sup>th</sup> day of November, 2018.**

ATTEST:



CITY SECRETARY



MAYOR



CITY ATTORNEY

**“EXHIBIT A”**

**SUBPART C. RESERVED**

**Sec. 23-126 – 23-300. Reserved.**

## **“EXHIBIT B”**

### **Division 8 Sign Regulations**

#### **Sec. 4.2.8.1 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.

#### **Sec. 4.2.8.2 General statement of purpose.**

It is the purpose of this subpart to further those goals of the City of Abilene set forth in section 4.2.8.1 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 protect the public welfare and enhance the appearance and economic value of the cityscape by requiring signs that do not create a nuisance to contiguous or adjacent occupancies or to persons using the public right-of-way.
- (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
- (c) To assure that all signs, sign supports, and sign bases shall be so constructed and designed to provide for safety.

### **Sec. 4.2.8.3 Definitions.**

The following definitions shall apply in the interpretation and the enforcement of this subpart. In the event a word or term is not defined in this subpart but is defined elsewhere in this Division, the definition set forth in this Division shall be deemed controlling. In the event of conflict between the definition of a word or term set forth in this section and the definition of the same word or term set forth in this Division, the definition set forth in this section shall be deemed controlling as to the interpretation and enforcement of this article.

**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.

**Business entity:** Any person, corporation or group of persons associated for the common purposes of engaging in a commercial or mercantile activity legally permissible under federal, state, and local laws.

**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.

**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.

**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.

**Electronic message sign:** A sign whose informational content can be changed or altered on a fixed display screen composed of electrically illuminated segments, including LED (light emitting diode) signs, television screens, plasma screens, video boards, or other digital signs.

**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 two hundred (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.

**Mansard roof:** A roof having two (2) slopes on all sides, with the lower slope steeper than the upper slope.

**Primary use or service:** A use or service that is the principal activity on a site.

**Secondary use or service:** A use or service that is subordinate and incidental to and serves a principal use or service.

**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.

**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. House numbers are not included within the definition of a sign.

**Sign, damaged:** Any sign which has become deteriorated or damaged and requires reconditioning to restore it to an average, normal state of repair, when such conditioning 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 only be considered damaged whenever the cost of repairing such damage is equal to or greater than sixty (60) percent of the cost, excluding sign supports, of erecting a new sign of the same type at the same location.

**Sign, electrical:** Any illuminated sign or sign utilizing any electrical devices.

**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.

**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 subpart, “freestanding signs” shall include monument signs, but “freestanding monument signs” shall not include other types of freestanding signs.

**Sign, Institutional:** Any freestanding or monument sign near or in close proximity to a main entrance way to a church, non-profit institution, or educational institution.

**Sign, moving message:** Any sign which has automatically changing advertising or which has any moving message.

**Sign, neighborhood entrance:** a monument sign located near or in close proximity to the entrance of a residential neighborhood.

**Sign, off-site advertising or billboard:** A sign displaying advertising copy that pertains to a business, person, organization, activity, event, place, service and/or product not principally located or primarily manufactured or sold on the premises upon which the sign is located. Also referred to as Off-Premise Sign.

Sign, on-site business and/or identification: A sign identifying or advertising a business, person, organization, activity, service, and/or product which is installed and maintained on the same premises as the subject it advertises. Also referred to as an On-Premise Sign.

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.

Sign, nonportable: 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. Nonportable 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. Nonportable signs may, however, include signs utilizing posts, poles, beams, and similar structural components that may be affixed to the ground in a temporary fashion. Nonportable 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, nonportable signs will conform to the Uniform Building Code.

Sign, structural: A nonportable sign other than wall signs.

Sign, temporary: A sign, banner, pennant, valance or other device constructed of cloth, canvas, light fabric, cardboard, wallboard, or other like materials, with or without a frame, and any type of sign that is not permanently attached to the ground, wall or building, and which is intended to be displayed for a short period of time (i.e., changeable; not permanent).

Sign, wall: Any sign affixed flat against and parallel to a building wall. For the purpose of this definition, wall shall include window areas.

Visibility triangle: A triangle formed by a diagonal line extending through two (2) points on the two (2) curb lines or edge of pavement line thirty (30) feet from the street corner intersection.

#### **Sec. 4.2.8.4 General provisions.**

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.

Where applicable, a sign shall, at the time the sign is permitted, meet all requirements of Chapter 8 of this Code of Ordinances and any other applicable requirements of said Code.

Where commercial, advertising or business signs are allowed, then non-commercial speech shall be automatically allowed subject to the same regulation applicable to advertising or business signs.

All signs, including those painted on the walls of buildings, shall be permanently maintained in a safe, structurally sound condition, and in good repair including the replacement of defective parts, painting, repainting, cleaning and other acts required for the maintenance of said sign. All braces, bolts, clips, supporting frames and fastenings 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 other applicable requirements of said Code.

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 (2) feet 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 (8) feet.

(1) Exception: Waiting benches and other items providing a public service have 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.

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 subpart. Further, such street address identification may be incorporated into any sign permitted under the terms and provisions of this subpart so long as such street address identification does not increase the maximum allowable sign area of any sign by more than ten (10) percent. 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.

All lighting shall be so shielded as to prevent intensive light or glare on adjacent property and roadways.

Fees and charges for services provided by the city shall be determined by city council and placed on file in the office of the city secretary.

#### **Sec. 4.2.8.5 Permits required.**

Except as provided in section 4.2.8.6, a permit shall be obtained from the city for a proposed sign.

(a) Structural signs. For purposes of design of structural members on signs, the current Uniform Building Code of the city 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.



(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 sixty (60) percent 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.

(d) Construction time limitations. Construction activities pertaining to permanent off-site signs must commence within thirty (30) days of the date of the sign application permit as filed with the city. Construction will be completed within forty-five (45) days of the above date. Failure to comply with these provisions will result in the revocation of the permit application. In addition, the same applicant may not reapply for another sign permit at the location concerned for a period of six (6) months.

#### **Sec. 4.2.8.6 Signs exempted from permit requirements.**

No permit shall be required to erect any of the signs set forth in this section:

- (1) Non-illuminated signs located on private property that are no greater than six (6) square feet in area;
- (2) Temporary signs;
- (3) Signs in residential zoning;
- (4) Non-illuminated temporary signs placed in or on windows of structures, except as provided in section 4.2.8.10, special regulations for portable signs;

Signs related to an event or occurrence on a specific date must be removed no later than fourteen (14) days subsequent to such event or occurrence.

#### **Sec. 4.2.8.7 Prohibited signs.**

The following signs shall be prohibited in all zoning districts:

- (a) Signs or posters, 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 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 city manager or his or her designee, create or cause a hazard;

(f) Any sign or device attached to or located on any vehicle or trailer parked on a public right-of-way or public property.

(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.

(h) No person shall place any sign on any utility, telephone or electric light pole located on any street, alley sidewalk or park or parkway within the city. Furthermore, 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;

#### **Sec. 4.2.8.8 Bonding.**

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. 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 or her designee and be in the sum of three thousand dollars (\$3,000.00). Said guarantee shall insure that the permittee shall install, erect, repair, and/or demolish signs in accordance with the provisions of this and all other applicable ordinances of the city 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, the permittee shall be released from the obligation of the performance guarantee.

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

#### **Sec. 4.2.8.9 Area, height, placement and number.**

(a) All nonportable signs not specifically exempted from permits (by the terms of 4.2.8.6) shall be permitted only for the purposes identified in this section and within the limitations prescribed by this section.

(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 two hundred (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 (2) points on the two (2) curb lines or edge of pavement line thirty (30) feet 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 (8) feet 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) Sign standards. Signs shall meet the standards delineated in the following table and the following footnotes referenced in the table:

(1) Off-site advertising signs are prohibited within the city limits of the City of Abilene, except as specifically authorized below:

(a) Off-site advertising signs are only permitted within the following zoning districts: General Retail (GR), General Commercial (GC), Heavy Commercial (HC), Light Industrial (LI), Heavy Industrial (HI), and Agricultural-Open Space (AO). Off-site advertising signs are only permitted within the AO district with a special exception granted by the board of adjustment. In determining the suitability of a site within the AO district, 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.

(b) Regulation of Type I signs:

- i. Type I signs are those located along and oriented to a thoroughfare designated as a freeway or expressway in the city's adopted Thoroughfare Plan and are only permitted in the following locations:

Interstate Highway 20;

Loop 322;

US Highway 83.

- ii. Type I signs shall have a maximum area of 672 square feet and a maximum height of 42 feet, 6 inches or such height so that the bottom of the sign face is 8 feet higher than the adjacent main-traveled way, as defined by the Texas Department of Transportation, whichever is higher.

(c) Regulation of Type II signs:

- i. Type II signs are those located along and oriented to a thoroughfare designated as an arterial or collector in the city's adopted Thoroughfare Plan and are only permitted in the following locations:

Ambler Avenue;

Antilley Road;

Barrow Street;

Buffalo Gap Road;

Catclaw Drive;

East Highway 80;

East South 11th Street;

Grape Street;

Industrial Blvd.;

Judge Ely Blvd;

Leggett Drive;

Mockingbird Lane;

North 10th Street;

North 1st Street;

Pine Street;

Pioneer Drive;

Rebecca Lane;

Ridgemont Drive;

Sayles Blvd;

South 14th Street;

South 1st Street;

South 27th Street;

South 7th Street;

Southwest Drive;

Texas Avenue;

Treadaway Blvd/Pine Street (Business 83);

US Highways 83/277;

US Highways 83/84;

Willis Street.

ii. Type II signs shall have a maximum area of 378 square feet and a maximum height of 35 feet.

(2) Spacing and separation of off-site advertising signs shall be based on the following:

(a) Signs shall be separated from other off-site advertising signs on the same side of the street by a minimum distance of 1,500 feet on interstate and primary highways, as designated by the Texas Department of Transportation.

(b) Signs shall be separated from other off-site advertising signs on the same side of the street by a minimum distance of 750 feet when not on an interstate or primary highway.

(c) Signs shall be separated from other off-site advertising signs in any direction by a minimum of 250 feet.

(d) No off-site advertising signs shall be permitted less than 135 feet from a lot in a Residential Single Family (RS), Mobile Home (MH), or Multi Family (MF) district.

(e) No off-site advertising signs shall be permitted less than 400 feet from a lot in a Residential Single Family (RS), Mobile Home (MH), or Multi Family (MF) district when adjacent to roadways designated as interstate or primary.

Sign Classification	Permitted Zoning Districts	Maximum Area	Maximum Height	Minimum Setback Required	Number and/or Spacing Limitations	Illumination Permitted	Motion Permitted	Additional Requirements		
OFFSITE	Type I	GR	672 sq. ft.	42.5 ft. or bottom of sign 8 ft. above primary roadway	10 feet if abutting MD, CU, or AO	1,500 ft. spacing on same side of street	Yes	Yes	Permit Required  (1)	
		GC								
		HC								
		LI				250 ft. radial spacing				
		HI		(1), (5), (6)						
		AO (SE)				(2)				
		(1)								
		Type II	GR	378 sq. ft.	35 ft.	10 feet if abutting MD, CU, or AO	750 ft. spacing on same side of street, except 1,500 ft. on interstate or primary	Yes	Yes	Permit Required  (1)
			GC		(1), (5), (6)					
			HC							
			LI							
			HI							
		AO (SE)				250 ft. radial spacing				
		(1)				(2)				

O N S I T E	AO	700 sq. ft.	35 ft. (5), (6)	10 ft. from propert y line	One per business or activity	Yes	Yes	Permit Require d
	MU O	36 sq. ft.	12 ft	10 ft. from propert y line	One per business or activity	Yes	Yes	Permit Require d
	<u>GR</u> CB GC HC LI HI	300 sq. ft. (no limitatio n for wall signs)	50 ft, except in CB (no restrictio ns) (5), (6)	(4)	One freestandi ng sign per business per street frontage	Yes	Yes	Permit Require d
	MF, MD, MH CU	20 sq. ft. (3)	10 ft. (3)	10 feet from propert y line	One per business or activity per street frontage	Yes	Yes	Permit Require d
	RS, RR, PH, TH	6 sq. ft. (3)	(3)	(4)	One per premises (3)	No (3)	No (3)	

Footnotes:

(1) No off-site advertising signs shall be permitted less than one hundred thirty-five (135) feet from a lot in a residential single-family or MF district.

No off-site advertising signs shall be permitted less than four hundred (400) feet from a lot in a residential single-family or MF district when adjacent to interstate or primary road systems.

In AO zoning districts, off-site advertising signs may be permitted upon issuance of special exemption by the 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.

(2) The minimum separation shall be measured from signs on the same side of the street.

(3) Signs on developing property shall be signs on property under current construction or property that is being promoted in advance of sale and development.

Institutional signs and neighborhood entrance signs located within residential districts are permitted to be up to 80 square feet in area and up to 25 feet in height. In addition, only one wall sign is permitted per street frontage so long as such sign exceeds no more than 100 square feet in area. Such signs shall be permitted to be illuminated and may be an electronic message sign.

(4) Front setback shall be a minimum of ten (10) feet 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 2.3.3.7.

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

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

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

#### **Sec. 4.2.8.10 Special regulations for portable signs.**

(a) Permits. 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 (1) portable sign per business location is allowed.

(2) Portable signs shall be located no closer than ten (10) feet 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 designated as the intersection visibility 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 sixty (60) watts incandescent or equivalent lumens. 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 subsection (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 (1) portable sign for not more than six (6) nonconsecutive two-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 section.

(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 damaged, as defined in section 4.2.8.3, 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 (10) feet 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 sign which resembles an official traffic sign or signal or which bears the words "Stop," "Go Slow," "Caution," "Danger," "Warning," or similar words is prohibited.

(c) Enforcement:

(1) Any portable sign erected in violation of this provision shall be an illegal sign pursuant to section 4.2.8.16(a) and may be removed by the city only in compliance with the provisions of that section.

(2) Any portable sign that does not conform to the regulations prescribed in this Division and which existed lawfully on the date of adoption (i.e., on the effective date) of this Division, or amendment hereto, shall be deemed a nonconforming sign and may be removed by the city only in compliance with the provisions of section 4.2.8.16(b).

(3) Any on premise portable sign that no longer advertises or identifies a use/business conducted on the property on which the sign is erected shall be an abandoned sign and may be removed by the city only in compliance with section 4.2.8.16(c).

(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-day 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 (1); thereafter, all days including weekends and holidays shall be counted.

(5) The city manager or his or her designee may enter upon private property which is accessible to the public for the purposes specified in this section 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 section.

(d) Appeal procedures. Appeals of the provisions of this section shall be in accordance with the procedures set forth in section 4.2.8.17.

(e) Applicability. The provisions of this section shall be applicable to all portable signs in the city, and nonconforming status or rights will not be granted to existing portable signs.

#### **Sec. 4.2.8.11 Special regulations for electronic message signs.**

In addition to any other requirements of this chapter, electronic message signs shall adhere to the following requirements:

- (a) Operational limitations for on-premise signs over seventy-five (75) square feet in area or any off-premise sign.
  - (1) Such signs shall contain static messages only and shall not have movement, or the appearance or optical illusion of movement, of any part of the sign or sign structure, including the movement or appearance of movement of any illumination or the flashing, scintillating, or varying of light intensity.
  - (2) Minimum display time. Each message on the sign must be displayed for a minimum of eight (8) seconds.
  - (3) Transition. The transition from one sign message to another must occur within two (2) seconds and may not include flashing or appearance of motion, with the exception of a fade out or in, dissolve, or scroll that must be accomplished within the transition period.
- (b) Operational limitations for all signs.
  - (1) Limitations. All such signs shall have no flashing or full motion video.
  - (2) Unless permitted as an off-premise sign, such signs shall not include off-premise advertising messages.
- (c) Sign face limitations.
  - (1) Each sign structure is limited to not more than two (2) sides with one sign face per side.
  - (2) The entire sign face must comply with the operation limitations defined above and a sign face may not be apportioned into separate areas each acting as a separate sign face under these restrictions.
- (d) Brightness.
  - (1) All such signs shall be equipped with light sensing devices or a scheduled dimming timer that will automatically dim the intensity of the light emitted by the sign during ambient low-light conditions and at night so that the sign does not exceed the maximum brightness levels allowed in this section.
  - (2) Maximum brightness shall not exceed seven thousand (7,000) nits when measured from the sign's face at its maximum brightness during daylight hours and shall not

exceed one thousand (1,000) nits when measured from the sign's face at its maximum brightness at night.

(3) If such sign is located within one hundred (100) feet of a property with residential zoning, the sign must be oriented such that no portion of the electronic sign face is visible from a residentially-zoned property or the brightness is reduced to no more than two hundred fifty (250) nits at night.

(4) Prior to the issuance of a permit for such sign, the applicant shall provide written certification from the sign manufacturer that the light intensity has been factory preset not to exceed the levels specified above.

(e) The city may order a sign's brightness reduced, its minimum display time increased, or other operational characteristics altered if the city manager or his or her designee, finds that it interferes with or poses a traffic safety hazard to the operation of vehicles. The City may not require an alteration of a sign that would make the sign ineffective for its intended purpose, such as by substantially impairing visibility of the sign.

(f) All such signs shall be turned off or display a blank screen when malfunctioning.

#### **Sec. 4.2.8.12 Enforcement responsibility.**

The city manager shall designate a member of the city's staff who shall have the responsibility for enforcement of the provisions of this subpart. 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 subpart, but also the responsibility of ensuring that all signs conform with this subpart 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 or her designee shall have the authority to adopt regulations and procedures not inconsistent with the terms of this subpart necessary to implement the provisions of this subpart.

#### **Sec. 4.2.8.13 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 permit the same to be done, contrary to or in violation of any of the provisions of this subpart. The regulations of this subpart are not intended to permit any violation of the provisions of any other lawful ordinance or regulation of the city.

#### **Sec. 4.2.8.14 Stop orders, revocation of permit; repair or removal required.**

The city 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) 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.

#### **Section 4.2.8.15 Maintenance of Signs**

Maintenance of Signs: All signs and sign support structures, including temporary and portable signs, together with all of their supports, braces, guys and anchors, shall be kept in good repair and in a proper state of appearance and preservation. No sign will be allowed to be kept in a dilapidated, deteriorated, or unsightly condition, including that signs shall be free from cracked or peeling paint, discolored sign structure or lettering, and missing or damaged parts. Any nonconforming sign which the City determines is in an unacceptable dilapidated, deteriorated, or unsightly condition, to such an extent that the sign is determined to be damaged as defined in Section 4.2.8.3, shall be repaired or removed by the owner, agent or person having the beneficial use of the land, buildings or structure upon which such sign is located within forty five (45) days after written notification to do so.

#### **Section 4.2.8.16 Illegal, Nonconforming, Unsafe, and Abandoned Signs**

(a) Illegal Signs:

(1) Should any sign be installed, erected, constructed or maintained in violation of any of the terms of this Code, the City shall give written notice to the owner, lessee, or person responsible for the sign, ordering that the sign be altered so as to comply with this Code or to remove the sign.

(2) The owner of, or the owner of property with, an illegal (either conforming or nonconforming) sign must apply for a permit from the City within ten (10) days of notification of non-compliance.

(3) If the owner has not obtained a permit for the illegal sign by the eleventh (11th) day following notification, the owner may be cited for noncompliance and/or the sign may be removed by the City at the expense of the owner.

(b) **Nonconforming Signs:** A sign that does not conform to the regulations prescribed in this Division and which existed lawfully on the date of adoption (i.e., on the effective date) of this Division, or amendment hereto, shall be deemed a nonconforming sign. A nonconforming sign shall be allowed to remain as is in the same location wherein it existed on the effective date of this Division subject to the following conditions.

(1) **Minor changes or repair:** Changing sign faces or minor repairs that do not change the structure or dimensions of the sign shall be allowed and shall not affect the nonconforming status of a sign.

(2) **Removal:** The right to continue all nonconforming signs shall cease and such sign shall be removed within forty-five (45) days after written notice, or the City may do so, whenever:

a. A sign is altered, moved or relocated without a permit pursuant to the provisions of this Division; or

b. A sign is damaged or destroyed when the cost of repairing the sign is more than sixty percent (60%) of the cost of erecting a new sign of the same type at the same location; an existing nonconforming sign that is already in a dilapidated/deteriorated condition or that represents a public safety hazard as of the effective date of this Division of the Land Development Code, and the cost of repairing the sign is more than sixty percent (60%) of the cost of erecting a new sign of the same type at the same location, must either be repaired/refinished to a reasonable state of repair or removed at the owner's expense.

(3) **Historic/Architectural Significance:** Any sign designated by official action of the City as having special historic or architectural significance is exempt from the provisions of this Division regarding elimination of nonconforming signs. However, this in no way should be interpreted to supersede any safety or maintenance requirements.

(c) **Abandoned Sign:**

(1) Any on-premise sign that no longer advertises or identifies a use/business conducted on the property on which the sign is erected must have the sign copy covered or removed within 1 year after the business or uses advertised on the sign have been discontinued, except in the case of a leased property, in which case such a sign shall not

be allowed to remain on a property more than 2 years after the date the most recent tenant ceased to operate on the premises;

(2) Upon failure to comply with these provisions and after 45 days notice by the City, the City is hereby authorized to cause removal of such sign and/or sign copy, and any expense incident thereto shall be paid by the owner of the building, structure, or property on which the sign is located.

#### **Sec. 4.2.8.17 Appeals, interpretations, variances.**

(a) Except as provided in this section, the zoning board of adjustment is authorized to hear and decide appeals related to permit applications, provide interpretation, and grant variances subject to the rules and procedures for the zoning board of adjustment as set forth in section Chapter 1, Division 5, of the City of Abilene, Land Development Code provided however:

(1) The board of adjustment may not grant a variance to the terms of this subpart the effect of which would allow erection or placement of any sign prohibited by section 4.2.8.7, prohibited signs.

(2) The board of adjustment may not grant a variance to the terms of this subpart 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 subpart.

(4) The board of adjustment may not waive any requirement for any permit, bond, or inspection required under the terms of this subpart.

(5) The board of adjustment shall not hear any appeal, interpretation, or variance from the provisions of the building code of the city 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 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 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 to hear and decide those questions in accordance with its rules and procedures.

#### **Sec. 4.2.8.18 Penalties and violations.**

Violations of provisions of this subpart 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 subpart 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, 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.