



**CITY OF BRADY
CITY COUNCIL WORK SESSION AGENDA
DECEMBER 19, 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 December 19, 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 Government Code.

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

2. Review and discuss proposed animal control ordinance changes as directed by City Council on October 3 to address Article 2.400 Keeping Livestock and Exotic Animals, in a separate ordinance.
3. Review and discuss proposed sign ordinance.
4. Discuss Axis Management Contract for Brady Lake.

5. Discuss and plan future work session dates and topics

6. Announcements

7. 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.

Tony Groves
Mayor

Jim Griffin
Mayor Pro Tem, Place 5

Rey Garza
Council Member, Place 1

Shelly Perkins
Council Member, Place 2

Jeffery Sutton
Council Member, Place 3

Jane Huffman
Council Member, Place 4

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

Steve Thomas
Chief of Police

Brian Meroney
Chief of Fire/EMS

Shannon Kackley
City Attorney

d or Appointed Officials: It is anticipated that members of other governmental bodies, and/or city boards, tees may attend the meeting in numbers that may constitute a quorum of the body, board, commission and/or / given that the meeting, to the extent required by law, is also noticed as a possible meeting of the other body, ommittee, whose members may be in attendance, if such numbers constitute a quorum. The members of the committees may be permitted to participate in discussion on the same items listed on the agenda, which occur n will be taken by such in attendance unless item and action is specifically provided for on an agenda for that committee subject to the Texas Open Meetings Act.

CHAPTER 2 - ANIMAL CONTROL – Article 2.400 only **Revised to restrict horses, chickens, goats and sheep in city limits, and permit 4-H Animals**

ARTICLE 2.100 IN GENERAL

Sec. 2.101 Definitions

As used in this chapter the following terms mean:

4-H/FFA Animal. A 4-H/FFA animal is any animal under the control of an authorized 4-H or FFA program.

Animal. Any living creature except human beings, and including (without limiting the generality thereof) animals, birds, reptiles and fish, except the word “animal” shall mean only a mammal when referring specifically to the control of rabies.

Animal Control Authority or Animal Control Officer. The city animal control officer, or his or her designee, with authority over the city limits within which the dog, cat or animal is kept.

Animal Control Center or Center. Facility in which the division of animal and rabies control is housed.

Bite. An abrasion, scratch, puncture, tear or piercing of the skin actually or suspected of being caused by the mouth of any animal.

Breeder. Any person licensed by the city to keep, harbor, breed and/or raise in excess of four (4) dogs or four (4) cats, six (6) months of age or older, on any premises used or zoned for residential purposes and less than two acres in area.

Collar. A band, chain, harness or other suitable device worn around the neck of an animal to which a current rabies vaccination tag can be affixed.

Current Vaccination. Vaccinated and satisfying the following:

- (1) The animal must have been at least three (3) months of age at the time of vaccination.
- (2) At least thirty (30) days have elapsed since the initial vaccination.
- (3) Not more than thirty-six months have elapsed since the most recent vaccination.

Dangerous Dog. A dog that:

- (1) Makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or
- (2) Commits unprovoked acts in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the dog enclosure on its own, and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person.

Department. The police department of the city.

Exotic animal. An exotic animal is any animal that is not indigenous to the state of Texas. Exotic animals include the following: feral hog, Russian boar, aoudad sheep, axis deer, elk, elk hybrids, sika deer, fallow deer, red deer, and blackbuck and nilgai antelope.

Exotic fowl. An exotic fowl is any avian species not indigenous to the state of Texas. Exotic fowls include the following: ratites, emu, ostrich, rhea, and cassowary.

Exposed to Rabies. An animal has been exposed to rabies if it has been bitten by any other animal or if it has been in contact with any animal known to be, or suspected of being infected with rabies.

Euthanize. To cause death of an animal by a method which:

- (1) Rapidly produces unconsciousness and death without visible evidence of pain or distress; or
- (2) Utilizes anesthesia produced by an agent that causes painless loss of consciousness, and death following such loss of consciousness.

Including. The term including is not a term of limitation. It means "including but not limited to."

Kennel. A place where animals are bred and boarded that has been approved by the animal control officer.

License. A document issued by the officer or any other employee of the city that shows that the owner is entitled to keep an animal as required by this chapter.

Livestock. Livestock means cattle, horses, mules, asses, sheep, goats, llamas, alpacas, exotic livestock, and hogs, unless otherwise defined.

Officer. Any animal warden or animal quarantine investigator employed by the city police department.

Owner. Any person who owns, harbors, handles, keeps or causes or permits to be harbored, handled, or kept, or has in his care, an animal or bird on or about his premises.

Person. The word “person” shall extend and be applied to associations, corporations, firms, partnerships and bodies politic and corporate as well as to individuals.

Pet Shelter. A facility that is approved to keep and care for animals by the animal control officer. The facility houses homeless, lost or abandoned animals: primarily a large variety of dogs and cats. The animals are kept at the shelter until they are either reclaimed by an owner, adopted by a new owner, placed with another organization, or if necessary, euthanized.

Secure Enclosure. A fenced area or structure that is:

- (1) Locked;
- (2) Capable of preventing the entry of the general public, including children;
- (3) Capable of preventing the escape or release of a dog;
- (4) Clearly marked as containing a dangerous dog; and
- (5) In conformance with the requirements for enclosures established by the animal control officer.

Tag. A small identifying mark

Vaccination. Inoculation of an animal with a vaccine that is licensed by the United States Department of Agriculture, and which is administered by a veterinarian for the purpose of immunizing the animal against rabies.

Veterinarian. A doctor of veterinary medicine who holds a valid license to practice his profession.

Wild animal. Any animal that is not tame or domesticated.

ARTICLE 2.400 KEEPING LIVESTOCK AND EXOTIC ANIMALS

Sec. 2.401 Leaving Stock Unhitched

It is unlawful for any person to leave standing any livestock on a public street or alley within the city.

Sec. 2.402 Hitching Stock on Sidewalks

It is unlawful for any person to hitch or tie any livestock to a shade tree, fence or house on or along any sidewalk in the city.

Sec. 2.403 Restrictions on Keeping Horses

- (a) No person shall keep a horse on any premises if:
 - (1) the overall area within which the horse is kept is less than one acre for each horse kept,
 - (2) the premises are unsanitary, or
 - (3) the premises are a public nuisance.
- (b) The requirements of this section do not apply to the G. Rollie White Complex or to any veterinary facility.
- (c) The manure and debris incident to the maintenance and care of horses shall be scraped from the floor and raked from pens or areas with such frequency as to prevent the same from serving as breeding places for insects and from emitting noxious odors. The manure and debris scraped or raked, as provided above, shall immediately be collected and either placed and kept in a waterproof and insect proof container until removed from the premises. The inside walls, ceilings, roosts, and floors of the structure in which the horses are housed shall be treated and kept treated with effective material manufactured and sold for the control of flies, mites, and lice and applied according to the manufacturer's directions. (Ordinance 1194 approved 5-3-16)

Sec. 2.404 Keeping Swine, Cows, Goats, and Sheep Prohibited

No person shall keep within the city any swine, cows, goats, or sheep. These requirements do not apply to any veterinary facility.

Or delete above 2.404 and replace with the following (2.404.1 to 2404.4)??

Sec. 2.404.1 Keeping Swine Prohibited

No person shall keep within the city any swine.

Sec. 2.404.2 Restrictions on Keeping Goats and Sheep

- (a) No person shall keep goats or sheep on any premises if:

- (1) the overall area within which the animal is kept is less than one acre for each animal kept;
 - (2) the premises are unsanitary; or
 - (3) the premises are a public nuisance.
- (b) The requirements of this section do not apply to any veterinary facility.

Sec. 2.404.3 Restriction on Keeping Fowl

- (a) No person shall keep more than six (6) female chickens per acre:
- (1) Chicken hens shall be kept in a coop behind a solid fenced backyard.
 - (2) The premises where the chicken are kept shall not be unsanitary.
 - (3) The premises where the chicken are kept shall not be a public nuisance.
- (b) The requirements of this section do not apply to any veterinary facility.

Sec. 2.404.4 Keeping Roosters Prohibited

No person shall keep within the city any male chickens/roosters. Existing animals shall be allowed to remain but may not be replaced. This requirement does not apply to any veterinary facility

Sec. 2.405 Permit Required for Exotic Animals

No person shall keep within the city, any wild animal, exotic animal, or exotic bird, warm-or-cold-blooded (not including caged pet rodents, caged pet birds and animals in aquariums) unless a permit is obtained from the animal control officer in accordance with the provisions in this chapter. This section does not apply to animals located at any veterinary facility.

Sec. 2.406 Application to Keep Exotic Animals Fee

Application for any permit required in Section 2.405 shall be made in writing to the animal control officer, accompanied by payment determined by city council, to pay part of the cost of executing this article and is not to be prorated or refunded. The application shall state the name and residence of the applicant, the location of the premises where the animal or bird is to be kept, the number and kind of such animals or birds, and the kind of enclosure within which they are to be kept.

Sec. 2.407 Renewal, Amendment of Permit to Keep Exotic Animals

The permit required by Section 2.405 shall be renewed annually by October 31st each year, accompanied by payment of a fee established by City Council. If ownership of the place in which the animal is kept is changed, the permit may be changed accordingly upon written verified application and payment of a fee established by City Council for amending the permit.

Sec. 2.408 Findings Prerequisite to Permit for Exotic Animals

- (a) The animal control officer shall determine, by inspection or otherwise, whether the keeping of exotic animals as proposed is in violation of any law or ordinance, and whether the keeping of exotic animals will constitute a nuisance. In making this determination, the animal control officer shall consider the following factors and be guided by the following standards:

- (1) The area of the premises on which the animals are to be kept,
- (2) Whether the keeping of animals will endanger the public health or cause orders or noises offensive to persons of ordinary sensibilities residing in the vicinity, and
- (3) Whether the keeping of such animals considering all the circumstances, is likely to endanger persons or property.

(b) The animal control officer shall verify the information in the application and shall issue or refuse the permit accordingly. The permit may include reasonable conditions determined by the animal control officer to be necessary to prevent a nuisance, such as the number and kind of animals to be kept thereon. All conditions of a permit are subject to review and revision by the animal control officer.

Sec. 2.409 Suspension, Revocation, Alternation of Permit

After reasonable notice and opportunity to be heard, the animal control officer may suspend or revoke any permit issued under Section 2.405 for violation of this chapter by the permittee. After issuing a permit, the animal control officer may add conditions or restrictions to the permit if investigation indicates any changes since the original permit was issued.

Sec. 2.410 Sanitation

(a) All animals and birds (except dogs, cats, caged pet rodents, caged pet birds, fowl and rabbits the keeping of which is otherwise regulated herein) shall be kept in a secure pen or enclosure which shall not be less than one hundred (100) feet from any inhabited dwelling (except that of the owner or person keeping such animals or birds) or any hotel, apartment house, tenement house, hospital, church or school.

(b) Fowl and rabbits shall be kept in a secure pen or enclosure that is at least 30 feet from any inhabited dwelling that is not the owner's dwelling, or any hotel, apartment houses, tenement houses, hospital, church or school; provided, the pen or enclosure may be within 20 feet of such buildings if separated therefrom by a public alley and by a solid fence or wall at least six feet high between the pen or enclosure and the alley; and provided, further, homing pigeons may be released from the pen or enclosure for the purpose of supervised flights.

(c) The word "kept" as used in this section does not prevent the temporary removal of the animal or bird from the pen for any normal use or purpose. In the case of animals for which a permit is issued, the animal control officer may waive the requirements as to distance from dwellings or other buildings if keeping the animal in a dwelling or close by will not endanger the public health or create a public nuisance.

(d) The owner or person in possession of the pen or enclosure must keep it in such a manner as not to give off odors offensive to persons residing in the vicinity, or to breed or attract flies, mosquitoes, or other noxious insects, or in any manner to endanger the public health or create a public nuisance.

(e) All persons keeping such animals and birds must comply with the following regulations.

(1) Manure and droppings must be removed from pens, stables, yards, cages and other enclosures at least twice weekly and handled or disposed of in such a manner as to keep the premises free of any nuisance.

(2) Mound storage of droppings or manure between such removals will only be permitted under such conditions as to protect against the breeding of flies and to prevent migration of fly larvae (maggots) into the surrounding soil.

(3) Feed troughs may be provided for the feeding of vegetables, meat scraps, or garbage and such feeding must be done only in containers or on an impervious platform.

(4) Watering troughs or tanks may be provided that will be equipped with adequate facilities for draining the overflow, as to prevent the breeding of flies, mosquitoes, or other insects.

(5) No putrescible material may be allowed to accumulate on the premises, and all such material used as feed that is unconsumed must be removed daily and disposed of by burial or other means approved by the animal control officer.

(f) For the purpose of enforcing this article, the animal control officer must make inspections of all places where animals or birds are kept; and the making of an application for or the issuing of any permit under this article constitutes consent for entry and inspection of the officer or his or her appointed agent(s) at all reasonable times.

Sec. 2.411 Exceptions to Permit Requirements

The permit requirements of this article do not apply to animals kept for scientific purposes by any educational or scientific institution, nor to animals belonging to a licensed circus or animal shows exhibited in the city temporarily, nor to animals or birds kept by the city for exhibition in a public park or zoo, nor to the animals kept at the G. Rollie White Complex for the purpose of 4-H FFA. Such animals or birds, however, shall be kept as not to constitute a nuisance or a danger to the public health or safety of any person, or group of persons within the city.

Sec. 2.412 Importation of Certain Animals

(a) The following animals, because they have a high probability of carrying rabies and constitute a danger to public health if brought into the state, will be excluded from importation as domestic pets:

- (1) Skunk.
- (2) Fox.
- (3) Raccoon.
- (4) Ringtail.

- (5) Coyote.
- (6) Bobcat.
- (7) Marten.

(b) These animals may be imported if they are designed for a research institute or public display as in zoos or organized entertainment units or Independent School Districts.

ORDINANCE NO. 1221

AN ORDINANCE OF THE CITY OF BRADY CODE OF ORDINANCES CHAPTER 14 ENTITLED "SIGNS"; PROVIDING FOR THE REGULATION, INSTALLATION, AND MAINTENANCE OF SIGNS WITHIN THE CITY LIMITS AND EXTRATERRITORIAL JURISDICTION ("ETJ") OF THE CITY OF BRADY; PROVIDING FOR DEFINITIONS, EXEMPTIONS, LOCATIONS, AND SIZE AND HEIGHT RESTRICTIONS; REQUIRING PERMITS; PROHIBITING CERTAIN TYPES OF SIGNS; PROVIDING A MEANS FOR VARIANCES THERETO; PROVIDING A REPEALING SECTION; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, this ordinance set forth comprehensive sign and billboard regulations for the City of Brady and its Extra Territorial Jurisdiction that are now codified as Chapter xx of the Code of Ordinances; and

WHEREAS, it has become necessary to adopt sign regulations in a manner that provides the citizens of Brady a content neutral sign code developed based on the United States Supreme Court decision of *Reed v. Town of Gilbert*; and

WHEREAS, the City Council is authorized to regulate signs by virtue of the Texas Constitution, the City of Brady Police Department, and Texas Local Government Code Chapters 211 and 216; and

WHEREAS, it is the desire of the City Council to adopt this ordinance as a comprehensive amendment to Chapter 14 of the Code of Ordinances; and

WHEREAS, the City Council and Planning and Zoning Commission held a joint workshop on ----- on this ordinance; and

WHEREAS, the Planning and Zoning Commission held a public hearing on this ordinance on -----; and

WHEREAS, the City Council held a public hearing on of this ordinance on -----; and

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

SECTION 1. ORDINANCE.

This Ordinance adds to Chapter 14 – Zoning Ordinances of the City of Brady Code of Ordinances as set forth in the attached Exhibit A

SECTION 2. RELATION TO OTHER ORDINANCES.

This ordinance shall not be construed to require or allow any act which is prohibited by any other ordinance. This ordinance is specifically subordinate to any ordinance or regulations of the City of Brady pertaining to building and construction safety or to pedestrian and traffic safety.

SECTION 3. EFFECTIVE DATE.

This ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

SECTION 4. SAVINGS CLAUSE.

The repeal or amendment of any ordinance or part of ordinances effectuated by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue or as affecting any rights of the City of Brady under any section or provisions of any ordinances in effect at the time of passage of this ordinance.

SECTION 5. CUMULATIVE.

The provisions of this ordinance shall be cumulative of all ordinances not repealed by this ordinance and ordinances governing or regulating the same subject matter as that covered herein. This ordinance shall not be construed to require or allow any act which is prohibited by any other ordinance.

SECTION 6. SEVERABILITY.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance be severable, and, if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared invalid by judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance and the remainder of this ordinance shall be enforced as written.

SECTION 7. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

First Reading PASSED AND APPROVED, this, the ____ day of ____, 2018.

Second Reading PASSED AND APPROVED, this, the ____ day of ____, 2018.

Anthony Groves, Mayor

ATTEST:

Tina Keys, City Secretary

APPROVED AS TO FORM: _____, Charles E. Zech

CHAPTER 14 - Zoning

EXHIBIT A – DRAFT for Work Session 12-19-17

Article 14.200- Sign Regulations

Sec. 14-201- Purpose and Authority.

The City of Brady, by and through its City Council, Planning and Zoning Commission, and Board of Adjustment is authorized to regulate signs by virtue of the Texas Constitution, the City of Brady Police Department, and Texas Local Government Code Chapters 211 and 216.

The purpose of this Chapter is to establish a content neutral sign code based on the United States Supreme Court decision of *Reed v. Town of Gilbert*.

Sec. 14-201.1 - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Other words and phrases shall be given their common, ordinary meaning unless the context clearly requires otherwise. Headings and captions are for reference purposes only and shall not be used in the interpretation of this chapter. In the event of conflicting regulations or definitions thereupon, the stricter definition or regulation shall apply.

Abandoned/obsolete sign means a sign that advertises a product, service, or business no longer available or in operation or not being maintained for a certain period of time as hereinafter described in this chapter.

A-frame means an A-framed style sign, which is typically but not necessarily foldable or collapsible and meant to be easily moved.

Area means:

- (1) The entire sign surface within a single contiguous perimeter, excluding support structures. A sign structure with two faces back to back, oriented in opposite directions and separated by not more than three feet, with the same copy on both sides, shall be counted as a single sign.
- (2) In cases where a sign is composed only of letters, figures, or other characters, the dimensions used to compute the area are the smallest simple imaginary figure (circle, triangle, rectangle, or other) which fully contains the sign content.

Auxiliary sign means provides information such as hours of operation, delivery instructions, credit cards accepted, restrictions of sale to minors, no soliciting, or beware of dog.

Banner means any sign intended to be hung either with or without frames, possessing colors, characters, letters, illustrations, or ornamentation applied to paper, plastic, fabric, or netting of any kind, supported by wire, rope, webbing, or similar means, or through the grommets of the sign. Except for sail, teardrop, feather or bow banner, which are defined as "sail banner."

Beacons includes any light with a beam directed into the atmosphere or directed at a point which is not on the same property as the light source, or a light with one or more beams that move.

Billboards means all off-premises signs containing at least 200 square feet face area and owned by a person, corporation or other entity that engages in the business of selling the advertising space on the sign.

Building Official means the City Manager or designee

Changeable copy sign means a sign, or part of a sign, on which content can be changed or rearranged without altering the face or surface of the sign, including but not limited to, a theater marquee or a gasoline price sign.

City of Brady, Brady, or city means the City of Brady, McCulloch County, Texas, an incorporated municipality and its associated ETJ.

City Designee - means the individual selected to carry out a duty or role by the City Manager to enforce and administer this chapter.

Code Enforcement Officer means the City Manager or designee.

Commercial complex means any property such as a shopping center, office park, or industrial park, which consists of two or more establishments on a single platted lot, or which is designed, developed, and managed as a unit, or are the members of a commercial association which contributes to the joint maintenance and promotional efforts of the center.

Electronic sign means a sign, display or device that exhibits its message, words, letters, numbers, images, symbols, or copy by programmable mechanical or electronic process including, but not limited to LED electronic signs and both static and moveable electronic displays.

Flag/patriotic means a national, state, church, school flags, or any other flag that constitutes protected noncommercial free speech. A fabric or plastic sheet attached at one end to a pole, cable, or rope.

Flashing sign means a message board that is electronically controlled by intermittent light impulses or alternating panels consisting of letters, words, or numerals that can either change sequentially or travel across the display area. Other than time and temperature signs, emergency signs, school zone signs, or other governmental signs.

Freestanding sign means any sign not attached to or part of a building, including, but not limited to, monument signs, pole signs and self-supported signs.

Height/ground clearance means the distance from ground level to the bottom of the sign structure, exclusive of structural supports. The ground level is the lower of:

- (1) The existing grade prior to construction of the sign; or
- (2) The newly-established grade after construction, unless the curb elevation at the street in front of the sign is higher than the established ground level, in which case the height shall be measured from curb level.

Height/maximum means the distance from ground level to the top of the sign structure. The ground level is the lower of:

- (1) The existing grade prior to construction of the sign; or
- (2) The newly established grade after construction, unless the curb elevation at the street in front of the sign is higher than the established ground level, in which case the height shall be measured from curb level.

Historic sign means a sign that is an integral part of the historical character of a landmark building or historic district.

Holiday sign means a temporary display or decoration customarily associated with any national, state, local, or religious holiday or celebration.

Illuminated sign means any sign illuminated in any manner by an artificial light source of any kind, either detached from the sign or a part thereof. Signs that are only incidentally and indirectly illuminated

as a result of a lighting plan primarily designed as security lighting or landscape lighting are not illuminated signs.

Monument sign means a sign which is mounted on a base at least as wide as the sign. The opening between the base and the sign must be no greater than two inches.

Moving sign means any sign or part of a sign which is animated or moves.

Nonconforming signs means signs which have been installed prior to the effective date of the ordinance from which this chapter is derived are in use as of the effective date of the ordinance from which this chapter is derived, and which do not conform to this chapter.

Pole/pylon sign means a self-supporting freestanding sign that must adhere to the requirements of construction using durable building materials utilizing but not limited to masonry, stucco, painted pipe, aluminum clad piping or other complimentary materials. Signs larger than 48 square feet in size must be certified by a Texas Licensed Professional Engineer as being able to withstand a wind pressure load of at least 30 pounds per square foot and support the weight of the sign.

Portable changeable copy sign means a transportable sign whether on attached wheels or otherwise, of durable construction, skids, legs, or framing, including trailers or truck beds, and searchlights, and which is not designed nor intended to be permanently affixed to a building, other structure, or the ground.

Portable Sign - A portable sign that only has wheels shall be considered a portable sign.

Poster size enclosure sign means a metal or plastic frame with or without glass or Plexiglas and which can be secured or locked (not to exceed three feet in length, four feet in height, and five inches in depth), and is affixed to the outside of a building, which permits an individual to insert a paper advertisement into the enclosure for outside display and regularly change out the paper display. It is the intent of the city council for such poster size enclosure signs to be similar to the enclosures typically and traditionally used to display movie posters outside of movie theaters.

Premises means a lot or tract within the city or its ETJ, and contiguous tracts in the same ownership, which are not divided by any public highway, street, alley, or right-of-way.

Residential area means any property within the city limits which is zoned for residential use. Any unzoned property within the city limits, or any property within the city's ETJ, which is vacant, in any form of agricultural use, on which a residence is the principal use, and any portion within 200 feet of any such property.

Responsible party means the owner of the property upon which the sign is located, the lessor of the property, and/or the owner of the sign.

Rooftop signs means a sign placed on the roof of a building.

Sail, teardrop, feather, or bow banner means a self-supported wing, feather, blade, cone, or rectangular shaped flag mounted on a flexible pole.

Sign means any medium for visual communication or its structure used or intended to attract the attention of the public.

Single commercial building means a structure containing a single commercial establishment, office, business, school, church, nonprofit organization, charity, or government agency.

Street banner means a banner suspended above a right-of-way.

Temporary sign means any sign, handbill, or poster which is placed to advertise or announce a specific event, or which pertains to a particular event or occurrence, or which is not designed or intended to be placed permanently. Signs shall be removed promptly upon the conclusion of any such sale, event, occurrence or activity.

Trailer sign means a permanent or temporary sign affixed to a trailer. The primary purpose of said display is to attract the attention of the public to the subject matter of the sign rather than to serve the customary identification purpose of said trailer/semi-trailer/tractor trailer.

Variance means written approval to depart from the strict application of the provisions of this chapter.

Vehicular sign means a permanent or temporary sign affixed to a vehicle. The primary purpose of said display is to attract the attention of the public to the subject matter advertised on the sign rather than to serve the customary identification purpose of said vehicle.

Vintage sign means a sign that is representative of events or dates from a period older than 40 years and is for decorative purposes only.

Wall-painted sign means a sign painted directly on the exterior wall of a building to include murals.

Sec. 14-202. - Enforcement.

- (1) *Civil and criminal penalties.* The city shall have the power to administer and enforce the provisions of this chapter as may be required by governing law. Any person violating any provision of this chapter is subject to suit for injunctive relief as well as prosecution for criminal violations.
- (2) *Criminal prosecution.* Any person violating any provision of this chapter shall, upon conviction, be fined a sum not exceeding \$500.00, except that the fine for a violation that relates to fire safety, zoning, or public health and sanitation may not exceed \$2,000.00. Each day that a provision of this chapter is violated shall constitute a separate offense. An offense under this chapter is a class C misdemeanor.
- (3) *Civil remedies.* Nothing in this chapter shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this chapter and to seek remedies as allowed by law, including, but not limited to the following:
 - (a) Injunctive relief to prevent specific conduct that violates this chapter or to require specific conduct that is necessary for compliance with this chapter;
 - (b) A civil penalty up to \$250.00 a day, except that a fine for a violation that relates to fire safety, zoning, or public health and sanitation may not exceed \$1,000.00, when it is shown that the defendant was actually notified of the provisions of this chapter and after receiving notice committed acts in violation of this chapter or failed to take action necessary for compliance with this chapter; and
 - (c) Any and all other available relief allowed by law.
- (4) *Removal.* In addition to remedies otherwise provided in this chapter, whenever the city has evidence of a sign which after the effective date of the ordinance from which this chapter is derived was constructed, reconstructed, placed, installed, repaired, maintained, relocated, altered, or used in violation hereof, or is otherwise in violation hereof, the city council or the city designee shall require the party responsible for such sign to remove it. If the responsible party fails to remove the sign within 72 hours after being notified to do so or if it appears to the city council or the city designee that the sign poses an immediate danger to the public, then such sign may be removed by the city and the city's actual cost of removal shall be charged to the responsible party. Any sign so removed shall be impounded and shall not be returned to the party responsible until all applicable charges are paid. If any sign remains unclaimed for a period of more than 30 days, the city may destroy, sell, or otherwise dispose of the sign. The city shall have the authority to immediately remove and dispose of signs deemed in violation of this chapter, if such signs are placed on or attached to trees, utility poles, or pedestals, or located on any public land or public right-of-way. The city may enforce this section without notice and without returning the removed signs to the responsible party.

Sec. 14-203. - Purpose.

The purpose of this chapter is to provide uniform sign standards and regulations in order to ensure public safety, efficient communication and promote a positive city image reflecting order, harmony, and pride, thereby strengthening the economic stability of the city's business, cultural, historical, and residential areas as follows:

(1) *Public safety.* To promote the safety of persons and property by ensuring that signs do not:

Create a hazard due to collapse, fire, decay, or abandonment;

Obstruct firefighting or police surveillance; or

Create traffic hazards by confusing, distracting, or obstructing the view of pedestrians or vehicles.

(2) *Efficient communications.* To promote the efficient transfer of information in sign messages by ensuring:

Those signs which provide public safety messages and information are given priority;

Businesses and services may identify themselves;

Customers and other persons may locate businesses or services;

No person or group is arbitrarily denied the use of sight lines from public rights-of-way for communication purposes;

Persons exposed to signs are not overwhelmed by the number of messages presented and are able to exercise freedom of choice to observe or ignore such messages according to the observer's purpose; and

The right of free speech exercised through the reasonable use of signs is preserved.

(3) *Landscape quality and preservation.* To protect the public welfare and enhance the appearance and economic value of the landscape by ensuring that signs:

Do not interfere with scenic views;

Do not create a nuisance to persons using public rights-of-way;

Do not create a nuisance to occupants of adjacent and contiguous property by their brightness, size, height, or movement;

Are not detrimental to land or property values;

Do not contribute to visual blight or clutter; and

Are architecturally compatible and harmonious with the structure to which they pertain and to neighboring structures.

Sec 14-204. - Compliance required.

No person may construct, reconstruct, place, install, relocate, alter, or use a sign after the effective date of the ordinance from which this chapter is derived unless such installation, construction, reconstruction, placement, relocation, alteration, or use meets all the provisions of this and all other applicable ordinances adopted by the city council.

Sec. 14-205. - Jurisdiction.

The provisions of this chapter shall apply within the city limits and ETJ of the city, as defined by state law.

Sec. 14-206. - Exemptions for certain types of signs.

The following are exempt from regulation under this chapter:

- (1) Any sign attached to a window or door of a building.
- (2) Commemorative plaques and historical markers mounted on the face of a building or erected on a site as a freestanding monument sign when placed or approved by a governmental entity, historical society, religious organization, or other nonprofit entity to commemorate a person, event, or other matter of historical interest.
- (3) Any sign installed or required to be installed by any governmental entity or public utility to give information, directions, or warnings to the general public, regardless of the sign's location on public or private property.
- (4) Vintage or historic signs
- (5) Holiday signs.
- (6) Banners that span a state roadway that have been approved and granted a permit by the Texas Department of Transportation.
- (7) Signs within a stadium, open-air theater, or arena which are designed primarily to be viewed by patrons within such structure.

Sec. 14-207. - Sign permits.

1. *Permit and fee required.* Except as otherwise provided in this chapter, no person may construct, place, install or relocate any sign without first obtaining a sign permit from the city. Each application for a sign permit must be accompanied by the appropriate fee as currently established or as hereafter adopted by ordinance of the city council from time to time.
 - (a) Fees for construction, reconstruction, placement, installation, or relocation of any sign shall not be refundable.
 - (b) Permit fees for subdivision temporary signs, inflatable temporary signs, banner temporary signs, or new business temporary signs shall not be refundable.
 - (c) A permit but no fee, is required for replacing a previously permitted sign (excluding billboards) with another sign that is of like size, location, and that is otherwise compliant with this chapter.
 - (d) A permitted billboard shall renew the billboard permit annually. The annual fee is due by October 1 of each year. No fee will be assessed for routine changes of the sign face.
 - (e) No permit will be issued for a proposed sign that will cause the aggregate of all signs on the property to exceed the square footage provided for in this chapter.
 - (f) Changing of the complete sign message (excluding changeable copy signs and billboards) shall require a new permit and remittance of a fee.
2. *Expiration of permits.* Properly issued permits shall expire as provided by law.
3. *Application for sign permit.* A person proposing to erect or display a sign shall file an application for permit with the building official or designee. The application must be made on a form provided by the city and shall contain and have attached to it the following information:
 - (a) Name, address and telephone number of the applicant;
 - (b) Name, address, telephone number, and firm of person erecting sign;
 - (c) If the applicant is not the owner of real property where the sign is proposed to be erected, written consent of and name, address, and telephone number of the property owner and a copy of the executed lease agreement;
 - (d) Location of building, structure, address, or legal lot and block to which or upon which the sign is to be attached or erected;
 - (e) A site plan indicating position, height, and size of the proposed sign and other existing advertising structures on the property in relation to nearby buildings or structures, north arrow, and scale of drawing, property lines, curb lines, adjacent streets, alleys, curb cuts, and setback clearance zone;
 - (f) Specifications for the construction and display of the sign;
 - (g) Copy of stress diagrams or plans, when needed, containing information as to safety and structural integrity of sign. The city assumes no liability for safety and structural integrity of any sign;
 - (h) Statement indicating whether the sign will require electricity. If so, the sign must comply with the International Electrical Code or any successor code as may be adopted and amended by the city;
 - (i) Copy of permit approved by state department of transportation, state transportation commission, the county or successor agencies, if state law requires a state permit;
 - (j) Date on which the sign is to be erected or displayed;
 - (k) Any variance that will be requested; and

- (l) Such other information as the city requests to show full compliance with this and all other standards of the city.

The city is not required to act upon a permit application until it is deemed by the city to be administratively complete.

4. *Approval and denial of permit.*

- (a) City designee shall promptly review an administratively complete application upon receipt and upon payment of applicable fees by the applicant. The city designee shall grant or deny an administratively complete permit application within 45 days after the date that the application was administratively complete, including the payment of all fees. The city designee shall examine the application, plans, and specifications and may inspect the premises upon which the proposed sign shall be erected, as needed. The city designee shall issue a permit if the proposed sign complies with the requirements of this chapter and all other regulations of the city, to include building, electrical, or other similar codes adopted by the city. If the city designee denies a permit, the city designee shall state the reasons for the denial in writing and shall mail a certified letter or hand deliver to the applicant stating the reasons for the denial.
 - (b) Any applicant whose permit application is denied by the city designee may appeal the denial to the Board of Adjustment. Such an appeal must be filed, in writing, with the building official, within ten days after receipt of the denial. The Board of Adjustment shall review the denial and determine if the city designee incorrectly concluded the proposed sign did not comply with the requirements of this chapter and all other regulations of the city. If the city designee fails to grant or deny any application by the 45th day after the application is administratively complete, the applicant may appeal the refusal to grant or deny the application to the Board of Adjustment as if it were a denial.
 - (c) If the Board of Adjustment does not issue a ruling within 30 days after a written appeal is filed with the building official, the sign application shall be automatically deemed denied.
5. *Modifications.* After a sign permit has been issued by the city designee or the Board of Adjustment, it shall be unlawful to change, modify, alter or otherwise deviate from the terms and conditions of the permit without prior written approval by the city designee or the Board of Adjustment.

Sec. 14-208. - General regulations.

1. *Inventory of signs.* The city shall require an inventory of all signs not in compliance with this ordinance within the city limits and ETJ. Signs constructed prior to the effective date of the ordinance from which this chapter is derived shall file an inventory form no later than October 1, 2018. Signs which are constructed after October 1, 2018 must file an inventory form with the building official within 15 days after such sign is fully constructed. As part of the required inventory, each responsible party of the sign shall complete and file the required form with the building official, as to the size, type, condition, and location of sign, regardless if the sign are in compliance with this chapter or any prior ordinances of the city. The responsible party of a sign shall provide the following information on the inventory form: name, address, and telephone number of the responsible party; location and street address of the building or structure upon which the sign is located or other information necessary to positively identify the location of the sign; specification of the overall height and length of the sign, the material of which the sign is constructed, the position of the sign on the building or on the ground; color photograph or sketch graphically depicting the sign and the location at which or building for which it is displayed; and the date on which the sign was erected and cost of construction of the sign.
2. *Identification of signs.* All signs shall have the sign permit number affixed.
3. *Existing historic signs.* Historic signs existing prior to the effective date of the ordinance from which this chapter is derived that are part of the unique architectural, historic, or scenic characteristics of the building, that enhance its visual character, and that are compatible with the building shall be allowed to remain in place after the effective date of the ordinance from which this chapter is derived.
4. *Provisions application.* This section shall apply to all signs located within the city limits of the city or its ETJ, with the exception of those referenced in section 14-106. No sign or part of a sign shall:
 - (a) Be placed on or attached to any utility pole or pedestal, except by a utility company owning the pole or pedestal or operating facilities mounted on the pole or pedestal;
 - (b) Be placed upon real property without the consent of the property owner;
 - (c) Be located in, on, or over any right-of-way, except for directional or informational signs erected by government agencies. Any such sign, other than informational signs erected by government agencies, shall constitute a nuisance;
 - (d) Be located so that it blocks vehicle or pedestrian views and/or safe sight distances at any intersection, curve, or corner. This includes signs located on private property. Any such sign shall constitute a nuisance;
 - (e) Imitate or resemble an official traffic-control device or railroad sign or signal; attempt to direct the movement of traffic; or hide from view or hinder the effectiveness of an official traffic-control device or railroad sign or signal. Any such sign shall constitute a nuisance;
 - (f) Be placed closer than ten feet to the edge of a road surface. Exception: monument signs that are placed in the center of a divided roadway as an island;
 - (g) Have unreasonably bright flashing lights or other distracting features. This does not include signs with slowly changing messages such as time or temperature;
 - (h) Be located so that it is on, or in any way obstructs, any sidewalk, walkway, or pathway used by the public for normal pedestrian access. Any such sign shall constitute a nuisance; or
 - (i) At the time of installation be located closer than specified in the National Electric Safety Code and as may be amended from time to time.
5. *Required Signage.* The following signs are an important component of measures necessary to protect the public safety and serve the compelling governmental interest of protecting traffic safety, serving

the requirements of emergency response and protecting property rights or the rights of persons on property and are therefore authorized under Section 15 in every District and do not count against a property's maximum signage square footage:

- (a) Traffic control devices on private or public property and directional signs, including but not limited to, signs depicting one-way traffic, entrances, and exits, which are not greater than ten (10) square feet per sign that are erected and maintained to comply with the Manual on Uniform Traffic Control Devices adopted in this state.
 - (b) Each property owner must 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 must be on the curb and may be on the principal building on the property. The size and location of the identifying numerals and letters if any must be proportional to the size of the building and the distance from the street to the building and in no case larger than three square feet. In cases where the building is not located within view of the public street, the identifier must be located on the mailbox or other suitable device such that it is visible from the street.
 - (c) 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 must comply with the federal, state or local law to exercise that authority by posting a sign on the property.
6. *Flags.* A flag that has been adopted by a national or federal government, state, local government, school district, or university may be displayed as provided under the law that adopts or regulates its use and as follows:
- (a) Residential Zoning Districts. In a residential zoning district two flag poles per premises. Each flag pole may have a maximum of 15 square feet in area per pole. The flag pole may 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 must meet the minimum yard setback requirements for a principal building.
 - (b) Nonresidential Zoning Districts. In a non-residential zoning district, one flag per 25 feet of frontage on a right-of-way up to a maximum of three flags and three flag poles per premises. Each flag may be a maximum of 24 square feet in area. Flag poles may 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 must meet the minimum yard setback requirements for a principal building or a minimum of ten feet whichever is more restrictive.
7. *Lessor Rights.* For purposes of this Chapter the lessor of a property is considered the property owner as to the property the lessor holds a right to use exclusive of others (or the sole right to occupy). If there are multiple lessors of a property then each lessor must have the same rights and duties as the property owner as to the property the lessor leases and has the sole right to occupy and the size of the property must be deemed to be the property that the lessor has the sole right to occupy under the lease.

Sec. 14-209. – Temporary signs (residential)

General provisions. Temporary signs are exempt from the requirement to obtain a permit, provided they comply with all other provisions of this and other ordinances of the City of Brady. Signs shall be allowed without a permit as follows.

- (1) A person exercising the right to place temporary signs on a property as described in this section must limit the number of signs on the property to 15.
- (2) Unless otherwise stated herein or specifically authorized by state law, the sign face of any temporary sign, shall not exceed 9 (or 32) square feet.

Sec14-210. - Permitting regulations.

When determining whether to issue a permit, the following regulations apply:

Signs on property in other than residential areas. All pole, pylon, and facade (wall) signs that exceed 48 square feet must be certified by a Texas Licensed Professional Engineer as being able to withstand a wind pressure load of at least 30 pounds per square foot and support the weight of the sign.

1. *Single commercial building.*

- (a) Signs on the facade and each side of a building shall not exceed 48 square feet, unless they are certified by a Texas Licensed Professional Engineer as being able to withstand a wind pressure load of at least 30 pounds per square foot and support the weight of the sign.
- (b) One pole/pylon sign per premises may be permitted that does not exceed 75-square feet in area (3 lanes of traffic – 32 SF or 4 lanes of traffic 40 SF). The maximum height of such a sign shall not exceed 25 40 feet. If the commercial establishment borders two or more streets then only one additional freestanding sign will be permitted on the secondary street, and the square footage of the sign may not exceed the allowable square footage of this section.
- (c) A premises that displays a monument sign in lieu of a pole/pylon sign may increase its size to 400 32 square feet.
- (d) One additional freestanding sign not to exceed the allowable square footages described in this section may be permitted for premises with frontages of 140 feet or more.
- (e) ~~A maximum of two poster size enclosure signs may be permitted on a single commercial building.~~
- (f) ~~Additional signs may be installed if a commercial establishment chooses to reduce the square footage of the other onsite signage so that the total on site square foot area of all signage does not exceed that authorized by this section.~~

2. *Commercial complex.*

- (a) Signs on the facade or on the side of a building identifying the complex may not exceed 48 square feet, unless they are certified by a Texas Licensed Professional Engineer as being able to withstand a wind pressure load of at least 30 pounds per square foot and support the weight of the sign.
- (b) Signs on the facade or on the side of a building identifying a business within a commercial complex may not exceed 48 square feet.

- (c) Size allowances for pole/pylon signs for commercial complexes:
 - (i) A commercial complex under five acres in size and having less than 140 linear feet of road frontage may have one pole/pylon sign that does not exceed 25 40 feet in height has a minimum ground clearance of six feet with the primary complex or anchor tenant identification sign not exceed 75 square feet in size and the individual business signs in the complex sign not to exceed 150 square feet collectively with no one tenant individually exceeding 50 square feet.
 - (ii) A commercial complex over five acres in size and having 140 linear feet or more of road frontage may have one pole/pylon sign that does not exceed 35 40 feet in height, has a minimum ground clearance of six feet with the primary complex or anchor tenant identification sign not exceeding 128 square feet in size and the individual business signs in the complex sign not to exceed 250 square feet collectively with no one tenant individually exceeding 50 square feet.
 - (d) If the structure of a freestanding sign (monument or pole/pylon) contains or supports more than one sign, then each sign shall be of the same construction.
 - (e) For businesses with linear road frontages in excess of 140 feet only one additional freestanding sign not to exceed the allowable square footages described in this section is permitted for the site regardless of any amount of additional linear road frontages or additional streets.
 - (f) A premises displaying a monument sign in lieu of a pole/pylon sign cannot exceed 150 square feet in size.
 - (g) For commercial complexes with the front facades of the businesses facing both the primary and secondary streets one additional freestanding sign will be permitted on the secondary street. The freestanding sign is not to exceed the allowable square footages specified in this section. If the orientation of the front facade of the business face neither street then the one additional freestanding sign is allowed and shall not exceed the allowable square footages specified in this section.
 - (h) Industrial parks are permitted to display a monument sign not to exceed 150 square feet or a pole/pylon sign not to exceed 25 feet in height having a minimum ground clearance of six feet with the primary complex or anchor tenant identification sign not exceed 75 square feet in size and the individual business signs in the complex sign not to exceed 150 square feet collectively with no one tenant individually exceeding 50 square feet. The sign must be located at the street intersection access to the industrial park. The name of the industrial park must be included on the sign.
3. *Inflatable signs.* Inflatable signs with a volume no greater than 27 cubic feet may be permitted but may not be displayed for more than 14 days in succession and must be removed no more than three days following any event to which they relate.
4. *Banner signs.*
- (a) Banners must be kept in good repair throughout the time of their display;
 - (b) No more than one banner may be displayed at any one time at an establishment;
 - (c) Banners may not exceed 24 square feet in area;
 - (d) Banners may not be displayed for more than 14 days in succession and must be removed no more than three days following any event to which they relate. Such banners may not be placed on any site more than six times within a 12-month period;

- (e) On-premises banners that announce the location or relocation of newly-located or relocated businesses are permitted. The banner may be exhibited no more than 45 days commencing at the time that the temporary banner permit is issued. Such banners may not exceed 24 square feet in area; and
- (f) Banners for commercial purposes may not face a residential area.

5. *Sail, teardrop, feather or bow banner signs:*

- (a) *Height and width restrictions.* A sail, teardrop, feather, or bow banner shall have a maximum height of 13.5 feet, and a maximum width (at its widest point) of three feet.
- (b) *Number.* Two sail, teardrop, feather, or bow banners are allowed per legal business for a single-tenant property. For a multi-tenant property, two sail, teardrop, feather, or bow banners are allowed at any given time. Tenants in multi-tenant property shall be required to obtain the signature of the building's owner as a joint applicant.
- (c) *Spacing requirements.* Sail, teardrop, feather, or bow banners placed along contiguous streets frontage must be spaced a minimum of 30 feet apart.
- (d) *Sign placement plan.* A sign placement plan indicating sail, teardrop, feather, or bow banner locations on the property shall be submitted with each permit application.
- (e) *Setback.* Sail, teardrop, feather, or bow banners shall have a minimum setback of five feet from the property line.
- (f) *Appearance.* Sail, teardrop, feather, or bow banners must be kept in good repair throughout the time of their display.
- (g) *Hours of display.* Sail, teardrop, feather, or bow banners shall be placed out-of-doors during business hours for display and returned indoors during off hours.

6. *Electronic signs.* Electronic sign message boards that meet the following criteria are allowable with a permit and are calculated as a portion of the aggregate allowable sign square footage as provided in section 14-110, permitting regulations of this chapter.

- (a) The electronic sign message board portion of the sign cannot exceed 50 square feet in size.
- (b) The text or clip art images of the electronic message board can be of multi-color. Video images are prohibited.
- (c) Each message on an electronic sign message board shall be displayed for at least 20 seconds and a change of the message shall be accomplished within two seconds; a change of the message shall occur simultaneously on the sign face.
- (d) An electronic sign must contain a default mechanism that freezes the sign in one position if a malfunction occurs and automatically adjusts the intensity of its display according to natural ambient light conditions.
- (e) Signs may be illuminated but shall have no flashing copy or lights; revolving beacon lights; chasing, blinking, or stroboscopic lights; or, fluttering, undulating, swinging, or otherwise moving parts.
- (f) A maximum of 70% of the sign face may be devoted to changeable sign copy.
- (g) Changeable message copy signs may not be used to display commercial messages relating to products or services that are not offered on the premises.

- (h) Any marquee signs that are illuminated by artificial light or projects an electronic message through a changeable copy sign that is within 400 feet of a residence, park, playground, or scenic area as designated by a governmental agency having such authority shall not be lighted between the hours of 10:00 p.m. and 6:00 a.m. Such signs shall not exceed a brightness level of 0.3 foot candles above ambient light. In all zoning districts such signs shall come equipped with automatic dimming technology, which automatically adjusts the sign's brightness based on ambient light.
- (i) Additional requirements may be set forth by the Planning and Zoning Commission and/or City Council.

Sec. 14-211. - Prohibited sign types.

The following signs are prohibited within the city or ETJ:

1. *Abandoned/obsolete signs.*
 - (a) A sign that advertises a product, service, or business no longer available or in operation or not being maintained for a period of one year after the cessation of a product, service, or business at location (or in the case of leased premises, two years after the most recent tenant ceases to operate on the premises) shall be presumed abandoned. Related off-premises signs pertaining to same shall also be presumed abandoned.
 - (b) If a sign is determined to be abandoned and/or obsolete under this chapter by the city designee, sign shall be removed by the owner/lessor of the property. The city may agree with the owner/lessor of the sign or sign structure to remove only a portion of the sign or sign structure.
2. *Beacons.*
3. *Billboards.*
4. *Flashing signs.*
5. *Illuminated signs (illuminated from the exterior or within).* Signs that are illuminated in such a manner, to such intensity, or without shielding, so as to constitute a hazard to the operation of motor vehicles upon any public street or road or substantially interferes with the reasonable enjoyment of residential property or interferes with the effectiveness of traffic control.
6. *Moving signs.*
7. *Signs displayed for a fee or other form of consideration.*
8. *Portable changeable copy signs.*
9. *Satellite.* Any type of satellite dish the primary use of which is for advertising, rather than to serve the customary purpose.
10. *Trailer sign.*
11. *Vehicular sign.* When the vehicle is used with the intent to substitute a stationary sign instead of to be used as a vehicle or when a sign is erected in the bed of a truck or on the roof of a vehicle and intended to advertise a business, person, or event. Vehicle signs which are either painted onto the body of the vehicle for advertising purposes or are affixed to the vehicle by magnetic means for advertising purposes are permitted.
12. *Wall-painted signs.*
13. *Other signs.*
 - (a) Painted on any roof surface or installed so that it faces contiguous residential property;

- (b) Placed upon a building or structure in a manner which would disfigure, damage, or conceal any significant architectural feature or detail of the building;
- (c) Brighter than necessary to permit the sign to be read from a reasonable distance. No sign shall be illuminated to such intensity or in such a manner as to cause glare or brightness to a degree that it constitutes a traffic hazard;
- (d) Hung with less than 7½ feet of vertical clearance above the sidewalk or less than 18 feet of vertical clearance above the street, drive, or parking area. This applies to any part of a sign, including mounting fixtures and supporting structures, which is mounted above or projects over any sidewalk, street, drive, or parking area, whether on public or private land;
- (e) Any other signs not specifically authorized under this chapter.

Sec. 14-212. - Sign maintenance and nuisances.

1. All signs must be maintained in a structurally safe condition and in good repair at all times. No permit shall be required for the normal maintenance of any existing sign or repainting of the original sign message, provided that the area of the sign is not enlarged, the height of the sign is not increased, the location of the sign is not changed, and the content of the sign does not materially change. Changing of the complete sign message, alterations to the sign, or major repairs (replacement of more than 20 percent of the sign to the original condition) shall not be considered normal maintenance and will require a permit. All signs shall be kept neatly painted or otherwise maintained, including all metal parts and supports thereof that are not galvanized or of rust resistant material. The city designee shall inspect and have authority to order the painting, repair, alteration, or removal of a sign that constitutes a nuisance, a hazard to safety, health, or public welfare by reason of inadequate maintenance, dilapidation, or obsolescence. Changing of the sign message (limited to signs originally designed with removable letters) is limited to changing messages without changing the sign or its components and is considered to be normal maintenance.
2. The area around the sign shall be kept clean at all times by cutting vegetation around the sign and the supporting structure.
3. A sign shall constitute a nuisance if it causes injury or threatens to injure the public health, peace, or comfort or is a nuisance per se under the law and is declared to be a nuisance by the city designee pursuant to this chapter. The city designee shall notify, by certified mail or hand delivery, the responsible party of any sign that constitutes a nuisance in order to allow the responsible party the opportunity to cure such nuisance. The responsible party shall cure such nuisance by repair or remove the sign or may seek an appeal of the nuisance determination to the City of Brady Board of Adjustment within ten days of receipt of the notice. Any appeal must be filed, in writing, and received by the building official no later than the tenth day after receipt of the notice of nuisance.
 - (a) If the responsible party chooses not to take the instructed action or institute an appeal, the city may remove the sign, to the extent necessary to abate the nuisance. The city may charge to the responsible party all costs associated with the sign's removal.
 - (b) The city may not remove any sign declared to be a nuisance if an appeal of the nuisance determination is pending. If the board of adjustment does not issue a ruling within 30 days after a written appeal is filed with the building official, the city designee determination of a nuisance shall be deemed affirmed. Any determination that a sign does not constitute a nuisance does not prejudice the city, foreclose or prevent a later determination a sign is a nuisance.
4. Imminent hazard. Any sign which in the judgment of the city council or the city designee has become an imminent hazard to public health and safety shall be removed by the responsible party without delay. Notice of the existence of the hazard shall specify the maximum time which may be allowed for repairs or removal and the notice may be served upon the responsible party by any means available.

A sign which constitutes an imminent hazard and is not repaired or removed within the time specified in the notice may be removed by the city. The city may charge to the responsible party all costs associated with the sign's removal.

5. The cost of removal and impound fees of \$10.00 a day for the storage of any removed sign shall be charged to the responsible party. If a sign has been removed by the city and the sign remains unclaimed for a period of 30 days, the city may destroy, sell, or otherwise dispose of the sign.

Sec. 14-213. - Nonconforming signs.

1. *Not transferable.* Except as otherwise provided by this section, nonconforming signs are not transferable and may not be transferred to another location within the city municipal limits or ETJ without the signs first being brought into full compliance with all requirements of this chapter, including obtaining a properly authorized permit. However, a previously inventoried/permitted nonconforming sign, excluding portable changeable copy signs, already in existence may be transferred to a new owner upon the transfer of the property upon which the nonconforming sign is located to such new owner. In such cases, the new property owner must submit a permit application (no fee assessed) to indicate the change in ownership.
2. *Removal of destroyed/deteriorated signs.* A nonconforming sign shall be considered destroyed if the cost of repairing the sign, after a part of it has been destroyed or deteriorated is more than 51 percent of the cost of erecting a new sign of the same type at the same location. It shall be the responsibility of the responsible party to supply the city with a quote from a reputable sign company that shows the replacement value and the cost to restore the sign to full compliance upon request by the city council or the city designee within 15 days of the request. If the sign is determined to be destroyed by the city council or the city designee, it must be removed by the responsible party without compensation by the city within ten days of the determination. A replacement sign must fully comply with this chapter and shall require a permit to be obtained from the city at the set fee.
3. *Filing of inventory form, without permit.* All nonconforming signs existing prior to the effective date of the ordinance from which this chapter is derived and that have filed the required inventory form shall be allowed to remain in place without the requirement of a permit provided that they otherwise comply with:
 - (a) Section 208, pertaining to general regulations; and
 - (b) Section 212, pertaining to sign maintenance and nuisances.
4. *Specific time period.* Nonconforming signs existing prior to the effective date of the ordinance from which this chapter is derived that are of a type that are limited to a specified time period for use in this chapter must abide by those specified time periods beginning with the effective date of the ordinance from which this chapter is derived.

Sec. 14-214. - Variances.

1. *Application and fee required.*
 - (a) Any person, business, or other organization desiring to continue to construct, reconstruct, place, install, relocate, alter, or use any sign which does not conform to the provisions of this chapter may make application to the Board of Adjustment for a variance to the provisions of this chapter. The application shall be reviewed at the next regularly scheduled Board of Adjustment meeting. The application shall be filed with the city designee, accompanied by the appropriate fee established by city council, and conform to all requirements established in section 207 Sign permits.

- (b) Fee shall be as currently established or as hereafter adopted by resolution of the city council from time to time, and shall not be refunded.
- 2. *Requests for variances after permit denial.* Within ten days after denial of a sign permit by the city designee an applicant may file a written request for a variance with the Board of Adjustment.
- 3. *Action.* Unless an extension or postponement is sought by the applicant, the Board of Adjustment must consider and take action on the written request for a variance within 45 days of receipt of an administratively complete variance request.
- 4. *Standards for variances.* The Board of Adjustment may approve a variance only if it makes affirmative findings, reflected in the minutes of the Board of Adjustment's proceedings, as to all of the following:
 - (a) The variance will not authorize a type of sign which is specifically prohibited by this chapter;
 - (b) The variance is not contrary to the goals and objectives outlined by the city;
 - (c) The variance is not contrary to the public interest;
 - (d) Due to special conditions applying to the land, buildings, topography, vegetation, sign structures, or other unique matters on adjacent lots or within the adjacent right-of-way, a literal enforcement of this chapter would result in unnecessary hardship. Ordinarily, hardship that is self-induced or that is common to other similarly-classified properties will not satisfy this requirement. Financial or economic hardship alone will not ordinarily satisfy this requirement;
 - (e) The spirit and purpose of this chapter will be observed and substantial justice done; and
 - (f) The applicant has not sought a variance from the city council within the past 12 months.
- 5. *Conditions of variances.* The Board of Adjustment may impose such conditions or requirements in a variance as are necessary in the Board of Adjustment's judgment to achieve the fundamental purposes of this chapter. A violation of such conditions or requirements shall constitute a violation of this chapter. A variance, if granted, shall be for a specific event, use, or other application of a business and shall not continue with the property. If a variance is granted and the sign so authorized is not substantially under construction within three months of the date of approval of the variance, the variance shall lapse and become of no force or effect.

