

**BRADY**  
THE CITY OF  
**TEXAS**

**CITY OF BRADY**  
**CITY COUNCIL WORK SESSION AGENDA**  
**APRIL 18, 2017 AT 4:00 PM**

NOTICE is hereby given of a meeting of the City Council of City of Brady, McCulloch County, State of Texas, to be held at 4:00pm on April 18, 2017, at the City of Brady Municipal Court Building, located at 207 S. Elm Street, Brady, Texas, for the purpose of considering the following items. The City Council of the City of Brady, Texas, reserves the right to meet in closed session on any of the items listed below should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas

**1. Call to Order, Roll Call and Certification of a Quorum**

Tony Groves  
Mayor

Kathy Gloria  
Mayor Pro Tem, Place 1

Shelly Perkins  
Council Member, Place 2

Vacant  
Council Member, Place 3

Jane Huffman  
Council Member, Place 4

Jim Griffin  
Council Member, Place 5

Kim Lenoir  
City Manager

Tina Keys  
City Secretary

Lisa Remini  
Director of Finance

Steve Miller  
Director of Public Works

Peter Lamont  
Director of Community  
Services

Lyle Daniel  
Chief of Fire/EMS

Steve Thomas  
Chief of Police

Shannon Kackley  
City Attorney

**2. Review and discuss proposed sign ordinance**

**3. Review and discuss Utility Inspection Policies and Procedures**

**4. Review and discuss Parking Issues / Complaints:**  
Paved parking lots in Industrial, Commercial Districts  
On-street parking & off-street parking requirements

**5. Review and discuss Ordinance 1155 Ambulance Regulations**

**6. Discuss and plan future work session dates and topics**

**7. Announcements**

**8. Adjournment**

*I certify that this is a true and correct copy of the City of Brady City Council Meeting Agenda and that this notice as posted on the designated bulletin board at Brady City Hall, 201 E. Main St., Brady, Texas 76825; a place convenient and readily accessible to the public at all times, and said notice was posted on \_\_\_\_\_ by 6:00 p.m. and will remain posted continuously for 72 hours prior to the scheduled meeting pursuant to Chapter 551 of the Texas Government Code.*

*Tina Keys, City Secretary*

In compliance with the American with Disabilities Act, the City of Brady will provide for reasonable accommodations for persons attending public meetings at City Facilities. Requests for accommodations or interpretive services must be received at least 48 hours prior to the meeting. Please contact the City Secretary at 325-597-2152 or [citysec@bradytx.us](mailto:citysec@bradytx.us).

**Attendance by Other Elected or Appointed Officials:** It is anticipated that members of other governmental bodies, and/or city boards, commissions and/or committees may attend the meeting in numbers that may constitute a quorum of the body, board, commission and/or committee. Notice is hereby given that the meeting, to the extent required by law, is also noticed as a possible meeting of the other body, board, commission and/or committee, whose members may be in attendance, if such numbers constitute a quorum. The members of the boards, commissions and/or committees may be permitted to participate in discussion on the same items listed on the agenda, which occur at the meeting, but no action will be taken by such in attendance unless item and action is specifically provided for on an agenda for that body, board, commission or committee subject to the Texas Open Meetings Act.

This agenda has been reviewed and approved by the City's legal counsel and the presence of any subject in any Executive Session portion of the agenda constitutes written interpretation of the Texas Government Code Chapter 551 by legal counsel for the governmental body and constitutes an opinion by the attorney that the items discussed therein may be legally discussed in the closed portion of the meeting considering available opinions of a court of record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda with the intent to meet all elements necessary to satisfy Texas Government Code Chapter 551.114(c) and the meeting is conducted by all participants in reliance on this opinion.



Sign Code – 7th Rough Draft

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This document started as an effort to write a Model Sign Code, but as time passed it became clear that the term "model" might be a bit too ambitious and this draft evolved with comments, suggestions and ideas that can help drafters of their own codes. As time passes International Municipal Lawyers Association (IMLA) will review cases and efforts by others as we continue to update this document. For the reason that the law continues to be unsettled in many respects this continues to be a "rough draft".

This Sign Code proposes a content neutral code developed based on the decision of *Reed v. Town of Gilbert*, \_\_\_ U.S. \_\_\_, 135 S. Ct. 2218, 192 L. Ed. 2d 236, 2015 U.S. LEXIS 4061, 83 U.S.L.W. 4444, 25 Fla. L. Weekly Fed. 5 383 (U.S. 2015). The sign code recognizes that government signs are government speech intended to ensure public safety. These government signs include those described and regulated in the Manual on Uniform Traffic Control Devices and signs that are necessary to identify properties and to implement the laws of the state. The skeleton of this Sign Code derives from the Washington County, Oregon sign regulations which were found to be content neutral by the United States District Court for Oregon, Portland Division in *Icon Groupe, LLC v. Washington Cnty.*, 2015 U.S. Dist. LEXIS 67682 (D. Or. May 26, 2015). Because the skeleton finds its foundation in a County sign code, some provision may not be appropriate for cities or towns and because the drafters have included provisions from cities and towns, some provisions may not work for counties. For those reasons, persons using this document should tailor their product to their community's interests and needs.

This Sign Code accepts at face value the Supreme Court's unanimous view that governments may regulate signs. In *City of Ladue v. Gilleo*, 512 U.S. 43, 48, 114 S. Ct. 2038, 2041-2042, 129 L. Ed. 2d 36, 42-43, (U.S. 1994) writing for a unanimous court Justice Stevens explained that "While signs are a form of expression protected by the Free Speech Clause, they pose distinctive problems that are subject to municipalities' police powers. Unlike oral speech, signs take up space and may obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation. It is common ground that governments may regulate the physical characteristics of signs – just as they can, within reasonable bounds and absent censorial purpose, regulate audible expression in its capacity as noise. See, e. g., *Ward v. Rock Against Racism*, 491 U.S. 781, 105 L. Ed. 2d 661, 109 S. Ct. 2746 (1989); *Kovacs v. Cooper*, 336 U.S. 77, 93 L. Ed. 513, 69 S. Ct. 448 (1949)." In *Ladue*, the Court concluded that the City's regulation banning almost all residential signs went too far in restricting speech. At the same time the Court noted that its decision did not eliminate the city's ability to restrict some types of signs: "Nor do we hold that every kind of sign ~~shall~~ be permitted in residential areas. Different considerations might well apply, for example, in the case of signs (whether political or otherwise) displayed by residents for a fee, or in the case of off-site commercial advertisements on residential property. We also are not confronted here with mere regulations short of a ban." *City of Ladue v. Gilleo*, 512 U.S. 43, 58, 114 S. Ct. 2038, 2045, 129 L. Ed. 2d 36, 49, (U.S. 1994). Thus, *Ladue* teaches us that governments may impose limits on some signs and impose regulations short of a complete ban.

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In *Metromedia, Inc. v. City of San Diego*, 453 U.S. 490, 507, 101 S. Ct. 2882, 2892, 69 L. Ed. 2d 800, 814- 815 (U.S. 1981) a majority of the Justices of the Supreme Court concluded that a government could distinguish between commercial and non-commercial speech when regulating signs:

\* Finally, in *Central Hudson Gas & Electric Corp. v. Public Service Comm'n*, 447 U.S. 557 (1980), we held: 'The Constitution . . . accords a lesser protection to commercial speech than to other constitutionally guaranteed expression. The protection available for a particular commercial expression turns on the nature both of the expression and of the governmental interests served

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by its regulation.' *Id.*, at 562-563 (citation omitted). We then adopted a four-part test for determining the validity of government restrictions on commercial speech as distinguished from more fully protected speech. (1) The First Amendment protects commercial speech only if that speech concerns lawful activity and is not misleading. A restriction on otherwise protected commercial speech is valid only if it (2) seeks to implement a substantial governmental interest, (3) directly advances that interest, and (4) reaches no further than necessary to accomplish the given objective. *Id.*, at 563-566.

"Appellants agree that the proper approach to be taken in determining the validity of the restrictions on commercial speech is that which was articulated in *Central Hudson*, but assert that the San Diego ordinance fails that test. We do not agree."

Despite concluding that San Diego's ordinance regulating billboards survived the *Central Hudson* test, four members of the majority reached the conclusion that the city's ordinance was facially unconstitutional because it allowed commercial speech at certain locations where it prohibited non-commercial speech. "It does not follow, however, that San Diego's general ban on signs carrying noncommercial advertising is also valid under the First and Fourteenth Amendments. The fact that the city may value commercial messages relating to onsite goods and services more than it values commercial communications relating to offsite goods and services does not justify prohibiting an occupant from displaying its own ideas or those of others." *Metromedia, Inc. v. City of San Diego*, 453 U.S. 490, 512-513, 101 S. Ct. 2882, 2895, 69 L. Ed. 2d 800, 818 (U.S. 1981)

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In a decision following *Reed*, a federal District Court concluded that *Reed* did not extend to regulation of commercial speech and that the *Central Hudson* standard ought to apply to the City's regulations, albeit, regulations not involving signs:

"*Reed* is inapplicable to the present case, for several reasons, including that it does not concern commercial speech. Restrictions on commercial speech are evaluated under *Central Hudson*, using a four-part test:

(1) ~~If~~ the communication is neither misleading nor related to unlawful activity, then it merits First Amendment scrutiny as a threshold matter; in order for the restriction to withstand such scrutiny, (2) the State ~~shall~~ assert a substantial interest to be achieved by restrictions on commercial speech; (3) the restriction ~~shall~~ directly advance the state interest involved; and (4) it ~~shall~~ not be more extensive than is necessary to serve that interest.

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*World Wide Rush v. World Wide Rush, LLC v. City of L.A.*, 606 F.3d 576, 584 (9th Cir. 2010) (citations and quotation marks omitted) (citing *Central Hudson*, 447 U.S. at 564-66)."

*San Francisco Apt. Ass'n v. City & Cnty. of San Francisco*, 2015 U.S. Dist. LEXIS 150630, \*18 (N.D. Cal. Nov. 5, 2015)

Because *Metromedia* offers scant support for developing content based regulations of commercial signs, this Sign Code follows an approach designed to create content neutral regulations applicable to all signs, while distinguishing commercial signs from non-commercial signs by prohibiting commercial signs in some locations and regulating forms of commercial signs to limit their numbers while attempting not to stifle economic activity. Where commercial signs are allowed, *Metromedia* informs the conclusion that non-commercial signs ~~shall~~ also be allowed.

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Where this Sign Code uses time limits or size limits, those should be considered as illustrative only

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and are not intended to form a part of the Sign Code except for illustrative purposes.

## ARTICLE . - SIGNS

### DIVISION I. - GENERAL PROVISIONS

Findings, purpose and intent; interpretation.

(a) Signs obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation. The purpose of this article is to regulate the size, color, illumination, movement, materials, location, height and condition of all signs placed on private property for exterior observation, thus ensuring the protection of property values, the character of the various neighborhoods, the creation of a convenient, attractive and harmonious community, protection against destruction of or encroachment on historic convenience to citizens and encouraging economic development. This article allows adequate communication through signage while encouraging aesthetic quality in the design, location, size and purpose of all signs. This article ~~shall~~ be interpreted in a manner consistent with the First Amendment guarantee of free speech. If any provision of this article is found by a court of competent jurisdiction to be invalid, ~~the finding shall~~ not affect the validity of other provisions of this article which can be given effect without the invalid provision.

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(b) Signs not expressly permitted as being allowed by right or by special use permit under this article, by specific requirements in another portion of this chapter, or otherwise expressly allowed by the governing body, or Board of Adjustment, Appeals, Zoning Appeals.

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(c) A sign placed on land or on a building for the purpose of identification, protection or directing persons to a use conducted therein ~~shall~~ be deemed to be an integral but accessory and subordinate part of the principal use of land or building. Therefore, the intent of this article is to establish limitations on signs in order to ensure they are appropriate to the land, building or use to which they are ~~attached~~, and are adequate for their intended purpose while balancing the individual and community interests identified in subsection (a) of this section.

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(d) These regulations are intended to promote signs that are compatible with the use of the property to which they are ~~attached~~, landscape and architecture of surrounding buildings, are legible and appropriate to the activity to which they pertain, are not distracting to motorists, and are constructed and maintained in a structurally sound and attractive condition.

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(e) These regulations distinguish between portions of the City/County/Town designed for primarily vehicular access and portions of the City/County/Town designed for primarily pedestrian access.

(f) These regulations do not regulate every form and instance of visual communication that may be displayed anywhere within the jurisdictional limits of the City/County/Town. Rather, they are intended to regulate those forms and instances that are most likely to meaningfully affect one or more of the purposes set forth above.

(g) These regulations do not entirely eliminate all of the harms that may be created by the installation and display of signs. Rather, they strike an appropriate balance that preserves ample channels of communication by means of visual display while still reducing and mitigating the extent of

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the harms caused by signs.

*Comment: The previous sections (a) through (g) were taken directly from the Local Government Association of Virginia's Model Sign Code with only minor revisions if any and one Comment.*

These regulations are not intended to and do not apply to signs erected, maintained or otherwise posted, owned or leased by this State, the federal government or this City/County/Town. The inclusion of "government" in describing some signs does not intend to subject the government to regulation, but instead helps illuminate the type of sign that falls within the immunities of the government from regulation.

## Section 1. Definitions.

**1.1 Sign.** A name, identification, description, display or illustration, which is affixed to, painted or represented directly or indirectly upon a building, or other outdoor surface which directs attention to or is designed or intended to direct attention to the sign face or to an object, product, place, activity, person, institution, organization or business. Signs located completely within an enclosed building, and not exposed to view from a street, ~~shall~~ not be considered a sign. Each display surface of a sign or sign face ~~shall~~ be considered to be a sign.

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### 1.1.1 Sign area:

1.1.1.1 the space enclosed within the extreme edges of the sign for each sign face, not including the supporting structure or

1.1.1.2 where attached directly to a building wall or surface, the space within the outline enclosing all the characters of the words, numbers or design.

1.1.2.3 **Sign face:** The entire display surface area of a sign upon, against or through which copy is placed.

1.1.3 **Electric Signs.** Any sign containing electric wiring. This does not include signs illuminated by an exterior floodlight source.

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1.1.4 **Flashing Signs.** Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when ~~the~~ sign is in use. For the purpose of this Code any moving illuminated sign, except digital billboards, ~~shall~~ be considered a flashing sign. Many sign regulations limit or prohibit moving or flashing signs. Some flashing signs include rows of colored lights that flash in sequence. Animated and flashing signs may be confused with traffic signals or warning devices. Although they can be more distracting to traffic than other signs, the issue also involves aesthetics. Special restrictions on sign lighting adjacent to residential properties, such as nuisance restrictions on beacons and lights producing glare on adjacent properties, are appropriate in most communities. Beacons include any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot. Beacons also include any light with one or more beams that rotate or move. Many local sign regulations prohibit beacons, which (unlike most flashing signs) may disturb residents at distances of blocks, or even miles, away from the location of the beacon.

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1.1.5 **Time and Temperature Signs.** These are signs that change as the time or temperature changes.

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Alternatively, the sign might repeatedly flash from one measurement to the other.

**1.1.6 Moving Signs.** Moving signs are moved by mechanical or natural means. An example is a wind-operated sign.

**1.1.7 Freestanding Signs.** A sign erected and maintained on a freestanding frame, mast or pole not attached to any building, and not including ground mounted signs. (Pole signs are signs that are supported by one or more poles and otherwise separated from the ground by air. Pole signs are almost always separate from buildings and other structures.)

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**1.1.8 Government Signs.** A government sign is a sign that is constructed, placed or maintained by the federal, state or local government or a sign that is required to be constructed, placed or maintained by the federal, state or local government either directly or to enforce a property owner's rights.

*Comment: This Sign Code recognizes, as did the Supreme Court in Reed v. Town of Gilbert, \_\_\_ U.S., 135 S. Ct. 2218, 192 L. Ed. 2d 236, 2015 U.S. LEXIS 4061, 83 U.S.L.W. 4444 (U.S. 2015), that the government ~~shall~~ speak and in doing so is not regulated as private individuals under the First Amendment. While the Government often speaks directly, its speech can often be found in requirements of law that demand members of a community, residents and property owners to post notices to protect the rights afforded by the government. This form of speech finds protection in this Sign Code in recognition of legal requirements that a property owner ~~shall~~ post a property against trespassing, solicitors and others to enforce property rights and privacy; or where a property owner ~~shall~~ warn of dangers on the property to protect public safety and limit liability such as warning of dangerous animals, high voltage, sinkholes, gun or weapon usage among other dangers. While these postings are sometimes voluntary, all are required by the government to be in a certain form and should constitute the government's speech (they would not be considered private speech under the axiom: *actus me invito factus non est meus actus*). However, even if considered private speech the majority in Reed recognized that these types of signs could well survive even the strict scrutiny standard. Compelled speech generally finds little support under First Amendment analysis and in the cases decided by the Supreme Court. Nevertheless, compelled commercial speech such as warning labels on cigarette packaging and requirements imposed by the SEC on business communications affecting investors have been sustained. Here the types of compelled speech that fall within this government speech definition are forms of speech required by law to warn of dangers or to assert rights protected by the law. A community attempting to rely on these forms of compelled speech as with the rest of this Sign Code should only do so after a full review and analysis by its attorney.*

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**1.1.9 Ground Mounted Signs.** A sign which extends from the ground, or has support which places the bottom of the sign less than two (2) feet from the ground. In ground signs or low profile signs, the entire bottom or a ground sign is generally) in contact with or in close proximity to the ground. Like pole signs, ground signs are separate from buildings.

*Comment: Regarding Freestanding Signs and Ground Signs: some local regulations simply group pole signs and ground signs into the simpler classification of freestanding signs.*

**1.1.10 Highway Signs.** A Freestanding sign, Integral Sign or Flat Wall Sign that is erected and maintained within the view of motorists who are driving on a highway.

**1.1.11 Integral Signs.** A sign that is embedded, extruded or carved into the material of a building

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façade. A sign made of bronze, brushed stainless steel or aluminum, or similar material attached to the building façade.

1.1.12 Permanent Signs. The most basic distinction for signs concerns whether they are permanent or temporary. Permanent signs include the following: set on their own foundation, sunk into the ground, and/or permanently fastened to, or painted on, a permanent structure. Note, some local sign regulations permit only permanent signs.

1.1.13 Marquee Signs. A canopy or covering structure bearing a signboard or copy projecting from and attached to a building. Marquee signs include any movie-type marquee with manually or electronic changeable text and/or images. Their large display area allows space for fairly prominent or extensive information.

*Comment: Electronic marquees are replacing manual marquees at many cinemas and theaters. They are also being used as general advertising devices in many other situations. Some electronic marquees show messages and graphics that change constantly; others are changed at infrequent intervals. Some are used to display stock quotations and are changed about six times a day, five days per week.*

1.1.14 Minor Signs. A sign described in Section 1.3.2 and any sign not larger than Three (3) square feet that can be removed by hand if abandoned.

1.1.15 Original Art Displays. A hand-painted work of visual art that is either affixed to or painted directly on the exterior wall of a structure with the permission of the property owner. An original art display does not include: mechanically produced or computer generated prints or images, including but not limited to digitally printed vinyl, electrical or mechanical components, or changing image art display.

1.1.16 Outdoor Advertising Signs. A sign that advertises goods, products or services which are not sold, manufactured or distributed on or from the premises or facilities on which the sign is located.

*Comment: This definition is content based under the literal interpretation of Reed v. Town of Gilbert as it requires one to determine from reading or looking at the sign if a product is being advertised that is not sold, manufactured or distributed on or from the premises. However, based on the concurring opinion of Justice Alito and the opinions of Justice Kagan and Justice Breyer, to say that a majority of the Court would reach the conclusion that defining "outdoor advertising" or "off premise" amounts to a content based restriction seems a stretch.*

1.1.17 Window/Door Signs. Window and door signs are simply signs on windows and doors. Some window signs may be permanently painted onto the window, while others may be temporary paper signs. The principal concerns with window and door signs are that they create clutter and block views in and out. The latter issue is often a security concern because the signs might make it impossible for police to see into a business while passing.

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1.1.18 Portable Signs. Any structure without a permanent foundation or otherwise permanently attached to a fixed location, which can be carried, towed, hauled or driven and is primarily designed to be moved rather than be limited to a fixed location regardless of modifications that limit its movability.

1.1.19 Projecting Signs. A sign, other than a wall sign, which projects from and is supported by a wall

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of a building or structure. Furthermore, signs that are installed perpendicular to or at an angle to a building wall are called projecting signs. When they are permitted, projecting signs are often treated in a separate sign classification because of the legal and practical issues that arise when ~~the~~ signs project over public streets or sidewalks. Local regulations often include clearance requirements for projecting signs, and many require that owners of projecting signs furnish proof of insurance in case the sign should fall on someone walking by.

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**1.1.20 Roof Signs.** A sign located on or above the roof of any building, not including false mansard roof, canopy, or other fascia. A roof sign may be defined as any of the following: freestanding sign that happens to be on a rooftop (often found on older, flat-roofed commercial buildings), anything that extends above the top of the highest wall of the building and does not project horizontally, signs integrated into a gambrel roof or integrated into a fake mansard porch, and/or roof signs may simply be included in the same classification as wall signs and regulated accordingly.

**1.1.21 Suspended Signs.** A suspended sign is a sign hanging down from a porch or other structural element that would exist with or without the sign. Suspended signs are often little more than duplicate address signs or nameplates, providing orientation to a pedestrian who cannot see the large wall sign above the porch or portico on the front of the building. These signs are usually small and relatively unobtrusive. Suspended signs often overhang a public sidewalk. For this reason, some communities also impose clearance and insurance requirements on them.

*Comment: Regarding Nameplates, many local regulations permit, or exempt from regulation, a nameplate of one or two square feet. Permitting such a sign as a flush wall sign in virtually any one, without specifying content, is entirely rational.*

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**1.1.22 Canopies and Awnings.** Awning and canopy signs include the following: signs on traditional canvas awnings, signs on the edges of structural canopies, translucent plastic canopies that use dark letters or logos on a lighted background, and/or some communities consider signs in the fake mansard porch covers to be canopy signs rather than roof signs. All ~~the~~ signs are, in a sense, a type of wall sign and should generally be counted as such in determining the permissible sign area.

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**1.1.23 Temporary Signs.** A banner, pennant, poster or advertising display constructed of paper, cloth, canvas, plastic sheet, cardboard, wallboard, plywood or other like materials and that appears to be intended or is determined by the code official to be displayed for a limited period of time. Temporary signs are sometimes defined only as signs that are not permanent. They include such signs as the following: sandwich boards, paper signs in grocery store windows, banners stretched across the front of a store or placed on small trailers. There are problems associated with temporary signs, such as the following: easily moved and inexpensive and therefore heavily used, leading to clutter. For Flags, refer to Items 1.3.5. Banners are defined as any sign of lightweight fabric or similar material that is permanently mounted to a pole or a building by a permanent frame at one or more edges. National flags, state or municipal flags, or the official flags of any institutions or businesses shall not be considered banners. There are several possible approaches to regulating banners, including the following: ban them completely, or allow banners only as temporary signs on public property when they promote events of general civic interest, subject to a special permitting process. This rule allows the attachment of decorative banners to light poles and buildings, but precludes their use as signs. A pennant is any lightweight plastic, fabric, or other material, whether or not containing a message, suspended from a rope, wire or string, usually in series, and designed to move in the wind. The prohibition of flapping pennants is simple and logical if pennants are well defined. Rows of flapping pennants certainly

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contribute to streetscape clutter and do not communicate any essential message other than look at me.

*Comment: Flags, banners, and pennants present unique and troublesome issues for sign regulation. Twenty years ago, many communities cheerfully allowed flapping pennants of the kind found on some used car lots, permitted flags as patriotic symbols, and disregarded the issue of banners. Today, some auto dealers and other merchants use garrison flags that may be 30x60 feet on 80-foot poles to attract attention, and arts groups use banners to promote activity at downtown centers.*

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1.1.24 Flat Wall (Façade-Mounted) Signs. A sign affixed directly to or painted on or otherwise inscribed on an exterior wall and confined within the limits thereof of any building and which projects from that surface less than twelve (12) inches at all points. Additionally, wall signs are categorized as signs that are painted on or attached flush with a structural wall of a building. Some definitions of wall signs also include the following: signs on parapets, signs on wingwalls and other non-structural flat surfaces that may not have been built as a sign surface, signs attached flush with a structural wall, but extending above it, and/or signs painted on or attached flush with a functional roof surface.

*Note: A regulation that prohibited signs painted on a wall was upheld in Peterson v. Vill. of Downers Grove, 2015 U.S. Dist. LEXIS 167483 (N.D. Ill. Dec. 14, 2015)*

1.1.25 Billboards. The simplest way to regulate billboards, without addressing content, is to define a billboard as a sign located on a zone lot not containing a building and to include, in the ordinance, sign size limitations pertaining to building floor area.

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1.1.26 Digital Billboard. A sign that is static and changes messages by any electronic process or remote control.

**Commented [CT3]: Suggest striking for internal consistency related to no billboards.**

1.1.27 Vehicle Signs. Any sign attached to or displayed on a vehicle. Some proprietors park vehicles with signs on them in front of their businesses. These vehicles may range from autos with signs on top, to school buses with billboards attached, to trailers with messages on their sides. Some communities have abandoned vehicle regulations that prohibit the parking in public view of any vehicle not in operating condition and/or lacking current registration. This regulation effectively addresses the issue of parked vehicles used as signs.

1.1.28 Code unless otherwise specifically referenced means the Code of the City of Brady.

1.1.29 Lessee includes a person who rents property for residential purposes, i.e. a renter.

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1.1.30 Snipe signs. Snipe sign means any small sign, generally of a temporary nature, made of any material, when the sign is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes, fences, or other objects not erected, owned and maintained by the owner of the sign. Snipe signs are signs fastened to trees or poles. Typically, they are unpermitted or illegal commercial signs also known as street spam or bandit signs, although may include permissible real estate signs. In commercial zones, there is no need for a special category for real estate signs. If a commercial property is partly or wholly vacant, it does not need its entire signage allocation, and part of that can be devoted to advertising the property for sale. If a fully leased and fully signed shopping center is for sale, it may have to be sold without a sign, as is the case with many investment properties. In residential zones, the simplest, content-neutral approach to real estate signs is to allow each residential zone lot a single, unlighted, freestanding sign of three or so square feet (possibly double-faced) for whatever purpose the

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owner may choose. That sign can serve as the For Sale or For Rent sign, or it may say Smith Residence or whatever the owner may choose.

1.1.31 **Constructions Signs.** In residential neighborhoods, the basic freestanding sign described above can easily be used to advertise the fact that, for example, "Bang 'em Up Contractors is building this house." In commercial zones, the full sign allocation for commercial purposes is never used until the building is complete. Thus, part of that basic sign allocation can be used to identify the contractors, architects, engineers, banks, and others involved in making the construction possible. *Note pertaining to the Categories of Signage and the Classification System: Understanding the similarities and differences among the groups into which signs are classified is a key to understanding sign regulation. Sign regulations typically group signs in classifications, such as ground signs, pole signs, and wall signs. The classification system for signs is usually based upon sign design and structure. The sign groups described in this section are common, but local definitions of these groups vary. This means that the descriptions given here are illustrative, not definitive. It is necessary to classify signs in order to base regulations on their characteristics.*

1.1.32 **Graffiti** means any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or, despite advance authorization, is otherwise deemed a public nuisance by the City. *Graffiti includes snipe signs.*

1.1.33 **Graffiti Implement** means an aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or manmade surface.

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*Comment: The definitions of Graffiti and Graffiti Implement are taken from the IMLA Model Graffiti Ordinance. IMLA believes that an adopting jurisdiction should consider adopting anti-graffiti measures as well as addressing signs.*

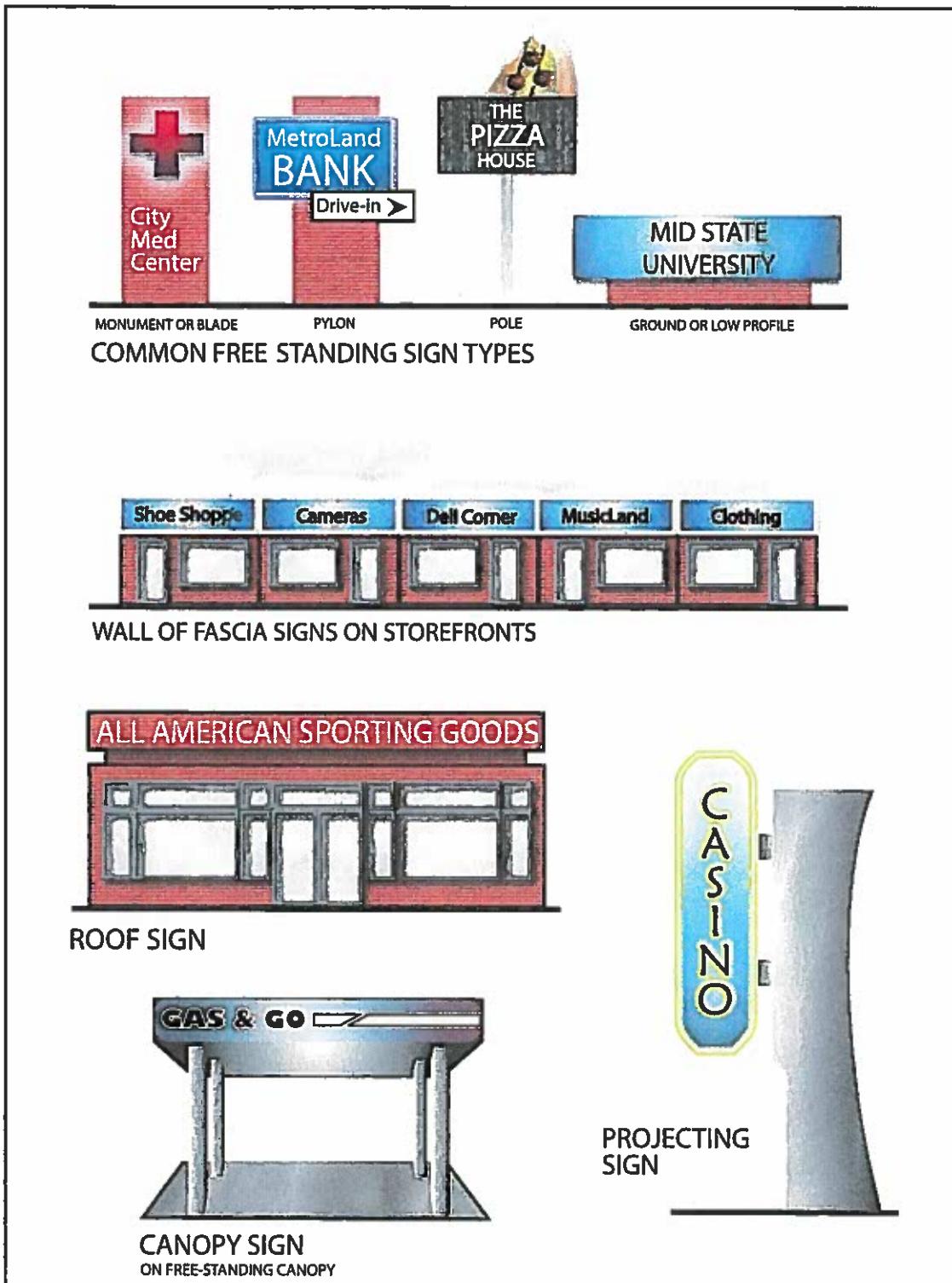
1.1.34 **Holiday lights or mini lights** mean light fixtures that use bulbs that are sized C6, C7, or C9 or LED bulbs that are 8 mm or smaller.

1.1.34.1 **Rope light** means a light that has Holiday lights or mini lights inside of a PVC tube.

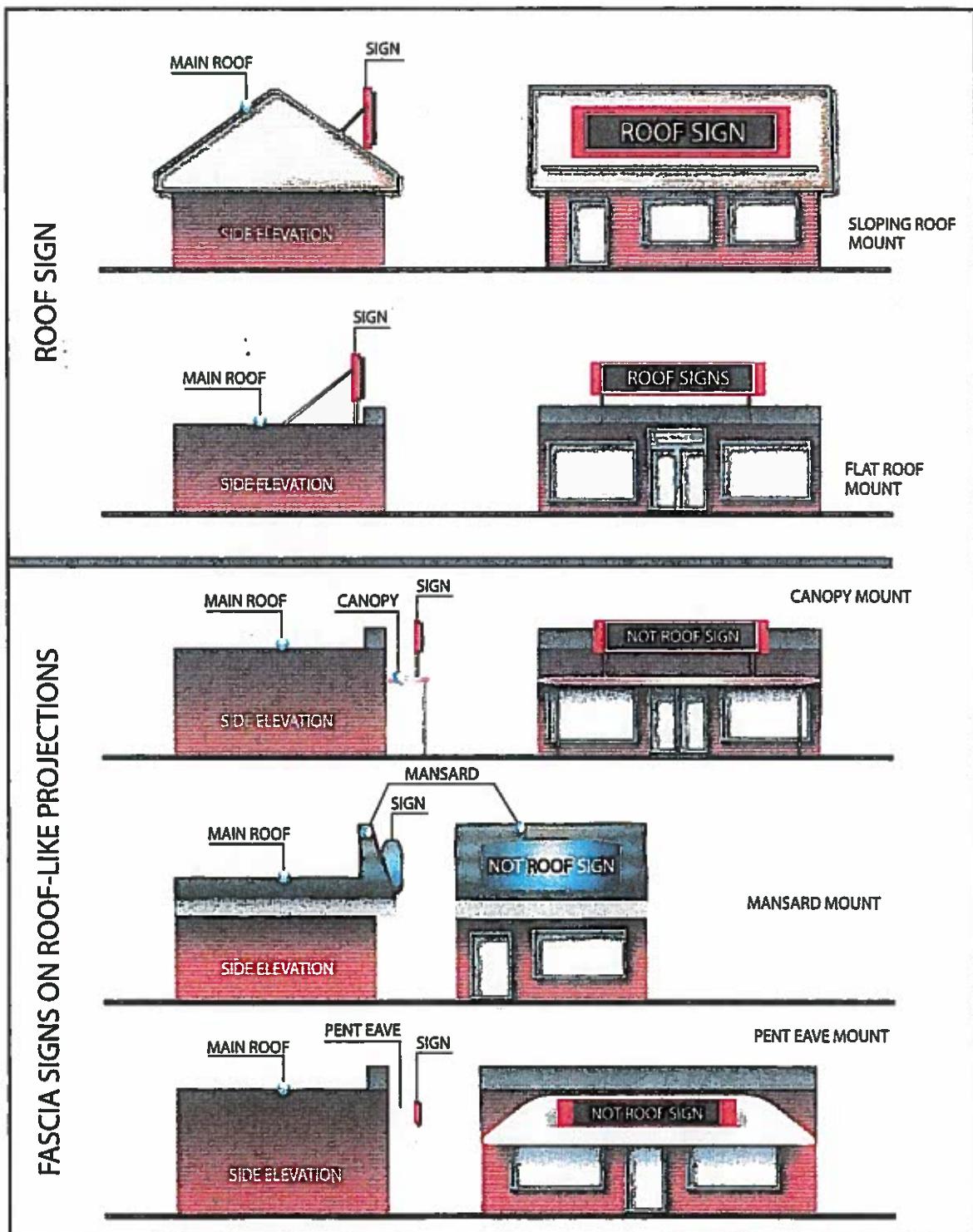
1.1.34.2 **String lights** means a lighting fixture that is composed of electrical wiring encased in plastic with sockets for bulb placement.

1.1.35 **Types of Signs.** Various types of signs are described in detail in this module. Illustrated samples are provided as a general overview and as a supplement to the specific written descriptions that will follow (refer to Figure 8.1 and Figure 8.2 on the next pages).

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**Figure 8.1:** Sample types of signs (1)



**Figure 8.2:** Sample types of signs (2)

## 1.2 Prohibited Signs.

Signs are prohibited in all Zones unless:

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1.2.1 Constructed pursuant to a valid building permit when required under this Code; and

1.2.2 Authorized under this Code. *Comment: "This Code" is intended to mean the code of the city and is not intended to be limited to this Sign Code ordinance. If the adopting jurisdiction, intends a different meaning it should make clear in which body of regulations sign construction is regulated.*

1.2.3 A property owner may not accept a fee for posting or maintaining a sign allowed under Section 1.3.2 and any sign that is posted or maintained in violation of this provision is prohibited.

1.2.4 In residential zones or on property used for non-transient residential uses, commercial signs are prohibited.

*Comment: This provision 1.2.4 may limit home occupations and transient residential uses, so should be considered carefully if adopted. An alternative might be to provide "except for those properties on which a home occupation or a transient residential use has been approved."*

**Commented [JS6]: SP comments "Bed and Breakfast air B&B."**

## 1.3 Authorized Signs.

The following signs are authorized under Section 1.2.2 in every Zone:

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1.3.1 Although these regulations do not apply to signs erected, maintained or posted by the State, federal or this government, these regulations clarify that Government signs which form the expression of that government are allowed in every Zone and include the signs described and regulated in 1.3.1.1, 1.3.1.2, 1.3.1.3 and 1.3.1 when erected and maintained pursuant to law.

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1.3.1.1 Traffic control devices on private or public property ~~shall~~ be erected and maintained to comply with the Manual on Uniform Traffic Control Devices adopted in this state and if not adopted by this state with the Manual on Uniform Traffic Control Devices adopted by the Federal Highway Administration. Because these regulations do not apply to the State, federal or this government, a failure to comply with this provision by those governments does not constitute evidence of negligence or form the basis for a cause of action.

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*Comment: The Federal Highway Administration has established uniform standards for signs that regulate traffic or that are erected and maintained within road rights of way or adjacent property. These uniform standards are intended to be used by the owners of private property that is open to the public to reduce confusion and limit the risk of accident. While these signs are content specific they serve an extraordinarily important public function.*

1.3.1.2 Each property owner ~~shall~~ mark their property using numerals that identify the address of the property so that public safety departments can easily identify the address from the public street. Where required under this code or other law the identification ~~shall~~ be on the principal building on the property. The size and location of the identifying numerals and letters if any ~~shall~~ be proportional to the size of the building and the distance from the street to the building and in no case less than 4 inches ~~and~~ ~~no~~ larger than 8 inches. In cases where the building is not located within view of the public street, the

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identifier shall be located on the mailbox or other suitable device that it is visible from the street. It is also recommended that the identifier be painted on the curb in white reflective paint with a contrasting background.

*Comment: The local government should establish a required dimensional limitation on identification signs based on the size of the structure and its distance from the public road if the structure is visible from the public road. The design and dimensions should conform to reasonable standards set to ensure that emergency responders can identify the property if necessary.*

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Commented [CT7]: If the city wanted to enforce this provision the language would need to be changed to make a requirement.

1.3.1.3.1 Where a federal, state or local law requires a property owner to post a sign on the owner's property to warn of a danger or to prohibit access to the property either generally or specifically, the owner shall comply with the federal, state or local law to exercise that authority by posting a sign on the property. If the federal, state or local regulation describes the form and dimensions of the sign, the property owner shall comply with those requirements, otherwise, when not defined, the sign shall be no larger than two square feet and located in a place on the property to provide access to the notice that is required to be made. Signs posted under this Section are not snipe signs.

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1.3.1.3.2 Official notices or advertisements posted or displayed by or under the direction of any public or court officer in the performance of official or directed duties; provided, that all the signs shall be removed by the property owner no more than ten (10) days after their purpose has been accomplished or as otherwise required by law. Signs posted under this Section are not snipe signs.

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*Comment: As noted in Reed v. Town of Gilbert some content based signs are necessary to protect the public and are likely to survive strict scrutiny. Signs prohibiting trespassing or solicitors; warning of the dangers of "high voltage" or other hidden dangers may be required for a person to assert property rights or to protect a property owner from liability. A local government should establish dimensional limitations, quantity limitations and other regulations designed to ensure the purpose of the sign is furthered while protecting the aesthetics of the community and protecting traffic and other public safety goals.*

1.3.1.4 The signs described in Sections 1.3.1.1, 1.3.1.2, and 1.3.1.3, are an important component of measures necessary to protect the public safety and serve the compelling governmental interest of protecting traffic safety, complying with legal requirements, serving the requirements of emergency response and protecting property rights or the rights of persons on property.

*Comment: These signs as described in Section 1.3.1.4 are the types of signs discussed by Justice Thomas for the majority in Reed v. Town of Gilbert where he wrote: "A sign ordinance narrowly tailored to the challenges of protecting the safety of pedestrians, drivers, and passengers—such as warning signs marking hazards on private property, signs directing traffic, or street numbers associated with private houses—well might survive strict scrutiny."*

### 1.3.2 Temporary Signs, Generally.

#### 1.3.2.1 Temporary signs allowed at any time:

- a) A property owner may place one sign with a sign face no larger than two (2) square feet on the property at any time. This Section does not include snipe signs.

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b) A property owner may place a sign no larger than 8.5 inches by 11 inches in one window on the property at any time.

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1.3.2.2 One temporary sign per 0.25 acre of land may be located on the owner's property for a period of sixty (60) days prior to an election involving candidates for a federal, state or local office that represents the zone in which the property is located or involves an issue on the ballot of an election within the zone where the property is located per issue and per candidate. Where the size of the property is smaller than 0.25 acres these signs may be posted on the property for each principal building lawfully existing on the property. This Section does not authorize snipe signs.

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Commented [CT8]: This provision related to the number of days sign may be displayed would likely not withstand a constitutional challenge. While the exemption is favorable it is a distinction based on sign content. Recent Texas case law (issued 12/2016) has found similar provisions in State of Texas regulations unconstitutional and found the provision unenforceable and struck it from legislation.

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1.3.2.3 Political Signs. Many local regulations allow political signs as a separate category, often for a specific period tied to an election date. When the regulations are more restrictive than those for real estate or other signs in the same locations (as most are), they are clearly unconstitutional in preferring the advertisement of real estate for sale over non-commercial political messages. They typically prohibit (expressly or by implication) many protected messages that are not related to a particular election date; some examples include Save the Otters, Vote Populist, Support Anarchy, or Go to Church on Sunday. Some-communities have special regulations allowing political signs to be installed on public property. These regulations typically limit the period during which signs may be erected and often require the posting of a bond to guarantee that the signs will be removed. Special permissions, which give preferential treatment to political signs over commercial ones, are acceptable.

Comment: Political signs represent the highest degree of protected speech and an adopting jurisdiction should exercise extreme caution in limiting a person's right to express positions on issues or candidates. The time during which the signs may be authorized shall not be so short as to prevent the message from being delivered. On the other hand, the government retains the right to regulate the time place and manner of expression and the right to protect property values and aesthetics. The balance weighs in favor of free expression. Nevertheless, reasonable time restrictions are consistent with the First Amendment and reasonable manner restrictions are consistent with the First Amendment. Taken together, a reasonable limit on the size, location and duration of this form of expression can be consistent with the First Amendment. Cases, prior to Reed v Town of Gilbert, generally recognize that 30 days is too little, but a time frame of 60 to 90 days may be sufficient. Some who commented on a draft of this Sign Code suggested an option for people who live next to another voting district who may wish to *voice their support for issues or candidates in those districts and alternative language is shown*.

1.3.2.3 One temporary sign that is not a snipe sign may be located on a property when:

- a. the owner consents and that property is being offered for sale through a licensed real estate agent;
- b. if not offered for sale through a real estate agent, when the sign is owned by the property owner and that property is offered for sale by the owner through advertising in a local newspaper of general circulation; and
- c. for a period of 10 days following the date on which a contract of sale has been executed by a person purchasing the property.

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**Comment:** This Section offers an opportunity for signs for a person to put a "for sale" sign on the property in addition to the one temporary sign generally allowed and in addition to other signs that may be allowed. As the ordinance does not regulate content the signs authorized in this section could be used for other purposes. Should the community allow signs for other purposes? By allowing one temporary sign at all times, the community adopting this Sign Code does so. Thus, a person can post a notice of a birth, a special birthday, an anniversary, a wedding or other important event or choose to use the sign for other purposes entirely without any restriction being imposed on its content. The only restriction (aside from the size and location limitations generally applicable to temporary signs) placed on a sign erected under this section consists of the factual determinant of whether the property is being offered for sale.

1.3.2.4 One temporary sign may be located on the owner's property on the day prior to and on a day when the property owner is opening the property to the public; provided, however, the owner may not use this type of sign in a Residential Zone on more than two days in a year and the days shall be consecutive and may not use this type of sign in any Commercial Zone for more than 14 days in a year and the days shall be consecutive. For purposes of this Section 1.3.2.4 a year is counted from the first day on which the sign is erected counting backwards and from the last day on which the sign exists counting forward. This Section does not authorize snipe signs.

**Comment:** This Section offers an opportunity for signs for garage sales, yard sales and the like. Often the state regulates these types of activities by imposing time limits on how often they can be conducted. It might be possible to refer to those state laws to allow for the necessary signage, but without regulating content those signs could be used for other purposes as they may here. Should the community allow signs for other purposes? By allowing one temporary sign at all times, the community adopting this Sign Code does so. Thus, a person can post a notice of a birth, a special birthday, an anniversary, a wedding or other important event or choose to use the sign for other purposes entirely without any restriction being imposed on its content.

**Comment:** If the jurisdiction adopting this language has regulations that address lighting, the language of this section should be amended to include a reference to those lighting regulations that makes the exercise of rights under this section subject to the lighting regulations.

1.3.2.6 A property owner may place and maintain one temporary sign on the property on July 4. This Section does not authorize snipe signs.

1.3.2.7 A person exercising the right to place temporary signs on a property as described in this Section 1.3.2 shall limit the number of signs on the property per 0.25 acre at any one time to 2 plus a sign allowed in 1.3.2.1(b), or if the property is smaller than 0.25 acres, then no more than 2 signs, plus a sign allowed in 1.3.2.1(b) per principal building on the property.

**Comment:** This restriction conflicts with the provisions in 1.3.2.2 which allows multiple signs based on the number of issues and candidates that are on a ballot. The law, post, Reed will likely help to describe how these two rules can be effected. An option might be to amend this Section 1.3.2.7 to read: "It is the intent of this Code to limit the aesthetic impact of signs on properties to prevent clutter and protect streetscapes thereby preserving property values and protecting traffic safety. The accumulation of signs adversely affects these goals, property values and public safety. Accordingly, a person exercising the right to place temporary signs on a property as described in this Section 1.3.2 shall limit the number of signs on the property per 0.25 acre at any one time to two, plus a sign allowed in 1.3.2.1(b). Or, if the property is smaller than 0.25 acres, then no more than 2 signs, plus a sign allowed in 1.3.2.1(b) per principal building on the property, unless a court having jurisdiction determines that additional signs shall

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[3]

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~~be permitted, then the signage shall be limited to the fewest signs and the smallest accumulated sign area permissible under the court's determination.~~

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1.3.2.8 The sign face of any temporary sign, unless otherwise limited in this Section 1.3.2, shall not be larger ~~than three~~ (3) square feet.

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*Comment: Section 1.3.2 allows property owners to place temporary signs on their property during certain time periods and allows the property owner to select whatever message the owner chooses during those periods. This provision complies with both Reed v Town of Gilbert and City of Laddie v. Gilleo, 512 U.S. 43, 114 S. Ct. 2038, 129 L. Ed. 2d 36, 1994 U.S. LEXIS 4448, 62 U.S.L.W. 4477 (U.S. 1994) as it allows a property owner the ability to make use of the property for free expression but in a manner designed to reduce clutter and advance aesthetic interests of the community without any content based limitations.*

Deleted: must...hall have the same rights and duties as the property owner as to the property. Tt...e Lessee leases and ...as the sole right to occupy, and the size of the property must ... [7]

1.3.3 For purposes of this Section (1.3) the Lessee of a property is considered the property owner as to the property the Lessee holds a right to use exclusive of others (or the sole right to occupy). The terms of a lease, or other agreement under which the property is occupied, controls in determining whether property is occupied exclusively by a Lessee. If there are multiple Lessees of a property, then each Lessee shall have the same rights and duties as the property owner as to the property. The Lessee has the sole right to occupy, and the size of the property shall be deemed to be the property that the Lessee has the sole right to occupy under the lease.

Commented [JS9]: SP comments "Not a sentence." Unsure of how to edit. JS

1.3.4 Signs not in an enclosed building and not exposed to view from a street or public right of way, public place or other property such as those not visible to a person from a public right of way, public place or other property.

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1.3.5 Flags as follows:

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1.3.5.1 In a single-family zone, two flags and one flag pole, per premises. Each flag shall be a maximum of 15 square feet in area. The flag pole shall be a maximum of 25 feet in height or no higher than the highest point of the principal building's roof, whichever is lower. Flag poles shall meet the minimum yard setback requirements for a principal building.

Moved down [1]: Optional for Car lots: ¶

1.3.5.2 In a non-residential zone, one flag per 25 feet of frontage on a right-of-way up to a maximum of six flags and six flag poles, per premises. Each flag shall be a maximum of 24 square feet in area. Flag poles shall be a maximum of 50 feet in height but no higher than the highest point of the nearest principal building's roof on the premises. Flag poles shall meet the minimum yard setback requirements for a principal building or a minimum of ten feet whichever is more restrictive.

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1.3.5.3 Optional for Car lots are small flags at vehicle sales and service establishments. One small flag

of no more than one square foot in area may be attached to vehicles on display for sale or rent at vehicle sales and service establishments. The flags shall be no higher than two feet above the height of the vehicle as if it were displayed at grade level.

**1.3.7 Signs within ballparks and athletic fields are displayed as follows:**

- (1) Scoreboards facing inward to the audience; and
- (2) The other signs as may be affixed to the fence or scoreboard, facing inward to the field of play that are no larger than 32 square feet in area.

*Comment: Administrators and adopters need to bear in mind that Section 1.3.4 exempts signs that cannot be seen from the public way or adjacent properties; thus, if constructed so as not to be seen from those areas described in 1.3.4 any sign is permitted.*

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**1.4 Permit required.**

*Most communities require a building permit before an owner constructs, repairs, alters, or removes a sign. This process ensures that the regulations of the sign ordinance and safety considerations are being followed. Depending on the type of sign, structural and electrical calculations will be verified by the building department before the permit is issued. Subsequent inspections will be made to ensure sign codes will be met.*

*Signs that require a building permit include the following: freestanding signs, excluding exceptions noted above and below, wall signs, roof signs, canopy and awning signs, projecting signs, and suspended signs.*

**1.4.1 In general.** A sign permit is required prior to the display and erection of any sign except as provided in section 1.4.6 of this Article.

**1.4.2 Application for permit.**

- (1) An application for a sign permit shall be filed with the Code Official/Zoning Administrator on forms furnished by that department. The applicant shall provide sufficient information to determine if the proposed sign is allowed under this code and other applicable laws, regulations, and ordinances. An application for a temporary sign shall state the dates intended for the erection and removal of the sign. An application for any sign shall state the date when the owner intends to erect it and provide a bond sufficient to allow the City to remove it if it is not properly maintained or if it is abandoned.
- (2) The Code Official/Zoning Administrator or designee shall promptly process the sign permit application and approve the application, reject the application, or notify the applicant of deficiencies in the application within XX days after receipt. Any application that complies with all provisions of this code, the zoning ordinance, the building code, and other applicable laws, regulations, and ordinances shall be approved.
- (3) If the application is rejected, the Code Official/Zoning Administrator shall provide a list of

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the reasons for the rejection in writing. An application ~~shall~~ be rejected for non-compliance with the terms of this code, the zoning ordinance, building code, or other applicable law, regulation, or ordinance.

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**1.4.3 Permit fee.** A nonrefundable fee as set forth in the uncodified fee schedule adopted by the City Council ~~shall~~ accompany all sign permit applications.

**1.4.4 Bond.** The applicant for any sign except a minor sign ~~shall~~ submit a bond in an amount and from an issuer approved by the Code Official to protect the City/County/Town from the cost of removing the sign should it no longer be allowed under the laws of the ~~county/city/town~~ state or federal government. If the permit is issued a condition of the permit ~~shall~~ be that the bond is maintained and increased or decreased based upon the then current estimates of the costs of removal of the sign. If the sign is removed without cost to the City/County/Town the Code Official ~~shall~~ release the bond but may execute upon it should the City/ County/Town be held responsible for or incur any cost in removing the sign.

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**Commented [JS11]: Do we really want bond process and enforcement?**

**1.4.5 Duration and revocation of permit.** If a sign is not installed and a use permit issued within six months following the issuance of a sign permit (or within 30 days in the case of a temporary sign permit), the permit ~~shall~~ be voided. The permit for a temporary sign ~~shall~~ state its duration, not to exceed 30 days unless another time is provided in this code or the zoning ordinance. The City may revoke a sign permit under any of the following circumstances:

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- (1) The City determines that information in the application was materially false or misleading;
- (2) The sign as installed does not conform to the sign permit application;
- (3) The sign violates this code, the zoning ordinance, building code, or other applicable law, regulation, or ordinance; or
- (4) The Code Official/Zoning Administrator determines that the sign is not being properly maintained or has been abandoned.

**1.4.6 Permits not required.** A sign permit is not required for signs:

1. Described in Sections 1.3 with a total area of up to ~~thirty-two (32)~~ square feet and a maximum height of eight (8) feet.

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2. Official notices or advertisements posted or displayed by or under the direction of any public or court officer in the performance of official or directed duties; provided, that all ~~the signs~~ ~~shall~~ be removed no more than ten (10) days after their purpose has been accomplished; or
3. Minor signs when no more than ~~two~~ per parcel.

**Note:** Additional minor signs may be permitted in certain zones with a permit.

**1.4.7 Appeals.** If the Code Official denies a permit, the applicant may appeal under insert here the cite to the provision for appeals from decisions of the Code Official.

**Comment:** This draft does not address the issue of prior restraint that may be affected by a denial of a permit and the requirement of a speedy appeal. This issue is being left to future drafts.

### 1.5 Specific Sign Regulations by Zone

The following sign regulations apply to all Use Zones as indicated.

#### 1.5.1 Residential Zones

##### 1.5.1.1 Scope:

This Section (1.5.1) applies to all Residential Zones.

##### 1.5.1.2 Size:

A. When a sign is authorized on a property, the sign shall not exceed two (2) square feet in area. Where attached dwellings exist on a property the total square footage of signs shall not exceed two square feet per dwelling unit and shall not exceed a total of twelve (12) square feet in area per structure.

B. For Residential Developments (including subdivision identification) the maximum size and number of signs that the owner or owners of the residential development may erect and maintain at the entrances to the development shall be controlled according to the following:

- (1) Residential developments four (4) acres or less in area may have a sign or signs with a total area of no more than thirty-two (32) square feet.
- (2) Residential developments over four (4) acres but less than forty (40) acres in area may have a sign or signs which have a total area of no more than forty-eight (48) square feet.
- (3) Residential developments of forty (40) acres or more in area may have a sign or signs with a total area of no more than one hundred two (102) square feet.

##### 1.5.1.3 Location:

Permitted signs may be anywhere on the premises, except in a required side yard or within ten (10) feet of a street right-of-way.

##### 1.5.1.4 Height:

The following maximum heights shall apply to signs:

- A. If ground-mounted, the top shall not be over four (4) feet above the ground, and
- B. If building mounted, shall be flush mounted and shall not project above the roof line.

**Comment:** A provision allowing for a variance if the property while adjacent to the public right of way but which is hidden by a natural or man-made barrier was considered but rejected due to both

**Commented [CT12]:** What is the intended use of "may"? Is the City thinking about allowing other minor signs? Or, does this mean that a city official with have discretion? If intended to imply discretion then may be subject to challenge if no limits are set to determine when additional minor signs required.

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**Commented [CT13]:** City Charter does not have an appeals process. Appeals are handled differently in the Code based on the vested right? Check with Shannon on ... [10]

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**Commented [CT14]:** Similar signs re ... [11]

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*aesthetic considerations and concerns that allowing some signs but not all might negatively affect the validity of the provision.*

1.5.1.6 Illumination:

Illumination if used ~~shall~~ not be blinking, fluctuating or moving. Light rays ~~shall~~ shine only upon the sign and upon the property within the premises.

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1.5.1.7 The following signs are not allowed: Highway Signs, Portable Signs, Marquee Signs, Digital Billboard, Outdoor Advertising Sign, Banners and Projecting Sign. Temporary signs that might fall within the definition of "highway sign" are not prohibited by this Section provided they comply with Section 1.3.

1.5.1.8 Commercial uses lawfully operating in a Residential ~~Zone~~ ~~shall~~ comply with Sections 1.5.2.7 and 1.5.2.8.

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1.5.2 Commercial and Institutional ~~Zones~~

1.5.2.1 Scope:

This Section (1.5.2) applies to all commercial and institutional signs.

**Commented [CT15]:** Similar signs receive different treatment, however since appears to be tied to zoning and size based on amount of property rather than content would likely pass strict scrutiny.

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1.5.2.2 Number and Size:

For each lot or parcel a sign at the listed size may be authorized:

A. Commercial signs ~~shall~~ not exceed thirty-five (35) square feet. For additional standards for the ~~insert name of zone~~ see Section ~~f~~ additional standards apply insert here.

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B. Commercial and Central Business District signs ~~shall~~ not exceed the following area requirements based on the number of traffic lanes of the adjacent public street:

No. of traffic lanes	Max. Sq. Footage of sign
3 or less	32 sq. ft.
4 or more	40 sq. ft.

C. Two (2) or more lots or parcels having a combined linear frontage of eighty-five (85) feet ~~may combine their sign areas allowed by Section 1.5.2.2 B. for the purpose of providing one common free-standing or ground-mounted sign. The sign~~ ~~shall~~ not exceed eighty (80) square feet.

D. Corner Lots:

Where a lot fronts on more than one street, only the square footage computed for each street frontage ~~shall~~ face that street frontage.

E. If not otherwise regulated as to maximum sign area in this code, signs are governed by

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the following:

Street Frontage	Maximum Sign Area
25 ft. or less	20 sq. ft.
26-90 ft.	25 sq. ft.
91-99 ft.	30 sq. ft.
100 ft. or more	35 sq. ft.

(1)

F. Commercial Center:

Signs used for Commercial Centers shall be allowed as follows: Only one (1) sign of one hundred fifty (150) square feet is permitted for centers less than five (5) acres and greater than one (1) acre.

(2) A maximum of two (2) signs of four hundred (400) square feet shall be permitted for complexes for five (5) to fifty (50) acres.

(3) A maximum of three (3) signs of four hundred (400) square feet shall be permitted for complexes of more than fifty (50) acres.

(4) Individual businesses are allowed a face building mounted sign pursuant to Section 1.5.2.2 A. and B.

*Comment: To be clear, the limits that are included are from one county's sign law and should not be used by others without thoughtful consideration as to the specific needs and values of the community.*  
1.5.2.3 Location:

A. Flat Wall Signs may be located on any wall of the building.

B. Freestanding Signs shall have a minimum clearance of eight (8) feet six (6) inches above a sidewalk and fifteen (15) feet above driveways or alleys.

C. One Freestanding or Ground-Mounted sign per lot or parcel except as provided in Section 1.5.1.2 B. and 1.5.2.2 F. may be located anywhere on the premises except as follows:

(1) A ground-mounted sign shall not be located in a required side yard, rear yard or within five (5) feet of a street right-of-way.

(2) A freestanding sign shall not be located in a required side or rear yard. A freestanding sign may project up to the street right-of-way provided there is a minimum ground clearance of eight (8) feet six (6) inches and provided the location complies with the Manual on Uniform Traffic Control Devices.

D. Marquee Signs or signs located on or attached to marquees shall have a minimum clearance of not less than eight (8) feet six (6) inches (8' 6"). The maximum vertical dimension of signs shall be determined as follows:

Height above Grade	Vertical Dimension
8' 6" up to 10'	2' 6" high
10' up to 12'	3' high

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12' up to 14'	3' 6" high
14' up to 16'	4' high
16' and over	4' 6" high

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E. Wall signs shall not extend above the top of a parapet wall or a roofline at the wall, whichever is higher.

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F. Permitted highway signs, including digital billboards, may be allowed anywhere on the premises except in a required side yard, rear yard or within twenty (20) feet of a street right-of-way.

Commented [CT16]: Strike if billboards to be eliminated.

G. No portion of a digital billboard shall be located within two hundred and fifty (250) linear feet of the property line of a parcel with a residential land use designation or residential use that fronts on the same street and within the line of sight of the billboard face.

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#### 1.5.2.4 Height:

A. Ground-mounted signs shall not exceed four (4) feet in height from ground level.

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B. Freestanding signs shall not exceed forty (40) feet in height from ground level.

Commented [JS18]: SP asked "Really, pole signs? (re: 40 feet.)

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#### 1.5.2.5 Content:

A. Any of the signs pursuant to this Section (1.5.2) may be changeable copy signs.

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B. The primary identification sign as allowed under 1.3.1.2 for each entity shall contain its street number. The street number shall be clearly visible from the street right-of-way.

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#### 1.5.2.6 Illumination:

Shall be as provided in Section 1.4.6.

1.5.2.7 Temporary signs if allowed under Section 1.3 and in addition where an establishment is licensed to serve food, the restaurant owner may display a menu that is used in the restaurant and that is no larger than 2 sq. ft.:

(1) in the window of the restaurant; or

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(2) attached to a wall on a portion of a building occupied by the restaurant:

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a. if it is enclosed in a casing that is architecturally compatible with the building design and color; and

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b. extend no more than three inches in depth away from the wall to which it is attached.

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1.5.2.8 Window Signs: Window signs are allowed in all Commercial zones, but shall not exceed 10% of the gross glass area including menus and:

(1) for public safety purposes where directed by the police shall be located on areas of the window to protect the occupants or a public safety responder;

(2) as required by a licensing agency if the business is required to have a license to operate and the licensing agency restricts or requires window signs.

1.5.2.9 The following signs are not allowed: Digital Billboard and Outdoor Advertising signs.

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1.5.2.10 Portable signs shall be removed from public viewing anytime the business is closed.

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1.5.2.11 Banners shall be allowed for a period not to exceed six (6) months but shall be secured at all four corners. Any banner that falls into disrepair (rips, loose corner, etc.) shall be removed immediately.

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### 1.5.3 Industrial

#### 1.5.3.1 Scope:

This Section applies to an Industrial Zone.

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#### 1.5.3.2 Number and Size:

A. One (1) sign for each street frontage, each with a maximum area of five (5) percent of the total square footage of the face of the building facing that street frontage shall be permitted.

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B. One freestanding or ground-mounted sign not exceeding fifty (50) square feet per lot or parcel shall be permitted.

C. The maximum size and number of signs that the owner or owners of an Industrial Park development may erect and maintain at the entrances to the development shall be controlled according to the following:

(1) A maximum of two (2) signs of three hundred (300) square feet per face shall be permitted for industrial parks or complexes of less than ten (10) acres;

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(2) A maximum of three (3) signs of four hundred (400) square feet shall be permitted for complexes of ten (10) acres or more. More than three (3) signs may be approved through a Type I procedure, provided the total sign area does not exceed twelve hundred (1200) square feet.

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#### 1.5.3.3 Location:

Shall be as provided in Section 1.5.2.3.

#### 1.5.3.4 Illumination:

Shall be as provided in Section 1.5.6.

#### 1.5.3.5 Commercial uses in an Industrial Zone shall comply with Sections 1.5.2.7 and 1.5.2.8.

#### 1.5.3.6 The following signs are not allowed: Digital Billboard and Outdoor Advertising signs.

#### 1.5.3.6 Portable signs shall be removed from public viewing anytime the business is closed.

#### 1.5.3.7 Banners shall be allowed for a period not to exceed six (6) months but shall be secured at all four corners. Any banner that falls into disrepair (rips, loose corner, etc.) shall be removed immediately.

### 1.5.4 Agriculture Zone

Comment: Many cities and towns will not have Agricultural or similar zones; some Counties may. The language in this Section 1.5.4 provides guidelines that might be considered where uses similar to those included in this type of zone prevail.

#### 1.5.4.1 Scope:

This Section applies to the insert appropriate language describing rural/agricultural and forestry areas outside the insert appropriate designation such as Urban Growth Boundaries.

#### 1.5.4.2 Size:

- a. Signs other than temporary signs and highway signs shall have a maximum area that does not exceed thirty-two (32) square feet per sign.
- b. Highway signs shall comply with Section 1.5.2.G
- c. Temporary Signs shall comply with Section 1.3.2.

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#### 1.5.4.3 Location:

- a. Signs other than temporary signs and highway signs shall be at least twenty-five (25) feet from a right-of-way, and shall be at least twenty-five (25) feet from an adjacent lot.
- b. Highway signs shall be
  - a. at least twenty-five feet from a right of way and shall be
  - b. at least 250 feet from a residence on an adjacent property, and
  - c. comply with the distance and spacing requirements of Section 1.5.2.G.
- c. Temporary Signs shall comply with Section 1.3.2.

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#### 1.5.4.4 Illumination:

As provided in Section 1.5.6.

#### 1.5.4.5 Maximum number of signs:

Acreage	No. of Signs
0 – 20	2
21 – 40	3
41 – 60	4
61 & over	5

#### 1.5.4.6 Commercial uses in an Agricultural Zone shall comply with Sections 1.5.2.7 and

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#### 1.5.4.7 The following signs are not allowed: Digital Billboard and Outdoor Advertising signs.

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#### 1.5.4.8 Portable signs shall be removed from public viewing anytime the business is closed.

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#### 1.5.4.9 Banners shall be allowed for a period not to exceed six (6) months but shall be secured at all four corners. Any banner that falls into disrepair (rips, loose corner, etc.) shall be removed immediately.

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#### 1.5.2.8.1.5.5 Supplemental Criteria in all Zones

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#### 1.5.5.1 Temporary Signs:

Temporary signs are subject to the following standards:

A. Shall not on one property exceed a total of sixteen (16) square feet in area;

B. Shall not be located within any public right-of-way whether dedicated or owned in fee simple or as an easement;

C. Shall only be located on property that is owned by the person whose sign it is and shall not be placed on any utility pole, street light, similar object, or on public property;

D. ~~Shall~~ not be illuminated except as allowed in 1.5.1.6 or 1.5.6 based on the ~~Zone~~ in which the sign is located; and

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E. ~~Shall~~ be removed within ten (10) days after the election, sale, rental, lease or conclusion of event which is the basis for the sign under 1.3.2 or if a different standard is required in Section 1.3.2 ~~shall~~ be removed within the time period required by that Section.

#### 1.5.5.2 Bench Signs:

On street benches provided:

A. The ~~tops of~~ benches ~~shall~~ not be higher than four (4) feet above ground;

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B. The sign ~~shall~~ be limited to fourteen (14) square feet in area;

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C. The benches are not located closer than five (5) feet to any street right-of-way line;

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D. Benches are located in a manner not to obstruct vision;

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E. ~~Shall~~ be included as part of the total permitted sign area of the premise on which it is located unless located in the public right of way.

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#### 1.5.5.3 Integral Signs:

There are no restrictions on sign orientation. Integral sign ~~shall~~ not exceed seventy-two (72) square feet per façade. Integral signs may be illuminated externally but ~~shall~~ not be illuminated internally.

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#### 1.5.5.4 Private Traffic Direction:

Illumination of signs erected as required by the Manual on Uniform Traffic Control Devices ~~shall~~ be in accordance with Section 1.5.6. Horizontal directional signs flush with paved areas are exempt from these standards.

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#### 1.5.5.5 Original Art Display

Original art displays are allowed provided they meet the following requirements:

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A. Located ~~designate~~ where they are allowed such as *Urban Growth Boundary*;

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#### 1.5.6 Illumination

No sign ~~shall~~ be erected or maintained without a permit or which, by use of lights or illumination, creates a distracting or hazardous condition to a motorist, pedestrian or the general public. In addition:

1.5.6.1 No exposed reflective type bulb, par spot~~light~~ or incandescent lamp, which exceeds twenty-five (25) Watts, ~~shall~~ be exposed to direct view from a public street or highway, but may be used for indirect light illumination of the display surface of a sign.

1.5.6.2 When neon tubing is employed on the exterior or interior of a sign, the capacity of ~~the~~ tubing ~~shall~~ not exceed three hundred (300) milliamperes rating for white tubing or one hundred (100) milliamperes rating for any colored tubing.

1.5.6.3 When fluorescent tubes are used for the interior illumination of a sign, ~~the~~ illumination ~~shall~~ not exceed:

A. Within Residential ~~zones~~:

Illumination equivalent to four hundred twenty-five (425) milliamperes rating tubing behind a Plexiglas face with tubes spaced at least seven inches, center to center.

B. Within land use ~~zones~~ other than Residential:

Illumination equivalent to eight hundred (800) millampere rating tubing behind a Plexiglas face spaced at least nine (9) inches, center to center.

1.5.6.5 An applicant for a permit to illuminate a sign ~~shall~~ submit a plan to the ~~Code Enforcement~~ Department to which permits are submitted, showing the illumination plan. ~~The plan shall~~ include the effect of the illumination on any other property that might be affected by the light and how the illumination conforms aesthetically to the site and the neighborhood.

1.5.6.5.1 The application ~~shall~~ be reviewed to determine the effect on the other properties and the aesthetics of the site and the neighborhood.

1.5.6.5.2 The application ~~shall~~ not be approved if the effect on other properties would create adverse results and ~~shall~~ not be approved if the plan does not conform to the aesthetics of the neighborhood or the site.

1.5.6.6 In a Residential ~~Zone~~ the property owner may use string lights or rope lights to decorate the residence as well as natural objects without a permit if the lumens produced do not exceed the requirements in Section 1.3.2.5 and provided:

1.5.6.6.1 String and rope lights ~~shall~~ be designed to meet GCFI standards and installed in accordance with the National Electric Code.

1.5.6.6.2 String light bulbs and rope lights ~~shall~~ be of standard wattage and designed for outdoor use.

1.5.6.6.3 String and rope light bulbs may only be white or clear. Colored lights are not allowed.

1.5.6.6.4 String and rope lights ~~shall~~ be securely hung from a sturdy fixture.

1.5.6.7 Outdoor lighting of eating or drinking establishments, such as restaurants, cafes, coffee

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houses, and bars ~~shall~~ comply with Sections 1.5.6.6.1 through 1.5.6.6.4 and string lights and rope lights may only be used in outdoor patio areas. All string and rope lights ~~shall~~ be turned off when the establishment is closed.

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### 1.5.7 Prohibited Signs

The following signs or lights are prohibited which:

1.5.7.1 ~~Signs~~ of a size, location, movement, coloring, or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any traffic or street sign or signal;

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1.5.7.3 ~~Signs that have~~ blinking, flashing or fluttering lights or other illuminating devices which exhibit movement, except digital billboards as permitted pursuant to this Code;

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**Commented [CT20]:** Need to strike for internal consistency related to no billboards.

1.5.7.4 ~~Signs that are~~ roof signs except as allowed in Section 1.5.5.4;

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1.5.7.5 ~~Signs that are~~ visible from a limited access highway except as allowed as Highway signs;

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1.5.7.6 ~~Signs that would~~ be an Original Art Display but does not have the permission of the owner of the property on which it is located or is graffiti; or

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1.5.7.6 ~~Sign that are~~ portable signs that do not comply with the location, size or use restrictions of this Code.

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1.5.7.7 ~~Signs that are~~ Graffiti or Clutter signs.

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### 1.5.8 Procedures

Applications for a sign permit ~~shall~~ be processed through ~~the Code Enforcement Department~~

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### 1.5.9 Nonconformity and Modification

1.5.9.1 Except as provided in Section 1.5.9.3 of this Chapter, signs lawfully in existence on the date the provisions of this Code were first advertised, which do not conform to the provisions of this Code, but which were in compliance with the applicable regulations at the time they were constructed, erected, affixed or maintained ~~shall~~ be regarded as nonconforming. However, a sign constructed during the period of time following the day on which the Supreme Court released its opinion in *Reed v. Town of Gilbert*, U.S., 135 S. Ct. 2218, 192 L. Ed. 2d 236, 2015 U.S. LEXIS 4061, 83 U.S.L.W. 4444 (U.S. 2015) and the date the provisions of this Code were first advertised for adoption ~~shall~~ not be considered a non-conforming sign unless it conformed to the regulations in effect on the day immediately preceding the release of the Supreme Court's decision in *Reed v. Town of Gilbert*, U.S., 135 S. Ct. 2218, 192 L. Ed. 2d 236, 2015 U.S. LEXIS 4061, 83 U.S.L.W. 4444 (U.S. 2015).

*Comment: This section attempts to address two issues common to regulation. 1. The "race to vest" – often a person who sees a regulation being proposed attempts to establish a vested right before the regulation can take effect where notice and public hearing are required. This race to vest often leads to a flurry of activity that can be difficult to process and allows uses that are considered undesirable to flourish while the government attempts to limit them. Allowing an ordinance to apply to properties based on the date it is first advertised provides a more fair solution allowing the government to provide public notice and give thoughtful contemplation to the issues involved rather than engaging in a race to adopt a measure before its utility is thwarted by a rash of construction and that insures the limited effect on individual property owners and the community as whole that the public process embraces. 2.*

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~~The effect of a regulated business enjoying a period where there is no regulation due to a court decision. Clearly, the Supreme Court did not aim to eliminate sign regulation; it only sought to eliminate content-based sign regulation. Rather than allow the decision in *Reed v. Gilbert* to extend authority beyond its intent, the Sign Code limits the effect of an unregulated period by recognizing that signs constructed during that period do not deserve protection from the application of the law.~~

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1.5.9.2 For the purpose of amortization, nonconforming signs described in Section 1.5.9. may be continued from the effective date of this Code for a period not to exceed the shorter of the period the signs were allowed under any prior Code or ~~ten~~ (10) years whichever is less.

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1.5.9.3 Signs which were unlawful under the prior Ordinance and which do not conform to this Code ~~shall~~ be removed immediately.

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1.5.9.2 For the purpose of amortization,

1.5.9.3.1 Temporary signs, including snipe signs and graffiti that do not comply with this Code ~~shall~~ be removed immediately.

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1.5.10 Compliance

Any sign which is altered, relocated, replaced or ~~shall~~ be brought immediately into compliance with all provisions of this Code.

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## Utility Inspection Policy

The City of Brady will inspect the property of every utility customer (industrial, commercial and residential) to ensure safe use of utilities prior to utilities being connected.

- The minimum safety standards set forth in the adopted 2009 International Code Council codes and the 2014 National Electric Code must be met to pass inspection.
- Upon discontinuance of service, the property will need to be inspected unless the property has been inspected within the preceding twelve (12) months for non-owner-occupied properties and thirty-six (36) months for owner-occupied properties before service is reinstated.
- Gas customers will need a gas pressure test (GPT) unless they have had one within the preceding twelve (12) months for non-owner-occupied properties and thirty-six (36) for owner-occupied properties before service is reinstated.
- Temporary Service may be provided for repairs or remodeling, after appropriate codes have been met.

## Utility Inspection Flowchart

When a customer request service on a property without current utilities or on a property with a discontinuance of service:

- the Utility/Billing Department will look at their account information for the property;
- if it has passed inspection (including Gas Pressure Test (GPT) for gas customers) within the preceding twelve (12) months for non-owner-occupied properties and thirty-six (36) months for owner-occupied properties, then the Utility Billing Department proceed with connecting service;
- if the structure has not passed inspection (including Gas Pressure Test (GPT) for gas customers) within the preceding twelve (12) months for non-owner-occupied properties and thirty-six (36) months for owner-occupied properties, then the Utility Department will email the Code/Building Department and the Code/Building Department contacts the customer and schedules an inspection.

If the property passes inspection, the Code/Building Department emails approval to Utility Billing Department and the Utility Billing Department continue with connecting service.

If repairs (including Gas Pressure Test (GPT) for gas customers) are needed those repairs shall be completed and inspected before service is approved.

When a customer request service on a property with current utilities:

- if there is no discontinuance in service then the Utility/Billing Department will transfer the utilities into the new customers account.



Ronnie Roberts - 325-597-1808 Ext. 202

REQUEST FOR SERVICE

Address: \_\_\_\_\_

Date: \_\_\_\_\_

**Electrical Violations:**

Electrical Permit required

Grounding required	2014 NEC 250.1
Main Disconnect	2014 Nec 230.70
Exterior Disconnect (6 breakers max.)	2014 NEC 230.71
Exposed/deteriorated wire exterior	2014 NEC 300.4
Breaker Panel Cover	2014 NEC312.2
Double lugged breakers	2014 NEC 110.14
Service clearance from ground	2014 NEC 225.18
Service head 24 inches above roof min.	2014 NEC 225.18
Meter base 5 ft. 5 in. from ground, req.	2014 NEC 110.26 (3)
GFCI outlet required in wet areas	2014 NEC 210.8
Exposed wiring (interior)	2014 NEC 300.4
Open breaker spaces	2014 NEC 408.7
Cover plates missing outlets/switches	2014 NEC 406.5 (G)
Globe missing at light fixture	2014 NEC 410.16 (B)
Breakers not labeled	110.22 (A)

**Gas Violations:**

Gas Pressure test required	2009IFGC 406.1
Plumbing Permit required	
Water heater combustion air	2009 IRC M1701.1
Pan with drain not present	2009 IPC 504.7
Pressure relief valve not piped	2009 IPC 504.6
Water heater located in bath or sleeping	2009 IRC M2005.2
Flue not functional	2009 IRC G2428.2.1
Sealed door if required	2009 IRC M2005.2
Furnace heat exchange - check	2009 IRC M1305.1.1
Old type gas valves, replace	2009 IFGC 409.1.1
Unused gas piping not capped	2009 IFGC 406.5.2
Copper, brass, cast iron, gas pipe, replace	2009 IFGC 403.4
Unvented Gas Heater	2009 IRC G2428.2.1
Gas pipe not Coated or wrapped	2009 IFGC 403.8
Ground or building movement	2009 IRC R401
Removal abandoned gas piping	

**Plumbing Violations:**

Plumbing Permit required

Bathtub/shower not functional	2009 IPC 407/417
Toilet not functional	2009 IPC 425
Sinks not functional	2009 IPC 424
Kitchen not functional	2009 IPC 401
Tub/Shower not present	2009 IPC 407/417
Backflow valve missing	2009 IPC 802.1
Gray water discharge	2009 IPC C101
Sewer Connect - confirm	2009 IPC 301.1
Septic system - test or pump	2009 IPC 301.1

**Nuisance Violations:**

Junk and Unsightly Matter

Grass too tall

Limbs

Tires

Household Furniture in yard

Dead Trees Remove

Dog or Animals Excess or Loose

Junk Vehicle

**Other Violations:**

Smoke detectors	2009 IRC R314
Window or exhaust missing at bathroom	2009 IRC 303
Window not present in bedroom	2009 IRC R310
Accessible exit from house	2009 IRC R311.1
Siding cracks, holes, decayed, missing	
Roofing weather tight condition,	
Zoning violations, setback, trees, sight	
Not Habitable	

Licensed electricians/plumbers may have additional requirements that must be met.

\* Items marked **(C)** require correction prior to utility activation

\*Violation items marked **(Ø)** require repair or abatement but not required for utility activation



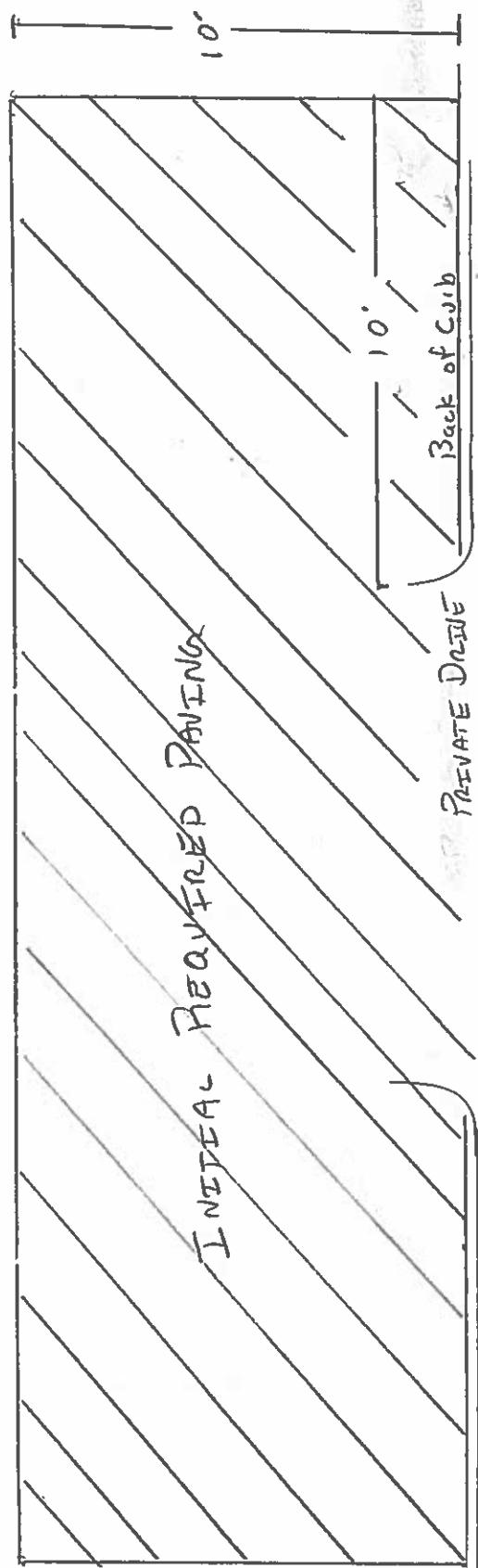
## MEMORANDUM

**TO:** KIM LENOIR, CITY MANAGER  
**FROM:** PETER LAMONT, DIRECTOR OF COMMUNITY SERVICES  
**DATE:** 13 JANUARY 2017  
**SUBJECT:** PARKING LOT PAVING ISSUES TO ADDRESS

---

Current building codes require parking lots in non-residential and multifamily residential zones be "paved with and all weather surface." (Ordinance 933, section 29.3.B) There are quite a few businesses and industrial areas that are not in compliance with this section and have gravel, dirt or crushed gravel parking areas. A key cause for concern with these unpaved lots is the movement of the parking material to city streets, which then results in damage, thus increased maintenance costs for the City. Also with storm drainage, the loose material fills drainage areas, causing more city maintenance issues.

Considering the cost of paving, either concrete or asphalt, and in order to gain compliance with this ordinance, staff would like to have the authority to negotiate development agreements with the property owners to gain compliance. Staff would like to propose a requirement for all entry ways to be paved ten feet from the back of curb across the entire entry way and ten feet either side of the entry, ten feet deep. After this initial paving, allow a phased approach to paving the remaining parking areas over a two or three year period.



PUBLIC STREET

## **Sec. 12.611 Parallel Parking**

Vehicles may be parked on all public streets or alleys in the city, provided the following conditions are met:

- (1) The vehicle shall be headed in the direction of travel of the nearest adjacent traffic lane;
- (2) The wheels nearest the curb shall be approximately parallel to and within eighteen (18) inches of the curb or edge of the roadway;
- (3) The manner of parking such vehicle shall be in compliance with all applicable provisions of this article and state law.

(1975 Code of Ordinances, Chapter 30, Article XII, Sec. 30-276)

## **Sec. 12.612 Angle Parking**

Vehicles may be parked at any angle not to exceed forty-five (45) degrees to the curb or edge of the roadway at those places and angles where signs or markings clearly indicate that it is permissible and that no part or contents of such vehicle shall protrude into or cause a hazard with other vehicles or pedestrians in the nearest adjacent traffic lane, sidewalk or crosswalk. In no case shall this exceed seventeen (17) feet from the curb in a perpendicular direction where thirty (30) degree parking is permitted or nineteen (19) feet from the curb in a perpendicular direction where forty-five (45) degree parking is permitted. (1975 Code of Ordinances, Chapter 30, Article XII, Sec. 30-277)

## ORDINANCE NO. 1155

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF BRADY, TEXAS, BY AMENDING CHAPTER 4 TO ESTABLISH EMERGENCY MEDICAL SERVICES AND AMBULANCE REGULATIONS; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000.00 FOR ANY VIOLATION OF ANY PROVISION OF THIS ORDINANCE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; AND PROVIDING FOR SEVERABILITY.

\* \* \* \* \*

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRADY, TEXAS:**

**Section 1.** The Code of Ordinances of the City of Brady, Texas, is hereby amended by adding to Chapter 4, Emergency Medical Services and Ambulance Regulations, to read as follows:

### **CHAPTER 4. EMERGENCY MEDICAL SERVICES AND AMBULANCE REGULATIONS**

#### **DIVISION 1. IN GENERAL**

##### **Sec. 4.100. Definitions.**

For the purposes of this chapter, certain words and phrases are defined as follows:

*Ambulance* shall mean any privately or publicly-owned motor vehicle used, designed or redesigned and equipped for the primary purpose of the transportation of the sick or injured persons, whether functioning as a basic life support, advanced life support, or mobile intensive care unit service level as provided by state law.

*City* shall mean the "City of Brady, Texas."

*City Limits* shall mean the area in the City within the corporate City limits.

*Department* shall mean the designated Emergency Medical Service for the City of Brady.

*DSHS* shall mean the Texas Department of State Health Services as presently constituted, or a successor agency.

*Direct Call* shall mean a request for ambulance service made by telephone or other means directly to an ambulance operator, his agents or employees.

*EMS Chief* shall mean the Department Head of the Emergency Medical Service.

*Emergency Ambulance* shall mean an ambulance used, designed, redesigned or equipped for the purpose of transporting sick or injured persons under emergency circumstances, and the rendering of first aid.

*Emergency Circumstance* shall mean the existence of circumstances in which the element of time in expeditiously transporting a sick or injured person for medical or surgical treatment is essential to the health or life of such person, and in which rescue operations or competent first aid or both, at the place of emergency, may be essential to the health or life of such person.

*ETJ* shall mean the City's extra-territorial jurisdiction.

*Medical Transfer Services* shall mean a pre-scheduled response made by an ambulance for the transportation of individuals to or from a medical facility, a nursing home, an assisted living facility, dialysis center, or residence under circumstances, which do not constitute an emergency.

*Medical Transfer Service Permit* shall mean a certificate of authorization issued by the City to the owner allowing such owner to operate an ambulance for medical transfer services within the City limits.

*Medical Transfer Service Provider* shall mean a person providing medical transfer services and holding a valid Medical Transfer Service Permit.

#### **Sec. 4.101. Interference with Department personnel, equipment.**

The City of Brady Fire/EMS Department shall be the sole provider of emergency medical service (911 service) within the City of Brady and within McCulloch County. It shall be unlawful for any person to intentionally or knowingly physically obstruct any Department personnel proceeding to the scene or reported scene of any accident or emergency call, or to physically obstruct any Department personnel in the course of treating the sick or injured at any such scene. It shall be unlawful for any person to intentionally or knowingly fail or refuse to surrender any sick or injured person to the care of any Department personnel at the scene of any accident or emergency call. It shall be unlawful for any person to intentionally or knowingly damage, destroy or deface any attached or unattached apparatus or equipment belonging to the Department or any structure used to house or protect such apparatus or equipment.

#### **Sec. 4.102. Penalty.**

Any person, firm or corporation who violates or fails to comply with the requirements or provisions of this chapter shall be deemed guilty of a misdemeanor and shall, upon conviction by a court of competent jurisdiction, be punished by assessment of a fine of not less than one dollar (\$1.00) nor more than two thousand dollars (\$2,000.00), and each instance such a violation or failure to comply is allowed to exist shall constitute a separate and distinct offense. In addition, the City Attorney is authorized to file suit in any court of competent jurisdiction to enjoin any person from violating or causing to be violated or causing to be violated any of the sections of this article.

#### **Sec. 4.103 – 4.110 reserved.**

## **DIVISION II. AMBULANCES**

### **Sec. 4.111. Personnel required during operation of an ambulance.**

It shall be unlawful to operate or drive or cause to be operated or driven an ambulance on a public street of the City when furnishing ambulance service, including emergency ambulances operated by the emergency medical service Department of the City, unless such ambulance on each trip meets the minimum staffing requirements as set out in Section 157.11(a) of Emergency Medical Services rules adopted by the DSHS under Section 773.050 of the Texas Emergency Medical Services Act, V.T.C.A., Health and Safety Code, ch. 773.

### **Sec. 4.112. Licensing and operating condition requirements for ambulances.**

No ambulance shall be operated upon the streets of the City for the purposes of furnishing ambulance service unless and until such ambulance has a valid license issued by the DSHS.

### **Sec. 4.113. Safety and first-aid equipment required.**

No ambulance shall be operated upon the streets of the City for the purpose of furnishing ambulance service unless such ambulance is equipped as set out in Section 157.11 of Emergency Medical Services Rules adopted by the DSHS under Section 773.050 of the Texas Emergency Medical Services Act, V.T.C.A., Health and Safety Code, ch. 773. Additionally, ambulances shall also meet the minimum requirements as outlined, in writing, by the physician medical director of record for the licensed ambulance service provider and as outlined by the city as required equipment. [outlined in the permit]

### **Sec. 4.114 – 4.120 reserved.**

## **DIVISION III. MEDICAL TRANSFER SERVICES**

### **Sec. 4.121. Permit required; exception.**

(a) *Required.* No person shall furnish, operate, conduct, maintain, advertise or otherwise be engaged in the operation of medical transfer services upon or over any public street within the City limits without having first obtained a transfer services permit.

(b) *Exception.* A transfer services permit shall not be required for:

(1) Emergency Medical Service vehicles or ambulances owned or operated by the City of Brady Fire/EMS Department; or

(2) Emergency Medical Service vehicles or ambulances operating solely at the request of the City or the designated Emergency Medical Service provider for the City or in cases of a mutual aid, disaster, or system overload; or

(3) Emergency Medical Service vehicles or ambulances operating from a location outside the city limits and who are transporting patients from a location outside the limits of the city to a location within the city or through the city to some other location.

(4) Air ambulance services are exempt from this Article.

An application for license to operate an ambulance on the public streets of the City of the purpose of providing medical ambulance transfer service within the City or County shall be made by the owner thereof for each ambulance so used or to be so used, or an agent authorized in writing by such owner to make such application, on forms obtained from the City Manager, which shall contain at minimum the following:

- a. the name, address and telephone number of the owner;
- b. any trade or other fictitious name used or to be used by the owner when providing ambulance service;
- c. the make, model, year of manufacture, motor and chassis number, and current state license number of each ambulance;
- d. the length of time each ambulance has been in service;
- e. the color scheme, insignia, name, monogram or other distinguishing characteristics used or to be used by the owner to designate such ambulance together with an accurate photograph of each ambulance to be permitted;
- f. a list of all current employees of the ambulance service including name and date of birth for each employee; and drug screen results
- g. each application for a permit required by the City shall be accompanied by a non-refundable permit fee, payable to the City of Brady, as established by resolution of City Council.

The annual permit fee associated with the permitting of medical transfer services is one-thousand five-hundred dollars (\$1,500.00) per vehicle and any inspection required is two-hundred dollars (\$200) each.

#### **Sec. 4.122. Insurance requirements.**

(a) Any applicant for a permit under this division shall, before the permit can be issued, procure, maintain, and furnish proof of financial responsibility as required by law and as prescribed in this section. The applicant shall keep in full force and effect during the entire term of this permit, the required insurance coverage for commercial general liability, automobile liability and professional liability in the minimum limits listed:

(1) Automobile liability insurance in the amount of not less than one hundred thousand dollars (\$100,000.00) for each person and five hundred thousand dollars (\$500,000.00) for each accident for personal injuries, and one hundred thousand dollars (\$100,000.00) for property damage. This automobile liability insurance shall not contain passenger liability exclusion. A written statement from an

authorized agent of the ambulance operator's insurance carrier shall provide for a thirty day cancellation notice to the City of Brady.

(2) Commercial general liability insurance with a minimum aggregate of three million dollars (\$3,000,000.00) and a minimum per occurrence of one million dollars (\$1,000,000.00).

(3) Professional liability insurance in an amount of not less than one million dollars (\$1,000,000.00).

(4) Workers' Compensation Insurance.

(5) Applicant must agree to indemnify, defend, and hold harmless the City, its officers, employees and agents, and Department, for any and all claims arising from applicant's acts or omissions. Additionally, the City shall be added as an additional insured on the policies, and the coverage shall contain no special limitation on the scope of protection afforded to the City.

(b) The insurance company shall be of sufficient assets, with an agent in the State of Texas upon whom service of the process may be made, and shall be approved by the City Attorney. Every insurance policy and certificate of insurance must contain a provision or an endorsement requiring that the policy will not be cancelled, suspended, voided, or reduced until at least thirty days (30) days prior written notice has been given to the City via certified mail, return receipt requested. If the policy does not provide coverage for "any auto" then a schedule of the covered autos is required to be submitted and filed with the City Manager. Only those covered autos will be permitted to operate within the City.

(c) If the City Attorney determines that the insurance coverage required in subsection (a) of this section become so impaired as to require new and additional insurance, the City Attorney shall require such additional insurance in such company as he may fee is necessary to ensure faithful performance by the operator of ambulances his agents, servants, and employees.

(d) If the insurance policy is cancelled and no insurance policy if filed by the owner or ambulance operators before the cancellation, the permit to operate ambulances granted to such person shall be immediately and automatically revoked.

#### **Sec. 4.123. Inspection.**

(a) The Brady City Manager or designee, or the police department, shall have the right to inspect, at any time, all ambulances permitted or to be permitted under this division to determine if such vehicles meet the following minimum standards:

(1) Each vehicle shall be equipped according to the Texas DSHS equipment standards, and as determined by the ambulance service Medical Director, and as identified by the City as required equipment;

(2) Each vehicle shall be free from dirt or rubbish and shall be otherwise clean and sanitary;

(3) Each vehicle shall meet the general standards and requirements of this article;

- (4) Each vehicle shall have the company name displayed on each side of the vehicle and on the rear;
- (5) Each vehicle shall be inspected each year by a person authorized to conduct vehicle safety inspections by the State of Texas; and
- (6) No vehicle shall display the identification "Emergency Ambulance", "Emergency", "911", or similar marking.
- (7) Random drug testing will be required of all Ambulance service employees.

(b) At no time shall any ambulance that is found to be unsafe by the Brady City Manager or designee, or the police department be operated on the streets of the City. Nothing in this section however shall prevent the Brady City Manager or designee, or the police department from inspecting any ambulance at any time. If the inspector finds that any ambulance is out of compliance, the Brady City Manager or designee, shall order the use of the ambulance discontinued until the ambulance is re-inspected and approved.

(c) At no time shall a person operating a permitted transfer ambulance in the City, respond to or from a direct call for emergency medical service, nor operate such ambulance as an emergency ambulance under emergency conditions.

(d) At no time shall a person operating a permitted transfer ambulance in the City respond to or from a direct call for a medical transfer service unit until notifying Brady Fire/EMS dispatcher.

(e) Inspection shall not exceed state requirements and will follow the TXDSHS checklist.

**Sec. 4.124. Payment of Ad valorem taxes.**

It shall be the duty of every medical transfer services provider to pay all ad valorem taxes assessed by the City against such vehicle and all other personal and real property used in such business and to provide to the City a certificate demonstrating that ad valorem taxes have been paid. The failure to pay such ad valorem taxes before they become ninety (90) days delinquent shall result in revocation of the permit issued in accordance with this chapter.

**Sec. 4.125. Special requirements for transfer ambulances.**

- (a) *Staffing.* No transfer ambulance vehicle shall ever be operated upon the streets, highways or other public places of the city unless such vehicle is operated by at least two validly permitted ambulance attendants, each of whom must possess a current emergency medical technician basic certificate.
- (b) *Posting of fee schedule.* All transfer ambulance vehicles shall have a current fee schedule conspicuously posted in the patient's compartment. A transfer services permittee shall have a current fee schedule on file with the City of Brady.

**Sec. 4.126. Issuance of permits.**

- (a) The City Secretary, or designee, shall issue to each applicant a permit for each vehicle upon the applicant's filing of written proof of insurance as required in this division, upon ensuring that all City taxes on each vehicle and all other personal and real property used in such business have been paid and upon determination that all requirements of this chapter and all applicable state and federal statutes and regulations have been satisfied.
- (b) Permits shall be issued for a twelve-month period. Such period shall run from January 1 to December 31 of each year. Any new permit issued during the year shall begin on the date of issuance and shall end on December 31 of that year. The permit shall state the period for which the permit is issued, the name of the owner, the make of the vehicle(s), the vehicle identification number(s), and the current license number(s).

**Sec. 4.127. Renewal.**

- (a) An application for renewal of an existing permit shall be filed on or before November 15 for the renewal period covering the following calendar year. The application process shall be the same as specified in this chapter for initial permits.
- (b) The City Secretary shall issue a Medical Transfer Service Permit for each ambulance for which it has received a renewal application upon the applicant's filing of written proof of insurance as required in this chapter, upon ensuring that all City taxes on each vehicle and on all other personal and real property used in such business have been paid, upon each vehicle passing the inspection required by this Chapter, and upon determination that all requirements of this chapter and all applicable state and federal statutes and regulations have been satisfied.
- (c) If a permit has been suspended during the permit year, re-issuance of such permit will be reviewed by the Brady City Manager, or designees, during December of the same year. The re-issuance of such permit shall be denied if the City Manager or designee determines that the provisions of this ordinance have not been met.

**Sec. 4.128. Transferability.**

A permit issued under this chapter shall be specific to both the permittee as well as the permitted vehicle, and shall not be transferable.

**Sec. 4.129. Alterations of terms by City Council.**

The City Council expressly reserves the right to modify, amend, change, or eliminate any of the provisions of any permit issued under this chapter, during the life of the permit, to:

- (a) Eliminate or delegate any conditions that might prove obsolete or impractical; or

(b) Impose any additional conditions upon any owner as may be just and reasonable, and which are deemed necessary for the purpose of promoting adequate, efficient, and safe ambulance to the public.

**Sec. 4.130. Requirements for business location.**

If the business location of the ambulance service, firm or organization is located within the City limits, the building must be in compliance with all City ordinances, state and federal laws. Pursuant to this specific chapter, no such ambulance service firm or organization can operate as its main place of business, a storage supply facility, or in a private residence. The Brady City Manager or designee, or police department, has the right to inspect such locations as often as deemed necessary to ensure compliance with all provisions of this chapter. The refusal of any ambulance operator, with a business office located within the City limits, to allow the Brady City Manager or designee, or police department, to inspect such premises shall be considered a violation of this chapter and may be subject to forfeiture of the Medical ambulance permits.

**Sec. 4.131. Revocation.**

(a) In addition to the penalties as provided in the Code for violations of this article, a medical transfer service provider or any of its officers, agents and/or employees who violate any section of this chapter, including allowing drivers to operate or drive any vehicle while not properly licensed or while intoxicated/incapacitated, is subject to immediate suspension of its medical transfer service permit to operate within the City limits by the Brady City Manager designee. Any violation of the chapter may subject the transfer service provider to suspension or revocation of its Non-Emergency Transfer Service Permit. However, not less than ten (10) days before any revocation or suspension for other than operating a vehicle while not properly licensed or while intoxicated/incapacitated, the owner shall be given written notice, be either personal delivery or certified mail to the permittee's address as shown on the permit application, and an opportunity to be heard before the Brady City Manager or designee as to why the permit should not be revoked or suspended. No such notice or hearing shall be deemed necessary prior to the revocation of a permit for failure to maintain proper insurance as required. Additionally, the permittee shall notify the City of any state or federal investigation, or conviction of violation of any state or federal law within ten (10) days of such investigation or conviction.

(b) If the Brady City Manager or designee's decision is not acceptable to applicant or permittee he may, within ten (10) days of that decision, file an appeal in writing with the City Manager. During the pendency of the appeal, the permit shall be suspended. Such a written appeal shall set forth the specific grounds therefore. The City Manager shall notify the appellant within ten (10) days after the receipt of appeal as to the time and place of the hearing, which shall be within thirty (30) days of receipt of such appeal. The determination of City Manager on any appeal pursuant to this chapter shall be final.

(c) Upon suspension or revocation of an ambulance permit, such medical transfer service shall cease operations in the City and no person shall permit such medical transfer service to continue such operations.

Sec. 4.132 – 4.140 reserved.

**Section 2. Penalty.** Any person who violates any provision of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$2,000.00. Each violation occurrence shall constitute a separate offense.

**Section 3. Repealer.** All ordinances or parts of ordinances inconsistent or in conflict herewith, are, to the extent of such inconsistency or conflict, hereby repealed.

**Section4. Severability.** In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Brady, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Passed and Approved on FIRST READING on the 15th day of July, 2014.

Passed and Approved on SECOND READING on the 5th day of August, 2014.



Anthony Groves  
Anthony Groves, Mayor

ATTEST:



Chasity Badilla  
City Secretary