

NOTICE OF ORDINANCE

NOTICE IS HEREBY GIVEN that on the 18th day of April, 2016, at its meeting at 6:00 p.m., in the City Commission Chamber at City Hall, 1st Floor Annex, 200 East Broadway, Hobbs, New Mexico, the governing body of the City of Hobbs proposes to adopt an Ordinance amending Chapters 15.05 and 15.32 of the Hobbs Municipal Code related to Signs. A summary of the ordinance amendment is contained in its title and is further described as follows:

AN ORDINANCE AMENDING CHAPTER 15.05 AND CHAPTER 15.32 OF THE HOBBS MUNICIPAL CODE

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that the following Chapters of the Hobbs Municipal Code be and are hereby amended in their entirety.

15.05.010 Definitions.

For the purposes of this title the following words and phrases shall have the meanings respectively ascribed to them by this section:

"Banner" means any temporary sign of a lightweight fabric or similar material on which a sign is painted or printed and is mounted to a pole or building.

"Billboard" means a sign which directs attention to a business, activity, commodity, service, entertainment or communication which is not conducted, sold or offered at the premises on which the sign is located, or which does not pertain to the premises upon which the sign is located.

"Building code" means the International Building Code promulgated by the International Code Council, New Mexico Building Code and any other code adopted by this jurisdiction.

"Building inspector/building official" means the officer or other designated authority charged with administration and enforcement of this Code.

"Building mounted sign" means a sign entirely supported by or through a building including a canopy sign, marquee sign, projecting sign, roof sign and wall sign.

"Combination sign" means any sign incorporating any combination of the features of pole, projecting and roof signs.

"Community service sign" means any sign which solicits support for or advertises a nonprofit community use, public use or social institution.

"Construction sign" means a sign erected on the premises on which construction is taking place, during the period of such construction, indicating the names of the architects, engineers, landscape architects, contractors or similar artisans, and the owners, financial supporters, sponsors and similar individuals or firms having a role or interest with respect to the structure or project.

"Curb line" means the line at the face of the curb nearest to the street or roadway. In the absence of a curb line, the curb line shall be established by the City Engineer.

"Directional/Monument sign" means a sign limited to on site directional and informational messages, principally for pedestrians or vehicular traffic excluding signs erected by governmental entities.

"Display surface" means the area made available by the sign structure for the purpose of displaying the advertising message.

"Electric sign" means any sign containing electrical wiring, excluding signs illuminated by an exterior light source.

"Fire Marshal" means the officer or designated authority charged with administration and enforcement of the International Fire Code.

"Freestanding sign" means any sign not affixed to a building or structure, supported by a structure that are placed on or anchored in the ground and that are independent from any building or other structures, and having its lowest edge ten (10) feet or more above the elevation of the top of curb of the nearest roadway or if no curb the City Engineer will establish the elevation.

"Ground sign" means a sign, including its supporting structure, six (6) feet or less in height measured from the curb, which is placed upon, or supported by the ground independent of a principal building.

"Height of sign" means the vertical distance from the top of the curb to the highest point of the sign.

"Illegal sign" means any sign not meeting the requirements of this title.

"Illuminated sign" means any sign which is directly lighted by any on-premises electrical light source, internal or external, except light sources specifically and clearly operated for the purpose of lighting the general area in which the sign is located rather than upon the sign itself.

"Lease" means any agreement whether oral or written by which one party gives to another party the right to erect or maintain an outdoor advertising device on the property of the party owning or controlling the property.

"Marquee" means a permanent roofed structure attached to and supported by the building and projecting over public property.

"Multi-business sign" means a sign that promotes a plaza, mall or similar use with multiple tenants' advertisements.

"Nonconforming sign" means a sign which violates one (1) or more provisions of this title any other requirement contained in, or adopted by reference within, the Hobbs Municipal Code.

"Official signs and notices" means signs and notices erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in Federal, State or local law for the purposes of carrying out an official duty or responsibility.

"Off-premise sign" means a sign, the content of which does not refer to a business or merchant doing business on the premises where the sign is displayed.

"On-premises sign" means a sign which advertises or directs attention to a business, product, service or activity which is available on the premises where the sign is located.

"Permanent sign" means a sign which is designated and intended to be anchored to the ground, building or other structure for the duration of the use of the premises.

"Political sign" means a temporary sign pertaining to any national, State or local election or cause which is displayed for a limited period of time.

"Portable signs" means a sign that is designed to be transported and attached temporarily to the ground, a structure or another sign.

"Projecting sign" means a sign other than a wall sign, which projects from and is supported by a wall of a building or structure.

"Projection" means a distance by which a sign extends over public property or beyond the building line.

"Public utility signs" means warning sign, informational sign, notice or markers which are customarily erected and maintained by publicly or privately owned public utilities, as essential to their operations but is not advertising a product.

"Real estate sign" means a sign intended to be displayed for a limited period of time which advertises the financing, development, sale, transfer, lease, exchange or rent of real property or properties and with a maximum of sixteen (16) square feet for residential property and forty (40) square feet for commercial property.

"Roof sign" means a sign erected upon or above a roof or parapet of a building or structure.

"Sign" means any sign which is used or intended to be used to attract attention to the subject matter for advertising purposes with a minimum of four (4) square feet or greater, other than painting on the surface of a building or temporary use.

"Sign copy" means the letters, numbers, symbols or geometric shapes, either in permanent or changeable form, on a sign face.

"Sign structure" means any structure which supports or is capable of supporting any sign defined in this title.

"Temporary sign" means any sign made of any material intended to be displayed for a limited period of time.

"IBC Standards" means the International Building Code Standards, promulgated by the International Code Council as adopted by this jurisdiction.

"Wall sign" means any sign attached to or erected against the wall of a building or structure, with the exposed face of the sign in a plane parallel to the plane of the wall.

Chapter 15.32

SIGNS

Sections:

15.32.010 Purpose and intent.

15.32.020 Application for permit.

15.32.030 General provisions for signs.

15.32.040 Design and construction.

15.32.050 Requirement of plans.

15.32.060 Maintenance.

15.32.070 Exempted signs.

15.32.080 Abandoned signs.

15.32.090 Notice period.

15.32.100 Removal of signs.

15.32.110 Expense of removal.

15.32.120 Nonconforming signs.

15.32.130 Sign illumination.

15.32.140 Reconstruction of sign.

15.32.150 Fees.

15.32.160 Appeals or waivers requests.

15.32.010 Purpose and intent.

Regulation of the location, size, placement and certain features of signs is necessary to enable the public to locate goods, services and facilities in the City without difficulty and confusion, to encourage the general attractiveness of the community and to protect property value therein. Accordingly, it is the

intention of this chapter to establish regulations governing the display, location, maintenance and inspection of signs which will:

- A. Prevent the construction and projection of sign into, above or within public right-of-way and property lines.
- B. Protect the public health and general welfare.

15.32.020 Application for permit.

Application for a sign permit shall be made in writing upon forms furnished by the building official. Such application shall contain the location by street address of the proposed sign and as well as the names and addresses of the owner of the premises where the sign is to be located, the permittee and the sign contractor. The building official will require the filing of plan as stated on Sections 15.32.050 and any other pertinent information as is necessary to insure compliance.

Every application shall be executed and the representations made therein certified to be true by both the owner of the premises upon which the sign is to be constructed, the permittee and the sign company and contractor authorized to erect the structure. Every application shall contain a statement of the owner, the permittee, the sign company and the contractor that the sign and structure does not violate any applicable deed restriction, restricted covenants, setback requirements or State codes.

A plot plan must be furnished as a part of the application that shows location of the sign and structure in relation to subject property boundary lines, improvements, easements, curb lines and rights-of-way.

If the location, plans and specifications set forth in any application for permit conforms to all of the requirements of this chapter and other applicable provisions and ordinances, the building official shall issue the permit. However, the applicants shall be solely responsible for conformance to requirements.

Any permit for construction of a sign shall become null and void unless construction of the sign and structure is completed within one hundred eighty (180) days of the issuance of a permit or the permit is renewed for an additional one hundred eighty (180) days and payment of one-half of original fee.

15.32.030 General provisions for signs.

Except as otherwise specifically provided in the City code, the following provisions apply for all signs:

A. Signs Shall Not Constitute Traffic Hazards. No sign or other advertising structure as regulated by this chapter shall be erected or continued to be displayed at the intersection of any street or within any alley or driveway in such a manner as to obstruct free and clear vision; or at any location where, by reason of the position, shape or color, such sign may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device.

1. On premise entrance, exit, monument and directional signs constructed and maintained in accordance with an approved sign plan shall be allowed on all parcels developed for commercial use. Such signs shall not exceed six square feet in sign area, nor exceed the height restrictions for a structure located within the building setback if located therein.

2. Any signs, signals or devices erected by governmental entities, public schools and utility companies are exempt from the provisions of this chapter and shall be controlled by other applicable laws, regulations and ordinances.

B. Placing Signs on Public Property. No signs other than signs placed by agencies of government shall be erected on or above any public property; provided, that directional signs may be erected upon City street name supports, or upon traffic signposts under the following conditions:

1. The sign directs the reader to the location of a public facility attended principally by out-of-town patrons, to a facility relating to the public health, safety or welfare or to scenic or historic trails.

2. The signs are installed at locations where they would not constitute a traffic hazard.

3. The signs conform to the manual on uniform traffic control devices. Nothing contained in this section shall supersede, modify or nullify any of the provisions of contracts and agreements heretofore

entered into by the City with the Highway and Transportation Department of the State of New Mexico and the U.S. Bureau of Public Roads concerning such property signs, banners, billboards and awnings.

C. Placing Signs on Private Property. No signs shall be placed on any private property without a permit and shall meet the following:

1. Each commercially developed site may have no more than one free-standing sign; provided, however, that sites with more than three hundred (300) feet of public street frontage may have one additional free-standing sign for each three hundred (300) feet of additional frontage or a fraction thereof.

2. No free-standing sign shall exceed thirty-five (35) feet in height and shall not exceed one hundred forty-four (144) square feet per sign. Wall sign shall not exceed one hundred forty four (144) square feet per leased space facade.

3. The main multi-business sign on malls, shopping centers, strip malls, or similar uses shall not exceed more than one hundred forty-four (144) square feet and the total of tenant signs shall not exceed one hundred forty-four (144) square feet.

4. Signs erected on private properties fronting a minor residential roadway and within a residential area shall not exceed fifteen (15) feet in height or forty-eight (48) square feet per sign and be located wholly within the prescribed building setback. Wall signs shall not exceed forty-eight (48) square feet maximum.

D. Placing Billboards on Private Property. No billboards shall be placed on any private property containing a free standing sign. Billboards shall only be placed on private property fronting a Major Arterial as specified within the City of Hobbs Major Thoroughfare Plan and shall meet the following:

1. Each site shall have no more than one billboard; provided, however, that sites with more than eight hundred (800) feet of public street frontage may have one additional billboard providing an eight hundred (800) foot linear separation is maintained between all proposed or existing billboards adjacent to and oriented perpendicular to a Major Arterial, regardless of ownership.

2. A billboard shall not be permitted to be placed within eight hundred (800) linear feet of any existing billboard adjacent to and oriented perpendicular to a Major Arterial.

3. No billboard shall exceed thirty-five (35) feet in height or three hundred (300) square feet per billboard. All billboards shall be constructed of metal.

4. Billboards on residential streets are prohibited.

5. Billboards unable to secure an advertiser for a period of 120 days shall be considered abandoned. The building official shall issue the property owner written notice of abandonment and said billboard shall be removed at the owner's expense within thirty (30) days.

E. Placing Signs on Trees, Rocks, Retaining Walls or Fences Located on Public Property. No signs shall be placed or painted on any tree, rock, retaining wall, fence or natural formation which is located on or above public property.

F. Placing Signs on Utility Poles. No sign shall be placed on any utility pole except for utility identification purposes and installed by utility agencies or in accordance with Section 15.32.070(C)(2).

G. Signs on Public Right-of-Way. With the exception of signs lawfully permitted or erected prior to the passage of the ordinance codified in this chapter, it is unlawful to place a sign upon or above a public street, bridge, grounds, sidewalk, alley, right-of-way, curb or other public improvement, or on any public building or structure of any kind belonging to the City, or in any public place or public improvement except as stated on subsection H of this section or a written consent by the City Commission. Any unlawful sign found within, upon or above such public property and easements shall be removed if so ordered by a court of competent jurisdiction as specified under Sections 15.32.090 through 15.32.110. The City is authorized to impound any signs found on any public property and transport or causes same to be transported to a location to be designated by the building official for storage. Records shall be maintained on where such signs were located, when they were so impounded, and the date on which they were so impounded and the City shall hold the same in a storage area for a period of not more than thirty (30) days. At the end of thirty (30) days, such signs will be disposed of as abandoned property.

15.32.040 Design and construction.

It shall be the responsibility of the building official to determine, prior to the issuance of any final approval, that any sign erected, constructed or structurally altered is of such construction and is so supported and erected as to be safe for the area in which it is placed. If the building official finds that any sign is being erected, constructed, supported or maintained in such a manner as to become dangerous to the public or the surrounding area, then the building official shall give written notice to the sign applicant, owner or contractor erecting, constructing, altering or maintaining such sign, and upon such notice the notified party shall immediately act to either make such sign safe or remove same.

15.32.050 Requirement of plans.

The following are the City requirements for a sign permit.

A. Two sets of plans and/or specifications shall be submitted with the application for each sign permit. One copy of the plans shall be returned to the applicant at the time the permit is granted. The plan shall indicate the size, height, material used, the method of attachment or support and location.

B. Plans for supporting any freestanding sign in excess of 24 foot in height or having a sign face in excess of 128 square feet or billboard sign shall be accompanied by a structural computation and shall be certified by a New Mexico licensed architect or engineer. Sufficient data shall be submitted to show that supporting surfaces and other members of an existing building to which the sign is to be attached are in good condition and are adequately strong to support the sign loads.

15.32.060 Maintenance.

All signs and sign support structures, together with all of their supports, braces, guys and anchors, shall be kept in repair and in proper state of preservation.

15.32.070 Exempted signs and Portable Signs.

The following signs shall not require a sign permit. These exemptions shall not be construed as relieving the sign permittee, owner of the sign and owner or lessee of the property upon which the sign and structure is located from the sole responsibility for its erection and maintenance, and its compliance with the provisions of this chapter or any other law or ordinance regulating same.

A. Painting, repainting, maintenance or cleaning of an advertising structure thereon shall not be considered an erection or alteration;

B. Temporary signs, including political, construction and real estate signs as defined;

C. Temporary banner signs may be used; provided, however, that such use satisfies all other parts of this chapter applicable thereto and the requirements of all other ordinances. Banner shall not be installed for more than sixty (60) days. The owner/contractor shall not install, support, or anchor the banner to any City or utility owned poles, prior to obtaining a written consent from the City Manager or his or her designated representative.

Portable signs shall be permitted by the building official. Portable signs are intended to be displayed for a short period of time only. Portable signs shall not be installed for more than a sixty (60) day period at any one location. A single location is allowed to contain a single Portable sign for a sixty (60) day period; thereafter the location shall not contain a portable sign for a thirty (30) day period. A portable sign shall be located a minimum of five (5) feet from the property line or fifteen (15) feet from the street curb or pavement edge or as directed by the Engineering Department to minimize visibility hindrances. All portable signs containing electrical wiring shall be subject to the provisions of the National Electrical Code and all other applicable codes and the electrical components used shall bear the label of an approved testing agency. Sign design, material and construction shall comply with the provision of this code. All portable signs shall be stabilized and anchored to the ground to restrict displacement by the wind or other accidental force. If the portable sign is used for a period of sixty (60) days or more than, it must be permitted as a permanent sign for the location and meet all provisions of this code as such.

15.32.080 Abandoned signs.

A sign is considered abandoned when the business, event or purpose the sign advertises no longer applies, no longer in business or when the face of the sign no longer contains advertising material and remains in such condition for a period of six months and is constituting a hazard to life, safety and/or property. The building official shall issue a written notice to the sign or property owner, which notice shall state that such sign shall be removed or repaired within thirty (30) days. If the property owner fails to comply with such notice to the building official is authorized to cause removal of such sign as defined under Section 15.32.100.

15.32.090 Notice period.

The notice period for removal of temporary signs and portable signs is forty-eight (48) hours. The notice period for removal of abandoned signs is thirty (30) days. Property owners will receive a written notice stating that their property does not meet the standards set forth in this chapter. A second notice may result in the issuance of a citation. If the sign permittee or owner of the premises upon which the sign is located has not demonstrated to the satisfaction of the building official that the sign has been removed or brought into compliance with the provisions of this chapter by the end of the notice period, the building official shall certify the violation to the City Attorney for proper action.

15.32.100 Removal of signs.

The building official is authorized to request removal of any illegal, nonconforming and abandoned sign as defined by this chapter.

Before requesting the removal of a sign, the building official shall give written notice to the sign owner or the owner of the premises on which such sign is located. The notice shall state the reasons and grounds for removal, specifying the deficiencies or defects in such sign with reasonable definiteness, and the violation charges. Such notice shall specify what repairs will make such an installation conform to the requirements of this chapter and specify that the sign must be removed or made to conform to the provisions of this chapter within the notice period provided herein. Service of notice may be made personally on the permittee and the property owner, or by certified mail addressed to the owner or permittee at the address specified in the permit or at such address as the owner or permittee may have given written notice or at the address shown on the property tax rolls.

15.32.110 Expense of removal.

If the owner, occupant or agent fails to remove or repair the nonconforming sign as required by this code and the City is forced to remove or repair such structures. All the actual cost and expense, including court costs and attorney fees, of any such removal or repairs incurred by the City shall be borne by the owner, occupant, agent of such sign and the owner of the premises on which the sign is located, shall be liable therefore, and an action for recovery thereof may be brought by the City Attorney upon proper certification thereof to him or her by the building official. The City shall have a lien against the property upon which such sign or structure is located which may be perfected and foreclosed in the same manner as other municipal liens.

15.32.120 Nonconforming signs.

A. Any existing sign or structure which violates or does not conform to the provisions of this chapter is considered nonconforming. Nonconforming signs and structures may continue in place as long as the following conditions are met:

1. No change in business name or use occurs;
2. The sign remains in good condition and does not constitute hazard to life and safety;
3. No major repair or alterations are made to the supporting structure of the sign.

B. Any nonconforming sign or sign structure that is in ruins, damaged and is danger to public safety and health shall be removed as stated in Section 8.24.010.

15.32.130 Sign illumination.

The light from any light source intended to illuminate a sign shall be shaded, shielded, dimmed and directed whereby the light intensity and brightness shall not adversely affect surrounding and facing premises, or adversely affect safe vision of pedestrians and operators of vehicles moving on public and private streets, driveways and parking areas. There should be no direct glare onto adjoining properties or in the eyes of motorists and pedestrians. Electronic signs shall display a static message for no less than 8 seconds for all signs except message boards which shall display for no less than 2 seconds. Electronic signs shall not utilize animation; neither shall the transition from one message to another be animated. Electronic features of monument and portable signs are permissible providing said sign is located fully within the setbacks as prescribed in the City of Hobbs Major Thoroughfare Plan.

15.32.140 Reconstruction of sign.

When any existing sign is damaged, blown down or otherwise destroyed or taken down or removed for any purpose other than maintenance operation, such sign and structure, shall not be re-erected, reconstructed or rebuilt without first obtaining a permit and shall be in full conformance with this chapter and all other applicable codes.

15.32.150 Fees.

A sign permit fee shall be in accordance with Section 15.28.050 as established by the City.

15.32.160 Variances and waivers.

Following a duly conducted public hearing, the City of Hobbs Planning Board may grant a waiver(s) or a variance(s) to the requirements herein, providing that sufficient justification is presented to the Planning Board and a finding is made by the Planning Board that approving the waiver or variance to the requirements herein is not inconsistent with the purpose and intent of the chapter.

Copies of the ordinance in its entirety are available to interested persons during regular business hours in the office of the City Clerk, City Hall, 200 East Broadway, Hobbs, New Mexico. The ordinance is also available for viewing online at www.hobbsnm.org.

/s/Jan Fletcher
Jan Fletcher, City Clerk