

ORDINANCE NO. 208

AN ORDINANCE REPEALING AND REPLACING Ord. 152, THE SIGN ORDINANCE OF THE CITY OF ELEPHANT BUTTE

WHEREAS, the City has previously adopted the Sign Ordinance of the City of Elephant Butte (Chapter 152 of the City of Elephant Butte Code of Ordinances);

WHEREAS, the previously adopted version of the Sign Ordinance contained a number of outdated or inapplicable provisions as well as references to the City's Sign Review Guidelines, which were not incorporated into the City Code;

WHEREAS, the City desires to ensure a proper balance between the community interests with each person's interest in freedom of speech;

WHEREAS, the City has authority under NMSA 1978, §§ 3-17-1 and 3-21-1 to regulate signage within the City for the health, safety, morals and welfare of its inhabitants; and

WHEREAS, the Governing Body of the City conducted a duly advertised public hearing to consider this Ordinance on April 26, 2023.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF ELEPHANT BUTTE'S GOVERNING BODY:

Section 1. The current version of the Sign Ordinance is hereby repealed and replaced with the following provisions:

CHAPTER 152: SIGNS

152.01 TITLE.

This Chapter shall be known as and may be cited as the "City of Elephant Butte Sign Ordinance" or simply "Sign Ordinance".

152.02 PURPOSE AND INTENT.

Exterior signs, street graphics, banners, advertising displays, and attention getting devices significantly impact a community's scenic character and aesthetic quality. As a resort community on the largest lake in New Mexico, the City is committed to maintaining a calming, attractive visual environment and motorist safety for visitors and residents while promoting a healthy business climate for tourism development and economic opportunity. The purpose of this Chapter is to:

(A) Establish a comprehensive yet flexible system for regulating all signs, street graphics, and advertising devices in order to eliminate visual clutter and promote the general health, safety, welfare, and community environment using reasonable and objective standards;

(B) Balance the needs of businesses that rely on signs as an essential communication tool, the public who relies on signs for information and way finding, safety of pedestrian and vehicular traffic, protection of property, freedom of expression and enjoyment of the community's appearance and character.

(C) Strive for signs, displays, and street graphics that are newly constructed or like-new, freshly painted, neat, not dilapidated, not obscene, resort friendly, and constructed and installed to meet public health and safety standards; and

(D) Establish the City's authority to administer and enforce these regulations fairly and consistently.

152.03 STATUTORY AUTHORITY AND JURISDICTION.

This Chapter is created and adopted pursuant to the authority set forth in NMSA §§ 3-17-1, 3-21-1 through 3-21-11, as amended, and shall be applicable to all property within the corporate limits of the City.

152.04 COMPLIANCE AND CONFLICT.

The regulations of this Chapter are held to be the minimum standards to carry out the purpose of the Chapter. This Chapter is not intended to interfere with or abrogate any other valid ordinance.

(A) **Compliance with City Code.** In addition to requirements set forth in this Chapter, all signs shall comply with applicable provisions of the City's Code of Ordinances. All signs shall be attached or installed in compliance with the City and State Building Code. Signs, street graphics, and displays allowed under this Chapter, either with or without a sign permit, shall be installed or placed in accordance with applicable height, size and setback requirements and shall conform to applicable lighting standards, electrical standards, and other standards, restrictions and conditions set forth in this Chapter and in the City Code.

(B) **Federal and state conflict.** Any provision of the United States and/or New Mexico state law which imposes a greater duty, standard, or requirement than those contained herein shall supersede the provisions of this Chapter.

(C) **Conflict within this Chapter.** When two or more provisions of this Chapter are conflicting, the most restrictive will apply.

152.05 DEFINITIONS

ABANDONED SIGN. A sign which for a period of a specified number of consecutive days or longer as defined by this Chapter no longer advertises or identifies a legal business establishment, product or activity; a sign which is damaged, in disrepair, or vandalized and not repaired within a specified number of consecutive days; a sign which contains an outdated message for a period exceeding a specified number of consecutive days.

ALTERATION. Any change in copy, color, size or shape, which changes the appearance of a sign; or a change in position, location, construction or supporting structure of a sign.

ANIMATION OR ANIMATED. The movement or the optical illusion of movement of any part of the street graphic structure, design, or pictorial segment, including the movement of any illumination or the flashing or varying of light intensity; the automatic changing of all or any part of the facing of a street graphic.

ARCHITECTURAL DETAIL. Any projection, relief, cornice, column, change of building material, window, or door opening on any building.

AREA OF SIGN. The entire face of the sign including the advertising surface and any framing, trim, or molding, but not including the supporting structure. For wall signs without a frame, the sum of the area(s) of the smallest rectangle(s) or other geometrical figure(s) encompassing the signs letters and graphics.

AWNING SIGN. Any sign adhered to, painted on to, attached to, or supported by an awning.

BALLOON SIGN. A lighter-than-air gas-filled balloon or device, tethered in a fixed location, that has a sign with a message or graphics on its surface.

BANDIT SIGNS. *See* 'Snipe or Bandit Signs' definition.

BANNER. A graphic composed of a logo or design on a lightweight material that deforms under light pressure that is either enclosed or not enclosed in a rigid frame and secured or mounted to allow motion caused by the atmosphere.

BANNER, STREET. A banner located beside a right-of-way that is attached to a pole or fixture that is designed by a governmental entity to display street banners.

BILLBOARD. A permanent, free-standing, changeable copy sign greater than forty-eight (48) square feet and not to exceed two hundred (200) square feet, visible from the public right-of-way, that is available for rent by various advertisers and directs attention to a business, activity, commodity, service, entertainment, or communication conducted, sold, or offered either on the premise on which the sign is located or at a location other than the premise on which the sign is located. A billboard is anchored to the ground by permanent posts.

BUILDING IDENTIFICATION SIGN. Any sign containing the name or address of a building and may include hours of operation and emergency information, such sign being located on the same site as the structure.

BULLETIN BOARD. A particular type of changeable copy sign that displays copy in a casement made of glass, Plexiglas® or other materials.

CANOPY SIGN. A sign on a rigid multi-sided structure attached to a building or on any other freestanding structure that may have a roof with support but no walls.

CHANGEABLE COPY SIGN. A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the permanent physical face or surface of the sign. This includes manual, electrical, electronic, or other variable message signs.

CHANGEABLE ELECTRONIC VARIABLE MESSAGE SIGN (CEVMS). A self-luminous advertising sign that depicts any kind of light, color, or message change which ranges from static images to image sequences to full motion video. The CEVMS may also be referred to as an Electronic Billboard (EBB) or a Digital Billboard (DBB).

COMMERCIAL MESSAGE. Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

COMPREHENSIVE SIGNAGE PLAN (CSP). A coordinated program of all signs, including exempt and temporary signs for a business, or businesses if applicable, located on a development site. The sign program must include, but not be limited to, indications of the locations, dimensions, colors, letter styles, sign types, illumination, and maintenance plan of all signs to be installed on a site.

COPY. Any word, letter, number, emblem, or graphic affixed to the sign surface, either permanently or in removable form.

DIRECTIONAL SIGN. An on-premises sign for the convenience of the public giving directions, facility information, and assistance around a site such as the location of exits, entrances, parking, amenities, and to encourage proper circulation.

DIRECTORY SIGN. An on-premises sign that displays the names, uses, or locations of the various tenants on the site.

DISABILITY GLARE. The effect of stray light in the eye whereby visibility and visual performance are reduced. For purposes of this Chapter, glare exceeding two thousand five hundred (2,500) nits is considered to be disability glare.

DOUBLE-FACED SIGN. A sign with two faces either set parallel or up to a forty-five degree (45°) angle. Any two sign faces set at an angle greater than forty-five degrees (45°) will be considered two separate signs.

ELECTRIC SIGN. Any sign containing electrical wiring, but not including signs illuminated by an exterior light source.

FAÇADE. That portion of any exterior elevation of a building extending vertically from grade to the top of a parapet wall or eaves and horizontally across the entire width of the building elevation.

FENCE. A freestanding, upright barrier marking a boundary and characterized by transparency or made of insubstantial materials. Examples include wrought iron fences, chain link fences, wooden slat fences, or vinyl fences.

FLASHING SIGN. A sign that contains either a random intermittent or sequential blinking or flickering light source or light sequence. An animated sign, CEVMS will not be considered a flashing sign unless it is programmed with sudden short outbursts of light, blinking lights, flickering lights, or lights varying in intensity.

FOOT-CANDLE. (Abbreviation: fc or ft-c). A unit of measure of the intensity of light from a uniform point source of light equal to one lumen uniformly distributed over a one square foot surface. Foot-candle was originally defined with reference to a standardized candle burning at one foot from a given surface.

FREE-STANDING SIGN. The general term for any sign which is permanently anchored into the ground or on a foundation. It is supported by one or more upright poles, columns, or braces, and is not attached to a building or any other structure.

FRONTAGE. The length of the property line(s) of any single premise along either a public way or other properties on which it borders.

GOVERNMENTAL SIGN. A sign installed and maintained pursuant to and in discharge of any governmental function, or required by law, ordinance or other governmental regulation.

GRADE. The average level of the finished surface of the ground, paving, or sidewalk at the property line located at the closest distance to the sign unless otherwise specified.

HEIGHT. The vertical distance measured from the highest point of the sign, including the frame and any embellishments and the established grade.

HOLIDAY DECORATIONS. Signs or displays, including lighting, which are a non-permanent installation celebrating national, state, and local holidays or holiday seasons.

ILLEGAL SIGN. Any sign placed without proper approval or permits as required by law at the time of sign placement. Illegal sign will also mean any sign placed contrary to the terms or time limits of any permit and any nonconforming sign which has not been brought into compliance with any applicable provisions of this Chapter. Any sign not removed after notification from the Land Use Officer to remove the sign. A registered nonconforming sign that is otherwise maintained in compliance with this Chapter is not considered an illegal sign.

ILLUMINATED SIGN. Any sign for which an artificial source of light is used in order to make readable the sign's message, including internally lighted signs, externally lighted signs, glowing signs, or radiating signs.

ILLUMINATION, EXTERNAL. An artificial light source outside the sign face that illuminates the sign and may be attached to or contained within the sign structure.

ILLUMINATION, INDIRECT. A source of external illumination located outside the sign face that lights the sign.

ILLUMINATION, INTERNAL. A light source that is concealed or contained within the street graphic and becomes visible in darkness through a translucent surface.

INFORMATIONAL SIGN. Public or private directional signs, street or traffic signs, address numbers, names of buildings, suites or rooms, and other signs of a similar nature.

INSTRUCTIONAL SIGN. A sign which provides direction or instruction to guide persons to facilities intended to serve the public (e.g., restrooms, public telephones, public walkways, parking areas, and commercial resort-community amenities, maps, housing units, or transportation schedules).

LENGTH OF FRONTAGE.

(A) For measurement purposes, the length of any primary or secondary frontage is the sum of all wall lengths parallel, or nearly parallel, to such frontage, excluding any such wall length determined by the Land Use Officer or Planning Commission as clearly unrelated to the frontage criteria.

(B) For buildings with two or more frontages, the length and allowable sign area is calculated separately for each such frontage.

(C) The building frontage for a building unit is measured from the center line of the party walls defining the building unit.

LIGHT TRESPASS. The Illuminating Engineering Society (IESNA) defines light trespass as “light that strays from the intended purpose and becomes an annoyance, a nuisance, or a detriment to visual performance.” Light trespass can result in glare.

LOGO, LOGOGRAM, OR LOGOTYPE. An emblem, letter, character, pictograph, trademark, or symbol used to represent any firm, organization, entity, or product.

MANSARD ROOF. Four-sided roof with each side having two slopes; the lower slope is almost vertical to allow extra roof space for the attic rooms.

MANSARD SIGN. A sign permanently affixed to a wall or surface designed to protect the edge of a room, such surface being no more than thirty degrees (30°) from vertical.

MARQUEE. A permanent structure other than a roof attached to, supported by, and projecting from a building and providing protection from the elements.

MARQUEE SIGN. Signs or message areas on a permanent roof-like structure projecting from and supported by a building over a building entrance.

MECHANICAL MOVEMENT. An animated sign that physically revolves, moves up and down, or moves sideways.

MONUMENT SIGN. A ground graphic permanently affixed to the ground at its base, supported entirely by a base structure, and not mounted on a pole.

MURAL. A picture on an exterior surface of a structure. A mural is a sign only if it is related by language, logo, or pictorial depiction to the advertisement of any product or service or the identification of any business, otherwise it is considered a Work of Art as defined herein.

NONCOMMERCIAL SIGN. Any sign designed for a noncommercial expression not related to the advertisement of any product or service or the identification of any business.

NONCONFORMING SIGN. A sign which was lawfully installed prior to the adoption or amendment of the most recently adopted Sign Ordinance and was in compliance with all the provisions of the ordinance in effect at the time of its installation, but which does not presently comply with the current Sign Ordinance and City Code.

OBSCENE. This refers to a work which: (1) the average person applying contemporary community standards would find that, when considered or taken as a whole, appeals to the prurient interests; (2) the material depicts or describes sexual conduct in a patently offensive way by representations of ultimate sexual acts, normal or perverted, actual or simulated; masturbation, excretory functions or lewd exhibitions of the genitals; tactile stimulation of the genitals; and (3) the work when considered or taken as a whole lacks serious literary, artistic, political or scientific value.

OFF-PREMISE SIGNS. Sign, graphics or a display messages about a business, individual, goods, products, services, and activities available at a different location than where the sign is located.

ON-PREMISE SIGN. Sign, graphics or a display for commercial, industrial, institutional, service or entertainment purposes promoting products, uses or services conducted, sold or offered upon the same premises where the sign is located, and the purpose of which is to sell or identify a product, service or activity.

OWNER, PROPERTY. The person or persons recorded on the County's tax role as holding the title to a parcel of land; or a person in a long-term lease who has been given the right to develop the land through a signed, notarized contractual document.

OWNER, SIGN. The owner, occupant, or agent of a property who is in possession of and/or installs the sign, with or without a permit.

PARAPET. A part of a wall which extends past the roofline out from a smooth vertical wall surface – often between a building's first and second stories.

POLE SIGN. A sign which is permanently affixed in or upon the ground, supported by one or more structural poles, with air space between the ground and the sign face.

PORTABLE SIGN. Any street graphic that is not permanently attached to any structure, building, or the ground; and is designed and constructed to be movable from one location to another.

PRIVATE STREET. Primary access ways that are intended to provide vehicular access to multiple commercial businesses and/or ownerships and are not dedicated as a public thoroughfare.

PROJECTING SIGN. A sign which is supported by an exterior wall of a building or other structure, and which is constructed and displayed perpendicular to the face of the building or other structure so that both sides of the sign are visible.

READER BOARD. Any sign having changeable copy for the purpose of advertising events, sales, services or products provided on the site.

RIGHT-OF-WAY. A public or privately held area of land taken or dedicated for the passage of goods or people including roadways, streets, paths, alleys, walkways, sidewalks, curbs, lighting, planting strips, utility infrastructure, and drainage facilities.

ROOF SIGN. Any sign installed, constructed, and maintained upon a roof, parapet, or roof-mounted equipment structure.

SIGN. Any device, fixture, placard, structure, or surface that uses any colors, form, graphic, illumination, symbol or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public, when the same is placed in view of the general public.

SIGN CLEARANCE. The least vertical distance between the lowest point of any sign, including the framework, and the established grade at the sign.

SIGN FACE. An exterior display surface of a sign on which copy is placed.

SIGN STRUCTURE. Any structure that supports or is capable of supporting a sign or street graphic display.

SITE. All the contiguous ground area legally assembled into one development location which is a zoning lot. A zoning lot is defined as a permanent parcel (lot of record), multiple lots of record, or a portion of a lot of record.

SNIPE OR BANDIT SIGNS. Signs placed on or affixed to public property, utility poles, street furniture, trees, natural vegetation, rocks, or placed on or in a right-of-way without a City permit. Examples include but are not limited to handbills, posters, announcements, fliers.

STREET FRONTAGE. The distance along which a property line of a lot adjoins a public or private street.

STREET GRAPHIC. A lettered, numbered, symbolic, pictorial, or illuminated visual display designed to identify, announce, direct, or inform that is visible from a public right-of-way. The term “street graphic” includes signs, banners, pennants, streamers, moving mechanisms, and lights.

STRUCTURE. That which is built or constructed and requires location on the ground, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

TEMPORARY SIGNS. A sign constructed of paper, cloth, canvas, plastic, cardboard, wall board, plywood or other like material without a permanent foundation or otherwise not permanently attached to the ground that appears to be intended or is determined by the Land Use Officer to be displayed for a limited time not to exceed 90 days.

VEHICLE. See “Motor Vehicle” in City of Elephant Butte Code of Ordinances §135.03.

VEHICLE SIGN. Any sign permanently or temporarily attached to or placed on a vehicle, trailer, or boat which relates to a business, activity, use, service or product.

WALL. A freestanding, upright, solid, opaque structure enclosing a space.

WALL SIGN. Any sign attached to, installed on, or painted on an exterior wall of a building or structure including perimeter walls, with the exposed face of the sign in a plane parallel or approximately parallel to the plane of the wall including V-shaped signs.

WARNING SIGN. A sign containing no advertising material but which warns the public of the existence of danger.

WINDOW SIGN. Any temporary or permanent sign painted or affixed in any manner to a window or exterior glass door such that it is intended to be viewable from the outside.

WORK OF ART. A product of creative expression which does not contain the name of a business, property owner, products sold or services provided and is not otherwise intended to act as a commercial advertisement.

152.06 ADMINISTRATION; PERMITS.

(A) **Signs and street graphics requiring a permit.** Except as otherwise indicated in this Chapter, it shall be unlawful for any person to install, substantially modify, or relocate any sign or other advertising structure within the City limits without first obtaining a sign permit from the City. When a sign permit has been issued, it shall be unlawful to substantially modify the sign without the prior approval of the Land Use Officer or Planning or Zoning Commission or to deviate from the terms and conditions of the permit and this Chapter. A written record of the approval shall be entered upon the original permit application and maintained in the Land Use Officer's files. The changing of the advertising copy or message on signs that are specifically designed for the use of replaceable copy shall not require a sign permit unless the sign is nonconforming. Signs requiring a City permit that are installed without a legally authorized sign permit are deemed illegal and are subject to the City's enforcement standards

(1) Applications Process for a Sign Permit

(a) The sign applicant is required to:

- (i) Pay a permit fee;
- (ii) Fill out and sign the City's "General Land Use Application;" and
- (iii) Complete the City's "Sign Permit Application" with the following items for approval:
 - (A) Applicant's name, address and phone number;
 - (B) Location of building, structure or lot to which or upon which the sign or other advertising structure is to be attached or installed;

- (C) A surface map of the area showing the exact location of the sign and the relationship of that sign to other signs on the property or nearby buildings and/or structures;
 - (D) Two blueprints or scaled drawings of the plans, design including text, graphics, colors, textures, specifications, materials, illumination, designation of sign as permanent or temporary, method of construction, and method of attachment to the building, structure, or to the ground;
 - (E) Name of person installing sign structure;
 - (F) If different from applicant, written consent of the property owner of record to which or on which the structure is to be installed;
 - (G) Written proof of ownership of property on which the sign will be placed if different from the sign owner;
 - (H) Any state required permits or approvals; and
 - (I) All other information required by the City to show full compliance with the provisions of this Chapter and all other City laws and ordinances.
- (b) The application will then be submitted to the Land Use Officer, who shall review it and shall approve, deny, or submit the application to the Planning and Zoning Commission for design review. If the application is not approved, a written notification of denial will be sent to the applicant within one (1) week of the review.

(B) **Comprehensive signage plans.** New and existing businesses may submit comprehensive signage plans and revised plans which are reviewed by the Planning and Zoning Commission and require a public hearing. A comprehensive signage plan (CSP) is a coordinated program of all signs, including exempt and temporary signs for a business, or businesses, located on a development site. The CSP shall include, but not be limited to site plans and drawings for the sign locations; drawings of the signs including: dimensions, height, shapes, colors, letter styles, sign types, architectural character, text, graphics, sign structures or mounting devices; materials; type and measurement of illumination if any; permanent or temporary time period designations; time period or phases of installation; maintenance plan; and sign function of all signs to be installed on a site.

- (1) Planning and Zoning Commission review of a Comprehensive Signage Plan is required whenever any of the following circumstances exist:
 - (a) An applicant submits a Comprehensive Signage Plan for review;
 - (b) Two or more separate commercial tenant spaces are to be created on the same parcel;
 - (c) Commercial signage on a lot less than two thousand two hundred (2,200) square feet with a permanent or temporary single business and total combined signage

requiring a City permit that exceeds ten percent (10%) of the square footage of the entire lot;

- (d) A property owner or sign owner wishes to install a CEVMS;
 - (e) Any sign or logo incorporated into a structure's architectural feature;
 - (f) A single sign displayed by owners of two or more contiguous residential lots;
 - (g) The Land Use Officer or other designated City official determines that a Comprehensive Signage Plan is needed because of special project characteristics (e.g., the size of proposed signs, limited site visibility, a business within a business, the location of the site relative to major transportation routes); or
 - (h) As otherwise provided in this Chapter.
- (2) While waiting for comprehensive signage plan review, applicants are allowed, with a valid City permit, to install temporary or permanent signs, street graphics, and displays up to the total combined allowable square footage for the premise.
- (3) The Planning and Zoning Commission may approve a comprehensive sign plan if the graphics visually represented in the plan are:
- (a) Consistent with the purposes of this Chapter; and
 - (b) Compatible with the theme, visual quality, and overall character of the premise and surrounding area;
 - (c) Appropriately related in size, shape, materials, lettering, color, illumination, and character to the function and architectural character of the building or premise on which they will be displayed, and are compatible with existing adjacent activities; and
 - (d) Consistent with the City's Code of Ordinances.
- (4) Businesses shall submit major revisions to approved comprehensive signage plans including the number of signs, size, shapes, color, and height of signs, sign structures and mounting devices, architectural character, illumination, and location of signs on the property to the Planning and Zoning Commission for review. The Land Use Officer will review minor revisions and may consult with the Planning and Zoning Commission.

(C) **Conformity requirement.** All signs and street graphics in the City limits placed after the effective date of this Chapter shall conform to the standards provided in this Chapter. All signs that do not comply with the provisions of this Chapter are declared to be in violation of the permit, and as such may be abated as provided by law.

(D) **Nonconforming signs and sign structures.**

- (1) A nonconforming sign is any sign that was constructed in accordance with the ordinances and other applicable laws in effect on the date of its construction, but

which by reason of its size, height, location, design, structure, or construction is not in conformance with the requirements of this Chapter, or any amendment thereto.

- (2) Nonconforming signs may continue to be maintained, repaired and displayed except in the following circumstances, in which case they shall be removed at the owner's expense:
 - (a) The nonconforming sign has been abandoned or discontinued for a period of sixty (60) days;
 - (b) The nonconforming sign has been moved, changed, or altered in a manner that increases the nonconformity with this Chapter;
 - (c) The nonconforming sign was intended to be temporary; or
 - (d) The nonconforming sign is unsafe or a hazard to the public.
- (3) Any sign approved by a variance and any sign approved as part of a comprehensive signage plan, or any other sign protected from such provisions by New Mexico law are exempt from the provisions in this section.
- (4) When ownership of property changes, nonconforming signs shall obtain a City permit and be brought into compliance or apply for an extension to continue the nonconformance.
- (5) If questions are raised as to whether a nonconforming sign exists, it shall be a question of fact decided by the Land Use Officer, and subject to appeal to the Planning and Zoning Board and/or the City Council.
 - (a) When seeking protection for a lawful nonconforming sign, the property owner(s), sign owner(s), sign user, or other person will bear the burden of proof and must provide legally recognized documentation stating:
 - (i) A photograph of the sign;
 - (ii) The signs' installation date;
 - (iii) Proof that the sign fully conformed to the Sign Ordinance in effect at the time of installation;
 - (iv) That the person installing the sign obtained all necessary permits for the installation of the sign; and
 - (v) That any changes to the sign have been made in accordance with the requirements of the Sign Ordinance and is in compliance with all applicable permit requirements.

(E) **Variance application.** The Planning and Zoning Commission may grant variances from the regulations contained in this Chapter to permit a setback for a sign or street graphic that is less than the required setback, and to permit the area or height of a street graphic to be increased more than the maximum height or area allowed.

- (1) Approval standards. The Planning and Zoning Commission may grant a variance authorized by this section if it finds the variance requested is required by special or unique hardship because of:
 - (a) Exceptional narrowness, shallowness, or shape of the premises on which a street graphic is located; or
 - (b) Exceptional topographic conditions or physical features uniquely affecting the premises on which a street graphic is located.
- (2) Additional requirements. The Planning and Zoning Commission shall grant a variance only if it also finds that the variance is consistent with the comprehensive plan and there are no other reasonable alternatives for displaying a sign or street graphic permitted by this Chapter if the variance is not granted.
- (3) The Planning and Zoning Commission shall not grant a variance solely because the display of a sign or street graphic would be more profitable if the variance were granted.

(F) **Appeal process.**

- (1) Citizens have the right to appeal decisions made by the Land Use Officer to the Planning and Zoning Commission and the right to appeal decisions made by the Planning and Zoning Commission to the City Council.
- (2) Applicants and permit holders shall file a notice of appeal within fifteen (15) calendar days following receipt of a written decision by the Land Use Officer or by the Planning and Zoning Commission. Appeals shall be submitted on the City's official appeals form with the required fee.
- (3) Appeals are subject to public hearing and require fifteen (15) days public notice.

(G) **Inspection of signs.** The City Land Use Officer shall have the right to inspect each sign regulated by this Chapter to ascertain whether the same is secure or insecure or is in need of repair or removal.

(H) **Procedure for removal of unsafe or unlawful signs.** The City shall give written notice to the property owner if the City finds that any sign or other advertising structure or device regulated herein is unsafe or insecure; has been constructed, installed, or is being maintained in violation of the provisions of this section. The property owner has thirty (30) days from the date of the City's written notice to comply with the standards of these sections or remove the nuisance sign or sign structure at owner's expense. Signs not removed or repaired by the property owner are subject to removal by the City at the owner's expense. The City shall refuse to issue a permit and may impose additional penalties to any owner who refuses to pay costs so assessed. The City may cause any sign or other advertising structure that is an immediate peril to persons or property to be removed summarily and without notice. The Land Use Officer is authorized to remove any illegal sign placed in the public right-of-way or attached to public property without notification.

(I) **Installation of signs.**

- (1) Signs shall be constructed and installed in accordance with the current City Code and State Construction Industries Division (CID) requirements.
- (2) Companies that mount, install, alter, relocate, dismantle or repair wall, pole, monument, and off-premise signs within City limits shall possess a current state license and current City business license and shall comply with state CID requirements.
- (3) Signs with electricity shall comply with state CID requirements.
- (4) The City Land Use Officer will make final inspection of the sign once it is in place. If the sign is not in compliance, the City may proceed with enforcement.
- (5) An applicant is allowed up to one (1) year from the date of approval of his or her sign application to install the signage approved by the permit. If the signage is not timely installed the applicant shall resubmit a new application and the process starts over again.

(J) **Liability for damages.** The provisions of this Chapter shall not be construed to relieve or to limit in any way, the responsibility or liability of any person, firm, or corporation which installs or owns any sign, from personal injury or property damage caused by the sign; nor shall the provisions of this Chapter be construed to impose upon the City, its officers, or its employees, any responsibility or liability by reason of the approval of any sign under the provisions of this Chapter.

(K) **Issues not addressed.** All issues not addressed in this Chapter may be referred to the Planning and Zoning Commission.

152.07 EXEMPT SIGNS.

(A) The following signs and displays do not require the issuance of a sign permit, but must otherwise comply with City Code:

- (1) Address numbers.
 - (a) Each commercial, industrial, and public establishment is required to have at least one (1) street number at the main entrance not to exceed twelve (12) inches by six (6) inches wide per digit that is highly contrasting or reflective and readable from the public right-of-way. Street numbers displayed on the building should be a minimum twelve (12) inches per digit and a maximum of thirty-six (36) square inches per digit.
 - (b) Residential address numbers must be a minimum of three (3) inches by two (2) inches per digit, highly contrasting or reflective, and placed so they can be easily read at night by headlight from a public right-of-way.
- (2) Balloons not exceeding twenty (20) feet in height.
- (3) Equipment Signs. Signs located on machinery or equipment which are necessary and customary to a business, such as gasoline pumps or vending machines.
- (4) Flags that do not exceed fifteen (15) square feet.

- (5) Government signs installed or maintained pursuant to and in discharge of any government function or required or authorized by law, ordinance, or governmental regulations. This includes but is not limited to street signs, traffic control, and construction signage.
 - (6) Hand-held signs not exceeding six (6) square feet.
 - (7) Holiday Decorations.
 - (8) Incidental Signs in Public Places. This refers to signs on facilities located in public places that provide information that is incidental to a sponsored activity, such as a scoreboard or time clock and that comply with City Code including the Outdoor Lighting Ordinance.
 - (9) Private Traffic Direction Signs that are three (3) square feet or less and only indirectly illuminated. Horizontal directional signs on and flush with paved areas are exempt from the limitations of this Chapter.
 - (10) Displays not visible from any public right of way.
 - (11) Small ground signs that are not more than two (2) square feet in area.
 - (12) Works of art.
 - (13) Real Estate signs with dimensions no greater than 18" x 24" and no taller than 4' located on the parcel of land for sale.
- (B) Changeable electronic variable message signs (CEVMS) are exempt from the CSP if they abide by the following information:
- (1) They are being used to replace a current sign;
 - (2) The dimensions of the CEVMS are not larger than that of the sign that they are replacing; and
 - (3) The existing sign was already approved by the City Planning and Zoning Board through the CSP process.

152.08 PROHIBITED SIGNS.

(A) **Generally prohibited signs.** The following signs and street graphics in this section are in general prohibited, however the City recognizes continuing advances in technology that may make previously prohibited materials viable for future application in the community. Sign applicants may request Planning and Zoning Commission review when considering use of prohibited materials and technology. Some devices are specifically allowed under special circumstances as described in this Chapter.

- (1) Signs that employ any searchlights, strobe lights, or rotating, pulsating, or oscillating beacons of light; lights that constitute a nuisance or hazard due to the intensity of light; pulsating, flashing, traveling, or blinking lights; animated features (except on changeable electronic variable message signs); varying intensity; pennants, tinsel, streamers, fringe, fluttering devices, propellers, discs, rotating or spinning parts;

mirrors, glaring objects, holograms, fluorescent or dayglow paint are generally prohibited.

- (2) Signs and street graphics that are greater than two hundred twenty (220) square feet of total combined signage requiring a City permit on lots two thousand two hundred (2,200) square feet or larger and signs and street graphics that exceed ten percent (10%) of the square footage of a lot that is less than two thousand two hundred (2,200) square feet without a comprehensive signage plan and Planning and Zoning Commission Review. Billboards that exceed two hundred (200) square feet; and off-premise signs that exceed forty-eight (48) square feet are generally prohibited.

(B) **Expressly prohibited signs.** The following signs are expressly prohibited.

- (1) Signs that may be confused with or construed as a traffic control sign, signal or device, or the light of an emergency vehicle or road equipment by reason of their size, location, movement, content, coloring or manner or illumination;
- (2) Signs that shield from view any traffic control device, sign, signal or other government sign;
- (3) Signs on residential property except for (1) home occupation signs as described in each residential district's regulations and (2) signs that are otherwise exempt within this Chapter.
- (4) Signs that emit smoke, visible vapors, particles, pyrotechnics, or odors;
- (5) Signs, displays, or other similar advertising structures which:
 - (a) Display any obscene language or images;
 - (b) Advertise activities that are illegal under federal, state, or local laws or regulations;
 - (i) Exception: Cannabis advertisements, which are regulated by the State.
 - (c) Are intended to provoke and will likely lead to an immediate, violent breach of the peace.
- (6) Vehicular billboards. Signs for attention getting, identification, or advertising purposes attached or painted on motor vehicles, recreational vehicles, trailers, boats, or other movable device parked and visible from the right-of-way are expressly prohibited where the primary purpose of the vehicle is to advertise merchandise, equipment, a product, or business or to direct people to a business or activity either on or off-premise. No person shall park an advertising vehicle or trailer on a public right-of-way or on public property for more than four (4) hours without a City permit. For purposes of this Chapter, advertising signs, logos, identification, and markings painted on, permanently attached, wrapped or magnetically attached to licensed commercial delivery, service vehicles, business vehicles, buses, and taxis not consistently parked in a fixed location and primarily used in normal day-to-day business operations are permitted and not considered vehicular billboards;

- (7) Roof signs in residential zones;
- (8) Signs projecting in or on any public property or public right-of-way except those installed by a governmental entity for a governmental purpose or as otherwise authorized in this Chapter;
- (9) Graffiti; and
- (10) Snipe and bandit signs, posters, fliers, handbills. Any signs placed on or affixed to any public property, utility poles, street furniture, benches, bus stops, trees or other natural vegetation, or rocks, or placed in a right-of-way without a City permit or compliance with other provisions of City Code.

152.09 SIGN STANDARDS

This section contains the standards for signs and street graphics. These standards are intended for use by the public, Land Use Officer, Planning and Zoning Commission, and City Council in evaluating how a sign user will display signage and street graphics on a property, to ensure that the sign and sign structure are safe and secure, and to uphold professional standards

(A) **Design.** The design of each sign, street graphic, or advertising structure should be a product of professional quality and be compatible with similar type business signs and advertising structures.

(B) **Construction Standards.** Supports for signs or sign structures should be placed in or upon private property, should be securely built and constructed of weather resistant materials, and be able to withstand high winds that are prevalent in this area. The construction, installation, safety and maintenance of all signs must comply with the State Building Code and all of the following:

- (1) Signs and sign structures must be structurally sound, located, and secured so as to pose no reasonable threat to pedestrian or vehicular traffic.
- (2) All permanent freestanding signs must have self-supporting structures installed on, or permanently attached to, concrete foundations.
- (3) If possible, signs should not be in locations that obscure architectural features such as pilasters, arches, windows, cornices, etc.
- (4) The signs should not be in locations that interfere with safe vehicular and pedestrian circulation or public safety signals and signs.
- (5) No signs may be installed, constructed or maintained so as to obstruct any fire escape, required exit, window, or door opening used as a means of egress.
- (6) Signs on buildings should be permanently mounted to a building façade or roof.
- (7) All signs that require a construction permit under applicable codes must be installed by a qualified contractor licensed in the State of New Mexico.

(C) **Sign Location.** Signs should be positioned so that no maintenance has to be performed from the road right-of-way. No sign may be placed so as to block the view of motorists or interfere with traffic or pedestrians in any way. Signs are prohibited from hanging over any property line.

(D) **Setbacks.**

- (1) **Side and Rear Setback.** Unless otherwise noted in this Chapter, signs have a minimum side and rear setback of ten (10) feet from the property line. However, sign owners may apply for a zero (0) to ten (10) foot side or rear setback through review and public hearing before the Planning and Zoning Commission. Through the review process, the Planning and Zoning Commission will determine whether a shorter setback will negatively impact adjacent property. Illuminated signs (which must go before the Planning and Zoning Commission for review) must be setback sufficiently to prevent light from infringing on neighboring property and may require a setback greater than ten (10) feet.
- (2) **Front Setback.** Signs (except ground signs which require a ten (10) foot minimum setback) are allowed to have zero front setback from the right-of-way or easement.

(E) **Reflective Signs.** On-premise and off-premise reflective signs are permitted.

(F) **Illuminated Signs.** Illuminated signs should be designed, located and constructed to reduce glare and must not be placed to permit focused light to be directed or beamed upon a public right-of-way so as to cause a traffic hazard, or adjacent premises not under the same ownership and control, so as to create a nuisance. Illuminated signs must be shielded so that no light is emitted directly upward. Illuminated signs must comply with the City's Outdoor Lighting Ordinance.

(1) **Electrical Standards.**

- (a) All electrical and service lines to freestanding permanent outdoor advertising devices are required to be located underground.
 - (b) Illuminated signs must comply with standards set forth in the State Building Code, City Code, and are subject to City inspection and enforcement.
- (2) **Prohibited in Residential Zones and Off-Premise.** Illuminated signs are prohibited in residential zones, are allowed as on-premise signs, and are prohibited as off-premise signs.
- (3) **Hours of Illumination.** Electrical illumination of on-premise signs during nighttime hours is permitted subject to approval by the Planning and Zoning Commission in compliance with the City's Outdoor Lighting Ordinance.

(G) **General On-Premise Sign Types.** The on-premise sign types or classifications referenced within this Chapter are illustrated in the Figures below, which are from the United States Sign Council, Inc. *Guideline Code for Regulation of On-Premise Signs* (2018 ed.).

FIGURE 1. TYPICAL ON-PREMISE SIGN TYPES

FREESTANDING SIGNS

usually perpendicular to viewer's line-of-sight. May be double or multi faced and contain thematic embellishment and integral covers or cladding to conceal structural supports.

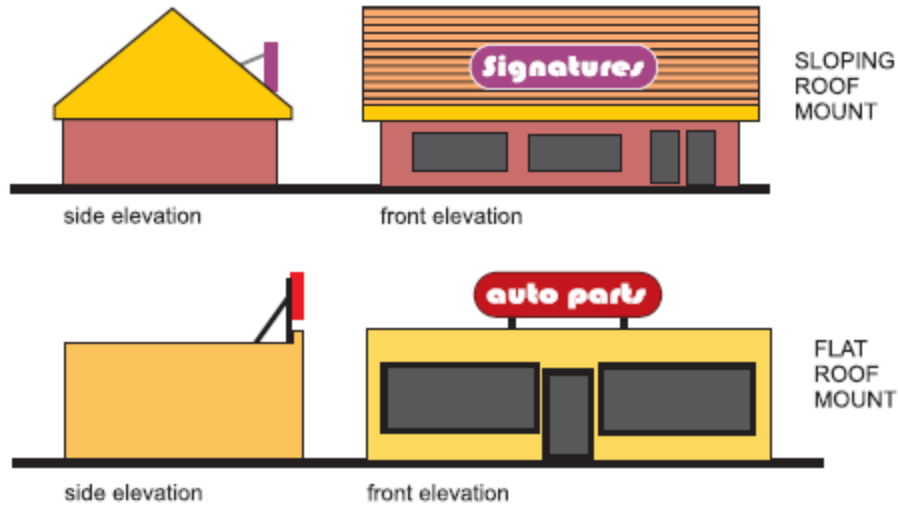


BUILDING SIGNS

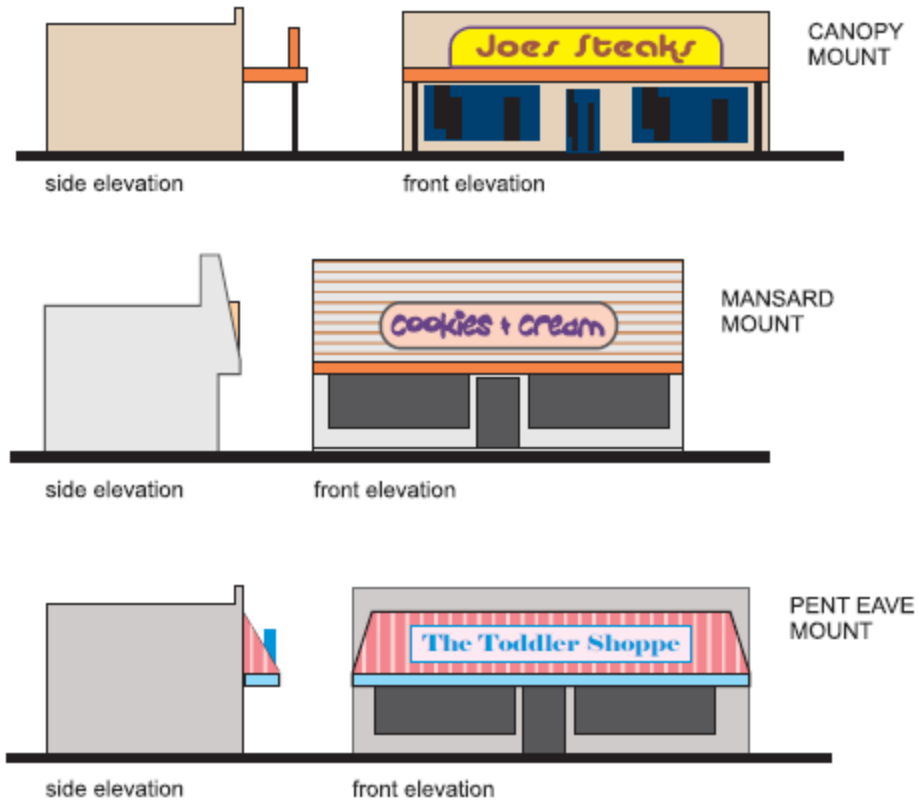


FIGURE 2. ROOF AND FASCIA SIGNS

ROOF SIGNS



Fascia Signs on Roof-Like Projections
NOT ROOF SIGNS



(H) Permanent Sign Type, Size and Area Allowance by Zone.

- (1) Sign Districts. The various zoning districts within the City have been grouped together and classified as the following sign districts:

- (a) Single Family Residential Sign District (“SFR”). SFR includes R-1-A, R-1-B, R-1-C, R-1-D, R-1-P, R-Ag and PUD zoning districts.
- (b) Multifamily Residential Sign District (“MFR”). MFR includes the R-3 zoning district.
- (c) Commercial and Special Use Sign District (“CSU”). CSU includes the C-2 and SU zoning districts.

(2) The below table sets forth the regulations concerning the types and dimensions of permanent signs allowed in each Sign District, not including off-site signs:

Sign District	Types of Permanent Signs Allowed	Number of Signs Allowed	Permitted Total Sign Area	Maximum Height
SFR	Freestanding or Wall	Any number so long as the total square footage of all signs does not exceed 4 square feet per frontage.	4 Square Feet	4 feet
MFR	Freestanding	One per frontage	4 square feet	4 feet
	Wall	1 per façade	5% of façade	N/A
	Incidental or Directional	Unlimited	4 square feet	4 feet
CSU	Freestanding	1 per 300 feet of frontage length; for shopping centers or industrial parks, one per vehicular entrance.	100 square feet	40 feet
	Building/Wall (not including Roof; Canopy; Marquee; Awning; Projecting)	Any number so long as the total square footage does not exceed 20% each building façade; or each storefront.	20% of each building façade; or, if multiple, storefronts in one building, 20% of each storefront façade.	N/A
	Roof	In lieu of a building sign, applicants may have 1 roof sign per building; or, if multiple storefronts in one building, one per storefront.	20% of each storefront’s Façade.	Cannot exceed 30% of the height of the building’s façade on which it is located.
	Canopy; Marquee; Awning	1 per frontage.	40% of the height x length of the face area of the canopy, marquee, or architectural projection to which sign is affixed, or 15% percent of the	N/A

			building façade to which it is attached, whichever is greater.	
	Projecting	1 per frontage.	1 square foot for every 2 lineal feet of façade up to 100 square feet.	No higher than the highest architectural projection of the facade on which mounted. Max height of 25% of height of facade

(3) Additional Limitations for Signage on CSU lots.

- (a) Consistent with Section 152.08(A)(2), above, signs and street graphics that are greater than two hundred twenty (220) square feet of total combined signage requiring a City permit on lots two thousand two hundred (2,200) square feet or larger and signs and street graphics that exceed ten percent (10%) of the square footage of a lot that is less than two thousand two hundred (2,200) square feet require a CSP approved by the Planning and Zoning Commission.

(4) Sign Area.

- (a) Sign Cabinets. The area of a sign enclosed in a frame or cabinet is determined based on the outer dimensions of the frame or cabinet surrounding the sign face.
- (b) Multi-Sided Signs. Only one (1) side of a double-sided sign is counted in determining the area of sign faces. Where the two (2) sides are not of equal size, the larger of the two (2) sides is used for the determination of sign area. The area of multiple-faced signs in which the interior angle formed by the faces is greater than ninety-one degrees (91°) shall be expressed as the sum of the areas of all the faces, except for multiple-faced signs containing faces that are configured back-to-back, in which case the area of the faces configured back-to-back will be calculated according to the rule for double faced signs.
- (c) Round, Oval & Irregularly shaped signs. To be measured based on the appropriate mathematical formula to obtain the sign area for a circle, an oval or irregularly shaped sign.

- (5) Sign Height. Sign height is measured as the vertical distance from the base of the sign or support structure at its point of attachment to the ground to the top of the highest component of the sign or sign structure. When located on a man-made base, including a graded earth mound, berm, or fill, a freestanding sign height should be measured from the grade at the edge of the adjacent right-of-way.

(6) Additional On-Premise Sign Criteria.

- (a) Free Standing Signs.
 - (i) Pole Signs. Pole signs may be located at the front property line but must observe side and rear setbacks. No part of the sign structure or sign face

should encroach on adjacent property or obstruct view of traffic. A minimum eight (8) foot clearance from the ground to the bottom of the sign face or any projecting equipment or elements on the sign structure or pole is required.

- (ii) Monument, Blade, and Pylon Signs. These signs must be located outside of the clear site line triangle of streets and driveways and must not restrict view of traffic. These signs may be located at the front property line but must observe side and rear setbacks. No part of the sign structure or sign face should encroach on adjacent property.
- (b) Wall or Fascia Signs. Wall or fascia signs attached to a building must be permanently mounted to the building façade and designed to be complimentary to the building's architectural features, fenestration, color, texture, and orientation to the public right-of-way. Wall signs should project no more than two (2) feet perpendicular from the wall and should not project outside or above the building façade.
- (c) Hanging Signs. The distance from the ground or sidewalk to the bottom of a hanging sign should be a minimum of eight (8) feet.
- (d) Roof Signs. All roof signs must be permanently affixed to the roof of a structure. The supporting design should be structurally sound and the roof must be sound. Roof signs are allowed on flat roofs and sloping roofs.
- (e) Canopy Sign on Freestanding Canopy. Signs may not project from the canopy wall a distance greater than twelve (12) inches. Any canopy sign should be centered a minimum of six (6) inches from the top and six (6) inches from the bottom of the canopy face.
- (f) Projecting Signs. The minimum height to the bottom of a projecting sign should be not less than eight (8) feet above the ground or sidewalk.
- (g) Marquee Signs. Marquees are roof-like structures that project beyond the building face and are permanently attached to and supported by the building. Marquees may not project over the public right-of-way and should be a minimum height of eight (8) feet above the ground or sidewalk. Flat signs and v-shaped signs may be mounted on a marquee and may not exceed the total allowable sign area for the property.

(D) Regulation of Off-Premise Signs.

- (1) Purpose. By regulating off-premise signs, the City seeks to enhance its scenic qualities, promote a safe and calming visual environment for residents and tourists by preventing clutter and blight, and support local businesses. In accordance with the State of New Mexico Highway Beautification Act of 1978 [67-12-1 and 3 NMSA 1978] the City regulates the construction and maintenance of outdoor advertising in order to promote public safety, health, welfare, convenience and enjoyment of public travel, to protect the public investment in public highways, and to preserve and enhance the scenic beauty of lands bordering public highways

- (2) State Highway 195 Designated as Scenic Byway. State HWY 195 is a portion of the Geronimo Trail National Scenic Byway. The 2008 Corridor Management Plan states the following regarding outdoor advertising on scenic byways. “Erecting new billboards on a designated scenic byway is prohibited except in legitimate commercial and industrial areas. Areas identified as lacking the unusual or distinctive features (intrinsic values), included in the New Mexico State Scenic and Historic Byways program criteria, may be excluded or segmented from existing or future Byways designation, in accordance with the intent of Public Law 102-240 (ISTEA), section 1046 and 1047. These segmented areas of the Byway would not be eligible for Scenic Byway funds.”
- (3) Off-Premise Signs
 - (a) Size and Design. Off-premise signs must be constructed of durable materials, must be maintained in good repair and condition, and are allowed no more than two (2) sign faces. Permanent free-standing off-premise signs that are not located on building walls or poles must be framed with either a metal or aluminum frame or treated wood frame. Free-standing off-premise signs are encouraged to use natural materials that reflect the City’s rural and rustic desert character such as treated wood, rock, stone, or dull metal finishes. Free-standing off-premise signs should utilize high contrast between background and copy to improve readability. Backgrounds should use muted colors that blend with the desert environment. Text and graphics on off premise sign faces should be designed to be large enough and legible by passing motorists. The sign-face of off-premise signs may not exceed forty-eight (48) square feet per sign face. Cutouts or extensions are not permitted outside of or in excess of the permitted sign area.
 - (b) Permitted Zones. Off-premise signs are permitted only in agricultural, commercial, and industrial zones and must be installed only in compliance with all regulations for signs in this code.
 - (c) Businesses without Road Frontage. Businesses located in the City’s agricultural, commercial, or industrial zones that do not have immediate road frontage may install one off-premise one-sided or double-sided pole sign or locate a sign on an existing sign pole or building wall on an adjacent or nearby commercial or industrial property with road frontage. This type of off-premise sign may not exceed forty-eight (48) square feet per sign face. Legally permitted non-conforming off-premise signs installed and inventoried by the City prior to the effective date of this ordinance are considered legal and are required to apply for a sign permit and an extension to continue the nonconformance. The addition of an off-premise sign for another business entity does not count against the total permitted sign area for the on-premise business.
 - (d) Setback Requirements. Off-premise signs must be set back a minimum of twenty-five (25) feet from all property lines and placed so as not to pose a visibility or other hazard to vehicular traffic in the vicinity of the sign. Off-premise signs must be setback a minimum of twenty-five (25) feet outside the right-of-way.

- (e) **Sign Area Allowances.** Business establishments located in the City are allowed no more than four (4) signs totaling ninety-six (96) square feet of off-premise signs. Business establishments located outside the City limits are allowed no more than two (2) signs totaling forty-eight (48) square feet of off-premise signs. Business establishments located in the City's Agricultural and Residential Zones are permitted one (1) off-premise sign to be located in an agricultural, commercial, or industrial zone not to exceed forty-eight (48) square feet.
- (f) **Sign Faces.** Off-premise signs may be single facing or double facing. Both sides of double facing signs must be of equal size and facing in opposite directions, where the backs are parallel or the interior angle between the two display surfaces forms a touching 'V' with an angle that does not exceed thirty degrees (30°).
- (g) **Distance Requirements.** All freestanding off-premise signs must be located a minimum of three hundred (300) feet from of any other off-premise sign or on-premise sign on the same side of the road.
- (h) **Height.** Off-premise signs in undeveloped corridors may not exceed twelve (12) feet in height from the highest component of the sign measured from the ground under the sign. Signs in developed areas cannot exceed the height of any building façade adjacent to it. The lowest point of a freestanding off-premise sign face(s) must not obstruct intersection clear site triangles.
- (i) **Multiple Advertisers.** Off-premise signs advertising multiple businesses on one sign face are allowed. The total sign face may not exceed forty-eight (48) square feet.
- (j) **Prohibitions.** The following off-premise signs are prohibited within the City limits.
 - (i) Digital off-premise signs with a changing sign face, multi-prism signs, tri-vision signs, movable parts, side-by-side signs, and vertical stacked signs are prohibited within the City limits.
 - (ii) Additional signs attached to an off-premise sign or sign structure and cutouts exceeding the permitted sign face area are prohibited.
 - (iii) Off-premise signs may not be illuminated by any means.
 - (iv) Off-premise signs are prohibited in residential zones. Off-premise signs are not permitted within three hundred (300) feet of a residential zone.
 - (v) Off-premise signs are prohibited on fences.

152.10 CHANGEABLE ELECTRONIC VARIABLE MESSAGE SIGNS (CEVMS)

(A) Locations.

- (1) CEVMS may be attached to a freestanding pole, monument, blade, pylon, or ground sign; canopy sign; or marquee.
- (2) CEVMS should be located at least two hundred (200) feet from the nearest boundary of a residential district.
- (3) CEVMS must have a minimum side setback of ten (10) feet. For signs taller than ten (10) feet, the side setback must equal or exceed the height of the sign at its tallest point. CEVMS are allowed to have zero front setback from the right-of-way or easement.
- (4) CEVMS are prohibited in residential sign districts and as roof signs.

(B) **Operational Limits.** When in view of motorists on a public right of way:

- (1) CEVMS may contain static messages, movement or the appearance or optical illusion of movement, animation, or videos.
- (2) There should be no appearance of flashing or sudden bursts of light or scintillating light. Illumination intensity or contrast of light level must remain constant.
- (3) The time interval used to change from one complete message/display to the next complete message/display should be a maximum of one (1.0) second.
- (4) Display Time and Intervals Between Messages. The display time of messages shall not be so fast, nor the interval time between messages so slow, as to cause confusion or distract drivers. CEVMS displays violating this section must be turned off or changed to a single, static message.
- (5) There may be an appearance of a visual dissolve or fading, in which any part of one electronic message/display appears simultaneously with any part of a second electronic message/display.
- (6) Letter height should be large enough for messages to be legible and easily read by passing motorists.
- (7) Audio speakers are not allowed with the exception that the sign serves a governmental purpose.
- (8) CEVMS should be designed so that the height, dimensions, angle, and design features are compatible with the site and surrounding area.
- (9) A maximum of one (1) primary sign per premise with a single entrance may contain a CEVMS that can be viewed from the public right-of-way. A CEVMS may have two sign faces and may be installed back-to-back or in a V shape not to exceed a thirty degree (30°) angle.
- (10) Additional CEVMS viewed from the right-of-way may be approved as part of a Comprehensive Signage Plan for large scale developments and properties with one than one entrance.

- (11) CEVMS must be equipped with a default mechanism that shuts off or freezes the sign to static mode to prevent flashing if a malfunction occurs.
- (12) CEVMS must be equipped with an automatic ambient light dimming mechanism to adjust the display intensity according to the natural ambient light conditions.
- (13) Light levels should not exceed 0.1 foot-candles twenty (20) feet from the abutting property line, and no lamp can create disability glare on adjacent properties or the public right-of-way. Disability glare is defined as any source producing greater than two thousand five hundred (2,500) nits.
- (14) As measured from the sign's face at maximum brightness, no sign may display an illuminative brightness exceeding five hundred (500) nits (candelas per square meter) during the night beginning one-half (½) hour before sunset and two thousand (2,000) nits during daylight beginning one-half (½) hour after sunrise as published by the National Weather Service for the City.
- (15) CEVMS must have an automatic dimmer control to produce a distinct illumination change from a higher illumination level to a lower level for the time period between one-half (½) hour before sunset and one-half (½) hour after sunrise.

152.11 TEMPORARY SIGNS

- (A) Temporary signs may be posted in any sign district of the City and will not count toward the total signage allowed on a property, subject to the following requirements:
- (1) A temporary sign may be posted only with the consent of the property owner or occupant.
 - (2) All temporary signs must be constructed and designed of materials durable enough to withstand the elements to which the sign is to be subjected. No temporary sign shall be illuminated or painted with light-reflecting paint.
 - (3) No additions, tag sign streamers, attention-getting devices or other appurtenances shall be attached to any temporary sign.
 - (4) No temporary sign shall be located in the clear sight triangle, obstruct or impair access to a public sidewalk, public or private street or driveway, traffic control sign, bus stop, fire hydrant, or any other type of street fixtures, or otherwise create a hazard, including a tripping hazard.
 - (5) Signs in the right-of-way may not be located or posted on medians, trees, utility poles, or other utility structures located in the right-of-way.
 - (6) Nuisances. If any temporary sign becomes a nuisance as defined elsewhere in the City Code, such signs may be subject to removal, relocation, or other actions to eliminate the nuisance.
 - (7) A temporary sign that remains in place for more than 90 days is considered permanent sign that requires a new permit and that counts toward the total signage allowed on a property.

(B) Temporary Signs in residential sign districts (SFR or MFR) are subject the following additional regulations:

- (1) The total square footage for temporary signs posted on a lot in a residential sign district, in the aggregate, shall not exceed thirty-two (32) square feet.
- (2) No individual sign shall exceed eight (8) square feet and six (6) feet in height if freestanding.
- (3) One development/construction sign not to exceed thirty-two (32) square feet and six (6) feet in height may be placed at the entrance of a subdivision or model home village until the subdivision is complete.
- (4) Signs may be freestanding or securely attached to a wall or fence.
- (5) No temporary sign in a residential zone shall advertise or promote any commercial enterprise not conducted on the same lot.

(C) Temporary Signs in the CSU Sign District are subject to the following additional regulations:

- (1) Temporary signs shall be located on the same lot as to which the signs pertain, not in the public right-of-way.
- (2) The total square footage for all temporary signs posted on a lot in all commercial (nonresidential) sign districts, in the aggregate, shall not exceed sixty-four (64) square feet.
- (3) Development located on a single lot which is twenty (20) or more acres in size may post signage that does not in the aggregate exceed one hundred twenty-eight (128) square feet.
- (4) No individual sign shall exceed thirty-two (32) square feet.
- (5) Signs may be freestanding or securely attached to a wall or fence.
- (6) A temporary sign shall not advertise or promote any commercial enterprise or event not conducted on the same lot except as otherwise stipulated herein.

152.99 PENALTY.

(A) The City Land Use Officer shall initially determine compliance with this Chapter. Any person who violates this Chapter or fails to comply with any of its requirements, shall be subject to a penalty. The City is hereby authorized to require removal of any illegal sign, revoke any permit authorizing the installation of a sign that has been constructed or is being maintained in violation of the permit, enforce this Chapter, and to make all inspections required to ensure such enforcement.

(B) First offense will result in a written warning issued by the Land Use Officer in the form of a notice issued personally on the owner and/or permittee, or by certified letter, return receipt requested addressed to the owner and/or permittee at the address specified in the permit or the last

known address. The notice shall state the violation charged, and the reasons and grounds for removal, specifying the deficiencies or defects and what repairs, if any, will make the sign conform to the requirements of this Chapter, and specify that the sign must be removed or made to conform with the provisions of this Chapter within the notice period stated. The notice period for permanent signs shall be thirty (30) calendar days. The notice period for temporary signs shall be forty-eight (48) hours. Failure to respond to the warning within thirty (30) calendar days for permanent signs and within forty-eight (48) hours for temporary signs will result in the issuance of a citation. Subsequent offenses will result in the issuance of a citation without a written warning.

(C) The owner and/or permittee of the permit may appeal in writing the City's decision to revoke the permit to the Planning and Zoning Commission within fifteen (15) calendar days from the date when the notice was served.

(D) If the sign is not removed or brought into compliance with the provisions of this Chapter and the sign review guidelines to the satisfaction of the City and no appeal has been submitted at the end of fifteen (15) calendar days, the permit is revoked. The City may then initiate the process for the removal of the illegal sign and impose penalties.

(E) Second and subsequent violations will result in a suspension of the privilege to obtain a sign permit for a minimum period of six months up to a maximum period of one (1) year and a fine not to exceed \$500 for each offense.

(F) Re-installation of any sign or substantially similar sign on the same premises after a violation notice has been issued shall be deemed a continuation of the original violation.

(G) Upon revocation of any permit the sign and/or sign structure shall be removed by the owner within thirty (30) calendar days or will be subject to removal by the City at the owner's expense through action for recovery that may be brought by the City.

(H) Notwithstanding the above, the City may cause the immediate removal or repair (without notice to the owner of the sign, or of the property on which it is located) of any unsafe or defective sign that creates an immediate hazard to persons or property. The City shall document its actions and avoid acts that are arbitrary or capricious.

PASSED, APPROVED, AND ADOPTED by the Governing Body of the City of Elephant Butte, New Mexico, this 26th day of April, 2023.

Phillip Mortensen, Mayor

ATTEST:

Lindsey Cobleigh, City Clerk

DRAFT