

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI**

Kelly Street,
Plaintiff

vs.

Case Number: 18-0477

City of Harrisonville, Missouri,
Defendant

MEMORANDUM OF SETTLEMENT AGREEMENT

On this 5th day of November, 2018, following the conclusion of a mediation with Brian T. Fenimore, the parties agree to the following terms of settlement:

1. Mr. Fairfield and Mr. Welch will recommend to the City's Board of Alderman that it (a) adopt the attached revised ordinances; and (b) approve payment of \$250 in damages to Mr. Street and reimbursement of \$467.50 in court costs and payment of plaintiff's attorneys' fees in the amount of \$5,000.
2. The parties will request the Court to stay all proceedings in Case No. 18-0477 through January 25, 2019, and extend all deadlines accordingly.
3. Within 10 days after the City's adoption of the attached ordinances and payment of the amounts set forth in paragraph 1 above, Plaintiff will move to dismiss this lawsuit with prejudice.
4. If the City does not adopt the attached ordinances or pay the amounts set forth in paragraph 1 above, the parties will notify the mediator and the Court and request that the Court

place this case back on the trial calendar with an appropriate schedule, and the parties may request further mediation.

5. Plaintiff tax I.D. is [REDACTED] and settlement proceeds are payable to ACLU of Missouri and Kelly Street.

By signing this Memorandum of Settlement Agreement ("Agreement"), the parties acknowledge that prior to the execution of this Agreement, the mediation was terminated; that all parties read and understood the Agreement; that any questions any party might have were explained by their respective attorney if represented; that each party signed the Agreement voluntarily and was under no duress when signing; and that any party may seek enforcement of this Agreement. The parties understand that if the mediator assists in preparing any written document, that such participation shall not be considered as giving legal advice to any party and that the parties shall have the document independently reviewed by their own legal counsel before signing any document. Further, that any party to this Agreement may introduce this document into evidence without objection by any party notwithstanding the provisions of Missouri Supreme Court Rule 17, Section 435.014 RSMo, and/or any other applicable state or federal statute or regulation. The parties have been advised that by signing this Agreement they may adversely alter their legal rights in court, and, by signing this Agreement they are waiving any and all trials and appeals, except for judicial enforcement of this Agreement.

Plaintiff and Counsel


Kelly Street


Anthony E. Rothert, Esq.


Brian T. Fenimore, Mediator

Defendant and Counsel

City of Harrisonville, Missouri


Happy Welch, City Administrator


John H. Fairfield, City Attorney


Daniel L. Fowler, Esq.

11/5/2018
Date

Chapter 435. Sign Regulations

Section 435.010. Title.

This Chapter shall be known as the "**Sign Regulations**" and may be cited as such and are established as part of the Code of Regulations ("Code") of the City of Harrisonville, Missouri ("City").

Section 435.020 Purpose.

These Sign Regulations are adopted under the zoning authority of the City in furtherance of the more general purposes set forth in the zoning ordinance. Generally, it is the purpose of these Sign Regulations to provide minimum standards to safeguard life, health, property, property values and public welfare by regulating and controlling the quality of materials, construction, location, installation, maintenance and abandonment of Signs, in addition to the number, size, Sign type, and type of illumination of all Signs and Sign structures located on private property. Some specific illustrations of the purposes of these Sign Regulations are:

- A. To encourage the effective use of Signs as a means of communication in the City.
- B. To maintain and enhance the aesthetic environment and the City's ability to attract sources of economic development and growth.
- C. To promote economic vitality and provide for a desirable and attractive environment to live, work and visit.
- D. To ensure safety of pedestrians, motorists, drivers and passengers and other users of the public rights-of-way and open spaces by ensuring Signs are maintained and structurally safe, do not distract or reduce the effectiveness of public Signs, and improve traffic safety.
- E. To provide necessary signage to direct the police and emergency services.
- F. To regulate Signs on public property, easements, buildings and rights-of-way.
- G. To protect property values by minimizing adverse effects of Signs on adjacent property, which can occur from conditions such as light trespass, obstructing views and access, or visual clutter.
- H. To protect the residents of the City from unreasonable intrusions that affect their right of privacy.
- I. To provide for the fair and consistent enforcement of these Sign restrictions.

Section 435.010 Applicability and Zoning District Requirements.

- A. **SIGN PERMITS:** Every Sign shall conform to the requirements of this Code, irrespective of when such Sign was established within the City limits unless otherwise allowed for in these Sign Regulations. Any Sign shall, by definition, be a structure. No Sign shall be erected, enlarged, constructed or otherwise installed without first obtaining a Sign permit, unless specifically exempted by these Sign Regulations, and a Sign permit shall be legally issued only when in compliance with these Sign Regulation. All Signs shall be constructed in such a manner and of such material that they shall be safe and substantial.
- B. **ZONING DISTRICT REQUIREMENTS.** Signs are allowed in each zoning district as provided in Appendix A to this Chapter: Non-Residential Signs in Appendix B to this Chapter: Table of Permitted and Specially Permitted Signs. The Appendices list requirements by numbers of Signs allowed (per structure or on each premises), size, height, setbacks and illumination. Each cell in the tables lists exclusively permitted Signs and standards; except that Ground Signs, Elevated Signs and Monument Signs are mutually exclusive. The number of Signs and aggregate square footage of Sign Face Areas per Parcel are also specified.
- C. **NON-CONFORMITIES.** Non-conforming Signs may be considered for variance by the Board of Zoning Adjustment unless conditionally permitted under the regulations specified in Section 435.150.

Section 435.020 Severability.

If any one or more of the provisions of these Sign Regulations, or the applicability of any such provision to a specific situation, shall be held invalid or unenforceable, such provision shall be modified to the minimum extent necessary to make it or its application valid and enforceable, and the validity and enforceability of all other provisions of these Sign Regulations and all other applications of any such provision shall not be affected thereby.

Section 435. 030 Hierarchy of Enforcement.

In any case where a provision of these Sign Regulations is found to be in conflict with the City Code, a provision of any other ordinance or other legislation of the City existing on the effective date of these Sign Regulations, the provision which establishes the stricter requirement shall prevail.

Section 435.055. Sign Permits and Appeal Process.

- A. In addition to a building permit as may be required under the City of Harrisonville Building Code, a Sign permit shall be obtained from the City prior to installation, construction or alteration of any permanent Sign regulated under this code except for those Signs specifically exempted under this Code. Sign permits shall be granted pursuant to the provisions governing Sign permits.

- B. To appeal any decision (denial of permit, partial approval, code interpretation) made by the City in reference to Section 435, any individual, firm or corporation disputing such decision made may appeal to the Board of Zoning Adjustment to reverse any order, requirement or decision of the party appealed from or to issue an order in favor of an appellant, following the requirements of Chapter 405: Zoning Regulations, Article XXII.

Section 435.060. Historic Preservation Commission.

In any case where a requirement of these Sign Regulations applies to premises in the purview of the City of Harrisonville Historic Preservation Commission, such requirement shall be subjected to that Commission's review in whatever procedure is applicable by law prior to issuance of a Sign permit and, if applicable, prior to submission to another City board for review. The Historic Preservation Commission shall review and respond to Sign permit applications within forty-five (45) days of receiving a completed application.

Section 435.070. Definitions of Terms Pertaining To Signs.

Any word or phrase, which is defined in this Section, shall have the meaning assigned to it by this Section whenever the word or phrase is used in these Sign Regulations. See Section 435.080 for definitions and/or descriptions of Functional Types and Structural Types of Signs.

General Definitions. As used in these Sign Regulations the following terms shall have these prescribed meanings:

AWNING

A roof-like cover that projects from the wall of a building for the purpose of shielding a doorway, walkway or window from the elements. Awnings are often made of fabric or flexible plastic supported by a rigid frame and may be retracted into the face of the building.

ABANDONED SIGN

Any Sign described under Section 435.160.

AGGREGATE or GROSS SIGN FACE AREA

The total combined square feet resulting from adding together all Sign Face Areas of all Signs legally located on a Parcel. The Sign Face Area of each Sign shall be calculated as specified in Section 435.130 D. Computation of Sign Face Areas.

BILLBOARD

A Billboard is an Off-Premise Sign that is regulated in Section 435.140.

ELEVATION DRAWING

A depiction or drawing to scale showing horizontal and vertical elements of a building or structure including, but not limited to walls, roof lines and other architectural features.

FABRIC MESSAGE DISPLAY

A Sign made of fabric, cloth, vinyl or some other textile material.

FACADE

The front of a building or any of its sides facing a public way or space, especially one distinguished by its architectural treatment.

FREESTANDING SIGN

A Sign structure permanently attached to the ground and that is wholly independent of any building or other structure. The term "Freestanding Sign" includes, but is not limited to, Ground Signs and Monument Signs.

FULLY ILLUMINATED

Any Sign structure that is illuminated by an external or internal light source that is visible.

ILLUMINATED

See "FULLY ILLUMINATED", "INDIRECTLY ILLUMINATED" and "INTERNALLY ILLUMINATED".

INDIRECTLY ILLUMINATED

Any Sign structure that is partially or completely illuminated at any time by an external light source that is shielded to not be visible at eye level.

INTERNALLY ILLUMINATED

Any Sign structure that is illuminated internally over its entire area by use of electricity or other artificial light.

LOT

A track of land having specifically described legal boundaries.

MARQUEE

A roof-like structure, often bearing a Sign, projecting over an entrance. Example, but not limited to, a theater.

MONOLITHIC BASE

A solid support of a Sign Face the width of which is no less than fifty percent (50%) of the Sign Face width.

MULTI-FACED

A Sign structure that contains two (2) or more Sign Face surfaces that are located on different sides of the Sign structure and are separated from each other at their nearest point by no more than three (3) feet.

MULTI-TENANT NON-RESIDENTIAL DEVELOPMENT

A single office, commercial or industrial Parcel that is designed or intended for occupancy by two (2) to four (4) businesses.

PARCEL

A Lot or contiguous group of Lots under single ownership or under single control usually considered a unit for purposes of residence, development and/or business.

PREMISES

A Lot or Parcel, together with all buildings and structures thereon.

SHOPPING CENTER

A unified retail commercial grouping in one (1) or more buildings of a minimum five (5) retail or service establishments.

SIGN

Any object, device, display or structure, or part thereof, that is used to advertise, identify, display a message, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images. Other than Billboards, On-Premise Signs are accessory structures to the principal structure or use on a Parcel. Special regulations relating to Billboards are located in Section 435.140 Regulations Relating to Billboards. Examples of items which typically do not satisfy the necessary elements of this definition include, but are not limited to, original art displays, architectural elements incorporated into the style or function of a building, or inscriptions on decorative rocks

SIGN FACE

The area of the Sign that contains the words or pictorial images making up the message of the Sign as more fully defined in Section 435.130 D.

SIGN FACE AREA

The area or display surface as defined in Section 435.130 D.

SIGN HEIGHT

The vertical distance to the highest point of a Sign structure, as measured from the average grade at the base of the structure or directly below a projecting structure.

SIGN, OFF-PREMISE

A Sign directing attention to a name, a business product, development, or service which is offered, manufactured, or sold at a location other than the Lot or Parcel upon which such Sign is located.

SIGN, ON-PREMISE

Any Sign other than an Off-Premise Sign.

SIGN STRUCTURE

All elements of a Sign, including the Sign Face, background or decorative elements related to the presentation of the Sign's message, and the structural supports.

TEMPORARY EVENT

~~An activity having a specific duration or the end of which is related to a specific action, usually lasting for a period of a few weeks or a few months at a time. Illustrations of some examples of Temporary Events are:~~

- ~~a. The offering of a property or premises for sale or lease.~~
- ~~b. Special, temporary event that ends at a specific time or date.~~

TEMPORARY SIGN

Signs used to identify or display a message regarding ~~Temporary Events, flags,~~ and yard signs. Such Signs are regulated under Section 435.120.

TENANT

One who possesses or occupies land or buildings by title, under a lease, or through payment of rent; an occupant, inhabitant or dweller of a place.

Section 435.080. Definitions of Functional and Structural Sign Types.

Appendix A to this Chapter presents the type, maximum number, size, height and other restrictions relating to specific signage that are permitted by right in each zoning district.

A. Functional Sign Types.

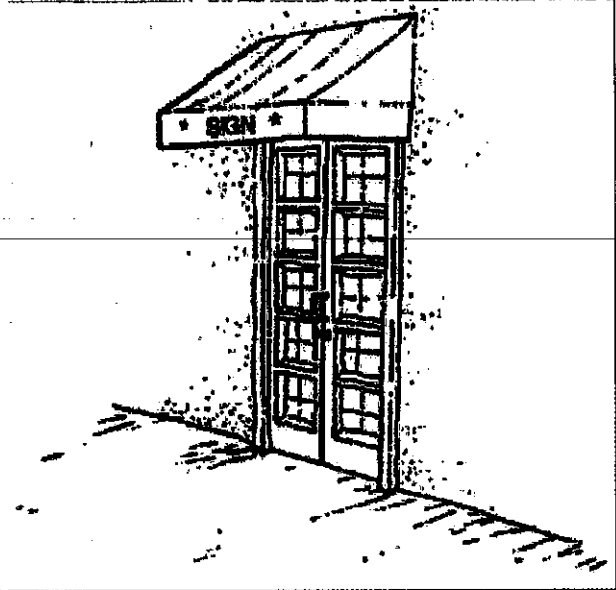
1. **ANIMATED SIGNS:** Electronic Signs with computer-generated animation that are components of otherwise permitted Signs for a principal land use on the Premises where the Sign is placed; and whose message does not attract the attention of viewers through flashing displays.
2. **ATTENTION-ATTRACTING DEVICE:** Any flasher, blinker, animation or other object displayed temporarily to attract the attention of the public to a Temporary Event.
3. **BANNERS:** A Sign of lightweight fabric or similar material that is mounted to a pole or building. Promotional banners may be used to announce open houses or grand openings or special events.
4. **BUSINESS SIGN:** A Sign which directs attention to a business or profession conducted or to products, services or entertainment sold or offered upon the premises where such Sign is located or to which it is affixed.
5. **CONSTRUCTION SIGN:** A Sign indicating the names of the architects, engineers, landscape architects, contractors and similar artisans involved in the design and construction of a structure, complex or project only during the construction period and only on the premises on which the construction is taking place. Also including incidental Signs to such project that direct deliveries or parking and warn the public of dangers inherent to the project.

6. **CONSTRUCTION SAFETY SIGN:** A temporary Sign to protect the public from potential injury or harm by notifying the traveling (driving or pedestrian) public of safety issues regarding construction of infrastructure repairs or improvements within the public right-of way.
7. **ELECTRONIC MESSAGE BOARD:** A type of Sign that presents its message through illumination of intermittent or moving lights forming the letters, numbers or symbols of the message, whether or not the message appears to move across the Sign face.
8. **ENTRANCE/EXIT SIGN:** A Sign used to safely direct vehicular traffic and emergency services into or out of a Parcel or to or from a business via a driveway from a street if each Sign complies with the following:
 - a. Entrance/exit Signs may be located at driveways that provide access into or from the Parcel.
 - b. There shall be no more than two (2) Signs per driveway.
 - c. Each Sign shall not exceed six (6) square feet in Sign area nor be more than two and one-half (2½) feet in height.
9. **IDENTIFICATION SIGN, PROPERTY:** A Sign giving the name and address of a structure, business, development or establishment. Such Signs may be wholly or partly devoted to a readily recognized symbol.
10. **INFLATABLE SIGN:** A Sign that is intended to be expanded by air or other gas for its proper display or support.
12. **POLE SIGN:** A Freestanding Sign attached to a bare pole, as distinct from an "Elevated Sign".
13. **SPECIAL EVENT SIGN:** Sign for a SPECIAL SIGNS event as defined in these Sign Regulations under Section 435.125 Special Event Signs.
14. **FLAGS:** ~~Flags or emblems of a government or of civic, philanthropic, educational or religious organization displayed on private property. One additional flag with a business logo may be mounted on a flagpole. Not more than fifty percent (50%) of parking Lot light poles located on a Parcel may have a fabric message display attached to such pole.~~

B. Structural Sign Types.

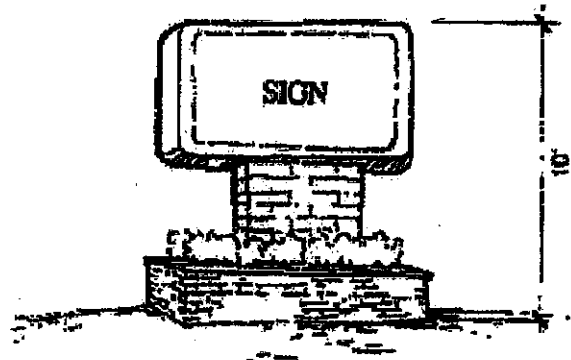
1. **AWNING, CANOPY OR MARQUEE SIGN:** A Sign that is mounted on, painted on, or attached to an awning, canopy or marquee. No such Signs shall project above, below or beyond the awning, canopy or marquee.

Figure 1 Canopy Sign



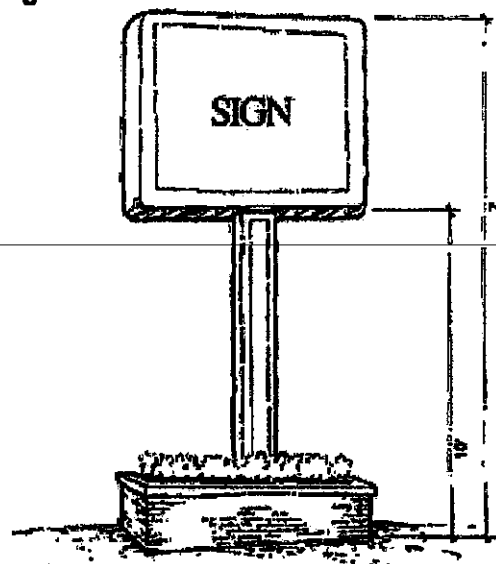
2. **GROUND SIGN:** Any Sign placed upon, or supported by, the ground independent of the principal structure on the Parcel, where the bottom edge of the Sign is less than six (6) feet above the ground, and the support structure is no less than fifty percent (50%) of the width of the face of the Sign, presenting a monolithic base.

Figure 2 Ground Sign



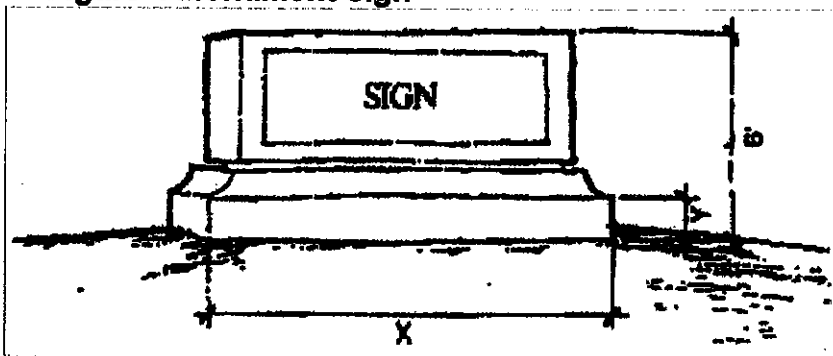
- Ten (10) feet maximum height as measured from the top of the Sign to the average of the grade elevation at the Sign base.
 - Planter is optional.
 - Landscaping is required. The landscaping shall extend no less than three (3) feet from the base of the Sign.
3. **ELEVATED SIGN:** Any Sign placed upon, or supported by, the ground independent of the principal structure on the Parcel where the bottom edge of the Sign is ten (10) feet or more above the ground level, and where the support structure is other than a bare pole.

Figure 3 Elevated Sign



- Z = Maximum height varies by zoning district. See Appendix A to this Chapter. Height is measured from the top of the Sign as measured from the average of the grade elevation from the Sign base.
 - The support structure must be other than a bare pole.
4. **MONUMENT SIGN:** Any Sign whose base is greater in width than the face of the Sign, and whose height is no greater than six (6) feet.

Figure 4 Monument Sign



- X = $\pm 110\%$ of the width of the Sign face.
- Y = $\pm 10\%$ of the width of the Sign face.
- Six (6) feet maximum height as measured to the highest point of the Sign from the average of the grade elevation at the Sign base.
- Landscaping is required in other than industrial zoning districts. The landscaping shall extend no less than three (3) feet from the base of the Sign.

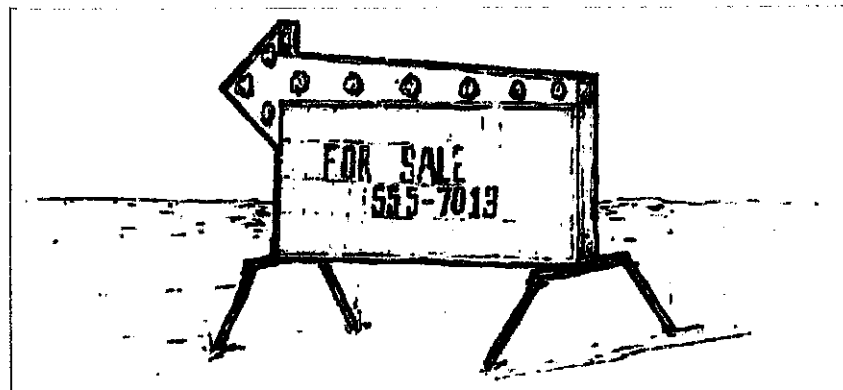
5. **PORTABLE STAND-ALONE SIGN:** A Sign that is intended to be easily moved by an individual and that is not permanently affixed to a structure or the ground including, but not limited to, a-frame, t-frame and sandwich-board Signs. Banners on t-posts are not included in this definition.

Figure 5 Illustrations of Portable Sign



6. **PORTABLE MOVABLE DISPLAY SIGN:** A movable display, capable of relocation, under its own power, or towed by a motor vehicle. The display message of the Sign may be painted or non-painted and capable of being readily altered. Portable display Signs may be with or without electrical illumination, power or wheels. Portable Display Signs are prohibited unless existing and allowed per Section 435.150 of these Sign Regulations.

Figure 6 Portable Display Sign



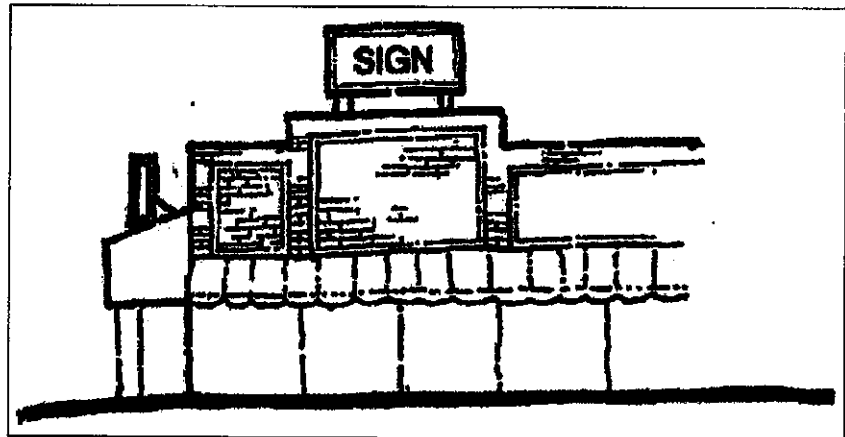
7. **PROJECTING SIGN:** A Sign that is wholly or partly dependent upon a building structure for support and which projects more than twelve (12) inches from such structure. Projecting Signs shall not project more than five and one-half (5½) feet beyond the face of the building. Projecting Signs shall be a minimum of ten (10) feet above the level of any sidewalk from the bottom of the Sign.

Figure 7 Projecting Sign



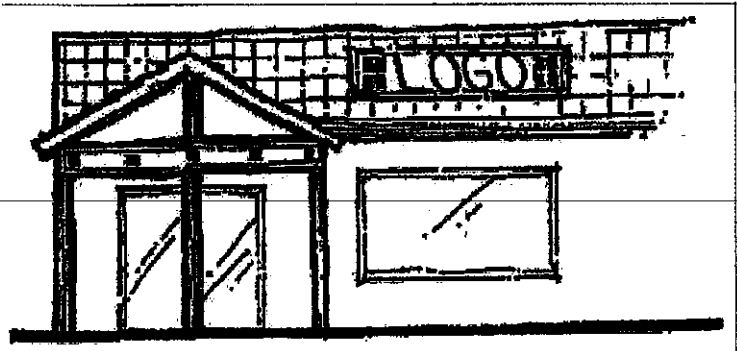
8. **ROOF SIGN, ELEVATED/PROJECTING:** A Sign totally supported on the roof of a structure, not including flush-mounted logo roof Signs. Elevated/projecting roof Signs shall not project more than twelve (12) inches beyond the face of the structure. In no case shall an Elevated/projecting roof Sign project more than ten (10) feet beyond the highest point of the portion of the roof on which the Sign is located.

Figure 8 Roof Sign Elevated/Projecting



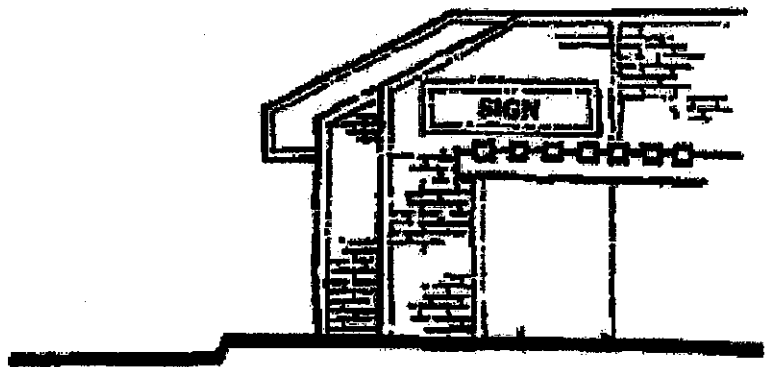
9. **ROOF SIGN, FLUSH-MOUNTED:** A Sign totally supported on the roof of a structure of the tenant of such structure. Flush-mounted roof Signs shall be mounted parallel to and below the peak of the roof. In no case shall a Flush-mounted roof Sign project above the highest point of the roof.

Figure 9 Roof Sign Flush Mounted



10. **WALL SIGN:** A building-mounted Sign either attached to or displayed or painted on an exterior wall in a manner parallel with the wall surface and not projecting from such surface more than twelve (12) inches.

Figure 10 Wall Sign



Section 435.090. Official Government Signs.

Official Government Signs on public property and public rights-of-ways, that are used to inform the public of important travel, emergency, and safety information. Such Signs include, but are not limited to, those regulated by Federal and State laws and regulations, and which therefore pre-empt City regulation, except for the provisions of **Section 435.130 E. "Traffic Safety"**, and do not require a Sign permit. Also, Official City Signs on private property to warn the public of dangerous buildings or conditions and provide notice to the property owner of required legal action.

- A. **OFFICIAL FEDERAL AND STATE SIGNS.** Signs placed on private or public property by the Federal and State government pursuant to Federal or State law or regulations.
- B. **OFFICIAL CITY TRAFFIC SIGNS:** Signs placed by the authority of the City, or City agency or City public authority in the public rights-of-way, such as traffic Signs, signals, or regulatory devices, railroad crossing Signs, instructional Signs or warnings to safeguard the pedestrian and driving public or direct emergency services.

- C. **OFFICIAL PUBLIC NOTICE SIGNS:** Official Government public notices or official instruments; or regulatory Signs to notify the public of laws or regulations having to do with health, safety, parking, swimming, dumping, or Signs identifying other properties controlled by such governmental body, agency or authority.
- D. **PROPERTY IDENTIFICATION SIGN.** ~~A Sign authorized by the City and limited shall specify the in content to the name and address of a structure.~~ building, business, development or property to which it is affixed, provided that the Sign consists of lettering no larger than twelve (12) inches in height on a building or three (3) inches on a mailbox.

Section 435.095. Exempt Signs.

The following

- A. **FLAGS:** Flags or emblems of a government or of civic, philanthropic, educational or religious organization displayed on non-residential private property. One additional flag with a business logo may be mounted on a flagpole. Not more than fifty percent (50%) of parking lot light poles located on a Parcel may have a fabric message display attached to such pole.
- B. **WINDOW SIGNS:** Signs mounted to the interior of any first floor windows in non-residential zoning districts, provided such Signs do not exceed more than thirty-three (33) percent of all of the first floor window area measured between two (2) feet and ten (10) feet above grade, and at least fifty (50) percent of the entire window area remains clear of any visual obstructions.
- C. **PERSONAL SIGN:** A Sign carried by a person.
- D. **VEHICLE SIGN:** A Sign affixed to an operable motor vehicle without flat tires, except as provided in Section 435.100 Prohibited Signs.

Section 435.100. Prohibited Signs.

The types of Signs listed below are prohibited and may be removed by the City of Harrisonville at any time through standard regulatory enforcement proceedings.

- A. *Private Signs on Public Property.* Any Sign not otherwise allowed by these regulations that is attached to a fence, tree, temporary structure, utility pole or any other public property, except those authorized by agencies of the Federal, State or local government.
- B. *Sound or smoke emitting Sign.* A Sign that emits or utilizes in any manner any sound capable of being detected on any traveled street or highway by a person with normal hearing; or a Sign that emits smoke, vapor, particles or odors.
- C. Pole Signs.
- D. Portable Movable Display Signs.

E. Moving/flashing Signs.

Section 435.110. Amortization of Certain Signs.

- A. *Amortization Of Certain Prohibited Signs.* The types of Signs listed below are prohibited; except that, legally erected existing Signs — because of their more substantial construction and the economic investment in them by their owners — may remain until removed by the owner of the Parcel on which the prohibited Sign is located, or by the operator of the business for which the Sign is displayed. Any Sign not removed within the time period listed may be removed by the City of Harrisonville, unless appealed through the Board of Zoning Adjustment:
1. *Pole Signs.* Existing pole Signs may remain in use under the following conditions:
 - a. Regular maintenance is provided under Section 435.130 (B); and
 - b. Existing Sign faces may be changed or modified; and
 - c. The existing pole Sign is not contrary to the provisions specified in Section 435.130 E. "Traffic Safety".
 2. *Signs with scrolling text.* Existing Signs with scrolling text may remain in use under the following conditions:
 - a. Regular maintenance is provided under Section 435.130 (B); and
 - b. The health, safety and welfare of the public are not put at risk per the provisions specified in Section 435.130 E. Traffic Safety.
- B. *Amortization Of Certain Non-Conforming Permitted Signs.* Off-premise Signs that are non-conforming shall be made conforming or removed within three (3) years from the adoption of these regulations.

Section 435.120. Temporary Signs.

Temporary Signs shall be erected and maintained in a safe manner and shall be subject to applicable regulations except as specifically modified herein. Temporary Signs do not require a permit.

- A. **TEMPORARY EVENTS.** Temporary Events may utilize Temporary Signs as regulated under this Section 435.120.
- B. **MAXIMUM GROSS AREA OR AGGREGATE SIGN FACE AREA OF TEMPORARY SIGNS.** The maximum gross area or Aggregate area of all Sign Face Areas displayed upon any Premises shall be limited to 48 square feet.
- C. **SIZE OF TEMPORARY SIGNS.** The maximum square feet of the Sign Face Area of any Temporary Sign shall be six (6) square feet.
4. **CONSTRUCTION.** Signs associated with a temporary construction project meeting Section 435.130 Sign Maintenance, and that are erected to provide public safety.

SECTION 435.125 Special Event Signs.

- A. **PORTABLE STAND-ALONE SIGNS.** One (1) Portable stand-alone sign may be permitted in lieu of a banner or fabric message display with a permit. The provisions of Section 435.130(B) "Sign Maintenance" shall apply.
- B. **BANNERS AND FABRIC MESSAGE DISPLAYS.** One (1) banner or fabric message display may be permitted in lieu of Portable Stand-Alone Sign with a permit. The provisions of Section 435.130(B) "Sign Maintenance" shall apply.

Section 435.130. General Requirements Applicable To All Signs.

The following provisions shall apply to all On-Premises and Off-Premises Signs except for those signs specifically exempted under these Sign Regulations

A. Conformance To Building And Electrical Codes.

In order to provide for the safety of the public all signs shall be constructed and maintained in conformance with all Building Code and National Electrical Code requirements. Signs with electricity and per the City Code as to require a building or electrical permit shall obtain one from the Director of Codes prior to installation or placement.

- 1. All Signs involving internal lights or other electrical devices, or circuits shall display a label certifying it as being approved by the Underwriter's Laboratories, Inc.
- 2. All electrical service to a Sign shall comply with the National Electrical Code.
- 3. Clearance from all electrical power lines shall conform to the requirements of the National Electrical Code.

B. Sign Maintenance.

- 1. All Signs, together with all their supports, braces, guys and anchors, shall be kept in good repair and, unless constructed of galvanized or non-corroding metal, shall be given a protective coating as necessary to maintain a clean appearance and safe condition.
- 2. All Signs shall be maintained in accordance with all City ordinances, including ordinances concerning nuisances and vegetation.

C. Sign Limitations.

- 1. *Sign height.* Sign height shall be measured from the ground elevation at the base of the Sign to the highest element of the Sign.
- 2. *Signs indirectly illuminated.* Indirectly illuminated Signs shall not allow light to 1 lumen directly onto adjoining property.

3. **Animated Signs.** Electronic animated Signs are permitted Signs. In order to prevent unreasonable intrusions into the right of privacy of the public and protect the safety of the public, the applicant may propose, and the City may condition its approval to require operational limitations, such as hours of operation, mode of operation, brightness or frequency of display change. No electronic message panel shall be permitted unless the Governing Body determines that the following conditions will be met:

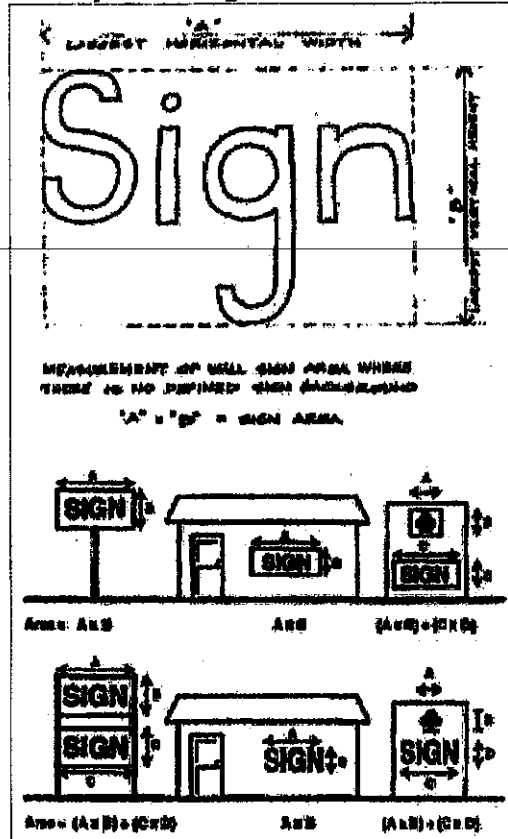
- a. The message area of the panel must be oriented toward a local thoroughfare street or highway and shall not exceed 1 lumen from any existing residence within a three hundred (300) foot radius of the Sign.
- b. The mode of operation for the panel display shall be limited to the fade-in/fade-out mode where a message appears on the Sign, is dissolved or turned off, and another message takes its place, not to exceed a change of message or animated image more than six (6) per minute. The display area of the panel shall not be operated to attract the attention of viewers through flashing displays.
- c. The proposed message panel will not endanger pedestrian and traffic safety given its size, height, color, brightness, mode of operation and its relationship to surrounding traffic patterns, speeds and roadway geometrics.
- d. The proposed message panel shall be designed as an integral part of a larger Sign package for the Parcel.
- e. No portion of the animation or electronic message panel shall exceed the height limit for the Sign in the subject district.
- f. Animated Signs permitted by the provisions of this Section shall comply with all other Sign requirements.

D. **Computation Of Sign Area.**

1. To determine compliance with the maximum allowable Sign Face Areas permitted under this Code, the area of a Sign shall be considered the Sign Face Area unless otherwise stated.
2. **Sign Face Area.** The Sign Face Area shall be computed as the area within the smallest rectangle enclosing the limits of a Sign Face, or the combination of the areas of all such rectangles delimiting each Sign Face, together with any frame or material, texture or color forming an integral part of the Sign Face or used to differentiate the Sign Face from the structure upon which it is placed.
 - a. The computation of the area of a Sign Face Area shall not include the structure, supports or uprights on which the Sign Face is placed or any portions of a Sign Structure that are not intended to contain any message or idea and are purely structural or decorative in nature, other than those portions contained within the rectangle that delimits the Sign Face.

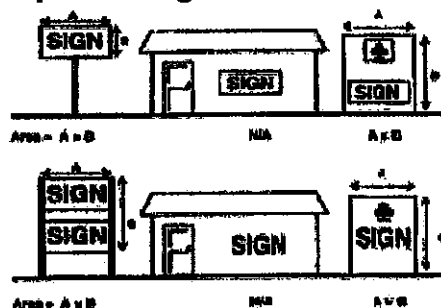
- b. For any Sign on which the words, letters, figures, symbols, logos, fixtures, colors or other design elements routinely change or are intended to be changed from time to time, the Sign Face Area shall include the entire area within which any words, letters, figures, symbols, logos, fixtures, colors or other design elements may be placed, together with any frame or material, texture or color forming an integral part of the Sign Face or used to differentiate the Sign Face from the structure upon which it is placed.
 - c. Any open space contained within the limits of the rectangle delimiting the Sign Face of the Sign Structure shall be included in the computation of the area of the Sign Face, or Sign Face module. The area of the Sign Structure shall include the entire Sign structure, including the Sign Face Area.
 - d. For multi-faced Signs, when the Sign Face surfaces are parallel (back-to-back), or where the interior angle formed by the faces is forty-five degrees (45°) or less, the area of the Sign Face shall be taken as the area on the largest side. For all other multi-faced Signs, the area of the Sign Face shall be the total area on all Sign Face sides that can be viewed at one time from any angle.
3. On Lots where more than one (1) Sign is located, the total gross area of all the Signs shall not exceed the maximum gross area specified in Appendix A and B. The Maximum Gross Area of Temporary Signs is specified under Section 435.120, and the maximum gross area of permitted Signs shall be established in Appendix A or B, as per the Zoning Code.

Figure 12 Examples Of Sign Face Area Measurements



4. **Sign Structure Area.** The area of a Sign Structure shall be computed as the Sign Face Area including all portions of a Sign Structure that provide a background for the Sign Face but are not intended to contain any message or idea and are purely structural or decorative in nature.

Figure 13 Examples Of Sign Structure Area Measurements



E. Traffic Safety.

1. No Sign shall be maintained at any location where, by reason of its position, size, shape or color, it may obstruct, impair, obscure, interfere with the view of, or be confused with any traffic or railroad control Sign, signal or device, or where it may interfere with, mislead, confuse, or endanger the safety of the traveling public.

2. Any Sign located within three (3) feet of a driveway approach or within a parking area shall have its lowest elevation at least ten (10) feet above the curb level.
 3. No Sign shall be placed so as to be located within or project over any public right-of-way, unless permitted by the Planning Commission following consideration and determination of conformance with the following criteria:
 - a. Signs projecting over the sidewalk in the "CBD-1" Central Business District may be permitted, provided that no Sign projected over a sidewalk shall cause potential injury to pedestrians.
 - b. Regardless of any section contained in the Code, the City shall have the right to remove or relocate any Sign within the public right-of-way as may be necessary to maintain, improve or expand infrastructure and other public improvements within the existing right-of-way. Removal, relocation or other necessary action shall be at the expense of the developer, property owner, building owner and/or association responsible for the Sign or to which the Sign is associated.
 - c. Under no circumstances shall any Sign be placed in the Sight Triangle set forth in Section 410.160 of the Code as defined by the City's Subdivision Regulations.
- F. Landscaping. Ground Signs, monument Signs and elevated Signs shall be landscaped as required in these regulations. Landscaping consisting of trees, bushes, or ornamental shrubs shall be provided for all ground Signs, Monument Signs and Elevated Signs. One area or group planting shall be provided for each ten (10) square foot of Sign Face Area, but not less than four (4) plantings shall be provided. Landscaping shall extend no less than three (3) feet from the base of the Sign.

Section 435.140. Regulations Relating To Billboards.

Billboards shall be regulated under this Section 435.140, and if a regulation in this Section 435.140 conflicts with another regulation contained in these Sign Regulations, then the regulation in this Section 435.140 shall take priority and apply.

- A. **PERMIT REQUIRED.** In addition to the Sign permit required by this Chapter, a building permit shall be obtained from the Director of Codes prior to installation or placement of any Billboard. Billboards shall be constructed and maintained in conformance with all Building Code and National Electrical Code requirements. Plans required for issuance of a building permit for a billboard shall be certified as to conformance with all structural and wind-load resistive standards of the Building Code by a registered design professional in the State of Missouri.
- B. **PURPOSE.** Billboards targeting messages at drivers on Missouri State highways and roadways within the City have a significant adverse impact on the safety of the traveling public when such structures because of their size, lighting, spacing, location, height or design distract or confuse travelers, interfere with vision, or

obscure traffic Signs or signals. Billboards targeting messages at drivers on the interstate and Missouri State highways within the City also have a significant adverse aesthetic impact on the community when such structures dominate the surrounding environment both visually and physically with their large sizes, bright lighting, close spacing, intrusive locations and great heights. Therefore, the erection and placement of Billboards along Missouri State highways and roadways within the City are subject to reasonable regulations relative to size, lighting, spacing, location and height to avoid adverse safety impacts; and to adapt the State Highway Commission standards so that in-town Billboards are compatible with urban land uses, where neighbors are closer to one another than in open rural areas. Avoiding such adverse impacts is intended to further the substantial public interest in protecting private investment in adjoining properties and public investment in the interstates and highways, promote the recreational value of public travel, preserve the natural beauty of the community, provide a favorable first impression of the community and promote the safety of public travel.

- C. **SPECIAL USE PERMIT REQUIRED FOR A BILLBOARD.** In addition to complying with the terms of this code, a special use permit must be obtained in accordance with the procedures set forth in the Zoning Regulations, and to ensure the Billboard complies with Federal and State laws and regulations.
- D. **PLACEMENT OF BILLBOARDS.**

The following conditions and/or situations shall be considered to determine the legal placement of all Billboards, including, but not limited to, State and Federal laws and regulations:

- 1. Billboards shall be located on private property.
- 2. A Billboard shall not be located closer than one thousand five hundred (1,500) feet from any other Billboard. Spacing shall be determined based on Signs that have received a special use permit or that are Signs established as legal non-conforming uses. Billboards having received prior authorization or that are a legal non-conforming use shall have priority over a later applicant in determining compliance with the spacing restrictions. Where two (2) different applications conflict with each other, so that only one (1) of the applications may be granted, the first (1st) application received by the City will be the first (1st) considered for approval. The second (2nd) application shall remain pending until resolution of the first (1st) application. The second (2nd) applicant shall be advised in writing if the first (1st) application considered is granted, and the second (2nd) application shall be automatically denied. If the first (1st) application is denied, the second (2nd) application shall then be considered.
- 3. Billboards shall not be located adjacent to or within one thousand five hundred (1,500) feet of any interchange, intersection at grade or safety rest area that is existing or approved for construction. The one thousand five hundred (1,500) feet shall be measured from the beginning or ending of the pavement widening at the exit from or entrance to the main traveled way or, if there is no pavement widening, then from the midpoint of the intersection.

4. To preserve adjoining property values and avoid adverse aesthetic impacts, Billboards shall not be located within one thousand five hundred (1,500) feet of land zoned for residential purposes.
5. Billboards shall be permitted only within six hundred sixty (660) feet of the nearest edge of the rights-of-way of Interstate 49.
6. Billboards shall be permitted only in the following zoning districts: "C-2", "C-3", "M-1", "M-2".
7. No Billboard shall be permitted to be mounted, attached or affixed to a building rooftop or the walls of any building.

D. LIGHTING OF BILLBOARDS.

1. Billboards shall not include any revolving or rotating beam or beacon of light that simulates any emergency light or device.
2. Billboards shall not include any flashing, intermittent or moving light or lights.
3. Billboards may be lighted by external lighting, such as floodlights, thin line and gooseneck reflectors, provided the light source is directed upon the face of the Billboard and is effectively shielded so as to prevent beams or rays of light from being directed into any portion of the main traveled way of the interstate or highway or into any portion of adjacent properties and the lights are not of an intensity so as to cause glare, impair the vision of the driver of a motor vehicle, or otherwise interfere with a driver's operation of a motor vehicle.
4. Billboards shall not be illuminated so that it interferes with the effectiveness of, or obscures, an official traffic Sign, device or signal.
5. Billboards shall not have a maximum average lighting intensity level that exceeds twenty (20) foot-candles.

E. SIZE OF BILLBOARDS. The Sign Face Area of Billboards shall not exceed a maximum area for any one (1) Sign of one thousand two hundred (1,200) square feet with a maximum height of thirty (30) feet and a maximum length of sixty (60) feet, inclusive of border and trim but excluding the base or apron, supports and other structural members. The maximum size limitations shall apply to each side of a Billboard Sign structure, and Billboards may be placed back to back, double faced, or in a V-type construction with not more than two (2) displays to each facing, but the Billboard structure shall be considered as one (1) Billboard.

F. Setbacks And Height Of Billboards.

1. To provide a safety zone to prevent injury or property damage from collapse caused by acts of nature or other causes, Billboards shall meet the following minimum Safety Setback Requirements from all points of the Sign:
 - a. At least ninety (90) feet from the Billboard's nearest edge to the rights-of-way of any primary highway;

- b. At least ninety (90) feet from all property lines of the property on which the Billboard is located, and all roofed structures, including roofed structures located on the Parcel on which the Billboard is located; and
 - c. At least ninety (90) feet from any other structure that would require a building permit for its construction including structures located on the Parcel on which the Billboard is located.
- 2. To provide a further safety zone to prevent injury or property damage from collapse of Billboards caused by acts of nature or other causes, Billboards shall not exceed thirty (30) feet in height above the rights-of-way grade from which it is viewed. In cases where the grade at the location of the proposed Billboard is higher than the right-of-way grade adjacent to which it is located, the City may require the overall height of the Sign to be lowered as a condition of granting a permit to prevent the Sign from unreasonably detracting from the visibility of other neighboring Signs or properties.
- 3. The application for the Billboard Sign permit shall contain documentation to the satisfaction of the City that the applicant has secured the legally enforceable right to prevent the erection of structures within the Safety Setback Requirement zones. No building permit shall be issued for construction of any building within the Safety Setback Requirement zone.
- G. *Service Drives To Billboards.* Billboards shall be accessible by means of a paved drive that is internal to the Lot or Parcel on which the Billboard is located. All vehicles, equipment and people used to build, service, maintain and repair the Billboard must confine their activity so as not to interfere with pedestrian or vehicular traffic on public roads.
- H. *Additional Information Required Prior To Permitting Of A Billboard.*
 - 1. Billboards shall not be permitted by the City until a permit has been issued by the Missouri Highway and Transportation Commission.
 - 2. Billboards shall not be permitted before the applicant has submitted the following certifications from the appropriate professionals registered in Missouri:
 - a. Certification from a professional engineer registered in the State of Missouri that the soil and subsoil surface is capable of accepting the projected loads of the Billboard;
 - b. Certification from a professional engineer registered in the State of Missouri as to the electrical portion of the Billboard;
 - c. Certification from a professional engineer registered in the State of Missouri as to the structural strength of the Billboard; and
 - d. A certified boundary survey from a surveyor registered in the State of Missouri of the Billboard site and its setback/clearance zones.

3. Billboards shall not be permitted before the applicant has submitted a Billboard survey to indicate the relative vertical and horizontal distances between the proposed Billboard and all other Billboards within one thousand five hundred (1,500) feet. If by reason of height, size or spacing the proposed Billboard or unreasonably detracts from the visibility of other neighboring Billboards or properties, the City may require reasonable modification of the Billboard's dimensions to cure these deficiencies as a condition to granting a permit.
 4. Billboards shall not be permitted before the applicant has submitted to the City financial security in the form of a bond, letter of credit or other financial security as approved by the Director of Codes; a right of access; and any other measures necessary and sufficient to ensure removal of Billboards that are not validly permitted or that constitute a nuisance.
- I. *Inspection Of Billboards.* Owners of all Billboards shall be required to submit an inspection to the City concerning a Sign's structural integrity as deemed necessary by the City from time to time upon reasonable notice to the owner or operator of the property on which the Billboard is located. Failure to submit a report shall result in the immediate revocation of the Billboard's permit.

Section 435.150. Non-Conformities.

All Signs legally existing at the time of passage of these regulations and which are made non-conforming by the enactment of these Sign Regulations and are not subject to amortization requirements may remain in use under the conditions of legal non-conformance. Signs in legal non-conformance shall not be enlarged, moved, lighted or reconstructed.

Section 435.155 Abandoned/Dangerous Signs; Removal.

A. ABANDONED SIGNS.

1. ~~Any Sign that provides notice of a special event or a temporary event or any other temporary purpose shall be deemed to have been abandoned two (2) days after the date of event or purpose has passed.~~
2. Any Sign that fails to meet the maintenance requirements of this Code for a period of ten (10) days, after notice to the Sign owner, owner or operator of the property on which such Sign is located, shall be deemed to be abandoned.
3. Any Sign that is deemed dangerous by City staff under Section B.2. below shall be deemed abandoned ten (10) days after written notification to the Sign owner, owner or operator of the property on which such Sign is located.
4. If the owner of the Sign disputes the determination that the Sign is abandoned, they may first appeal to the Director of Codes for reconsideration. If the Director of Codes denies the appeal, then the Sign owner may appeal to the City Administrator.

B. SIGN REMOVAL.

1. Prohibited Signs may be removed immediately by the City.
2. Signs that are deemed to be abandoned or otherwise found to be in violation of this Code shall be removed by the owner of the Sign or owner of the Premises within thirty (30) days from the written notice by the City. The City shall have the discretion to grant an additional thirty (30) days for the required improvements or repairs to be made provided substantial progress is being made to correct the deficiencies and a written request for an extension is received at least five (5) working days before the end of the original notice. Any Signs not removed within the time period required by this Subsection may be removed by the City and all Removal Costs charged to the owner of the Premises upon which the Sign was located or the owner of the Sign itself.
3. Should any Sign become structurally unstable or in danger of falling or otherwise unsafe in the opinion of the Director of Codes, the owner or person or firm maintaining the Sign shall, upon written notice from the City, forthwith in the case of immediate danger and in any case within ten (10) days, remove such Sign or secure it in a manner approved by the City. Any Sign not removed or secured within ten (10) days from the written notice may be removed by the City and all costs ("Removal Costs") charged to the owner, agent, or person having beneficial interest of the building or premises upon which the Sign was located, or in the Sign itself.
4. If any Sign is installed, erected or constructed in violation of this Code, the owner or person or firm maintaining the Sign shall, upon written notice from the City, within ten (10) days, remove the Sign or bring it into compliance with this Code. Any Sign not removed or properly altered to be in compliance with this Code within ten (10) days from the written notice may be removed by the City and all Removal Costs charged to the owner, agent, or person having beneficial interest of the building or premises upon which the Sign was located, or in the Sign itself.
5. If the owner or agent of the owner of any Sign removed by the City under the City Code does not reimburse the City for all the Removal Costs within thirty (30) days of the removal of the Sign by the City, then the City may sell the Sign, at private or public sale, and any of its structure necessary to cover the City's Removal Costs at such price the City chooses, or, at the City's discretion and sole option, dispose of the Sign and any of its structure so removed by the City, and the owner, agent, or person having a beneficial interest in the Sign or building or premises upon which the Sign was located shall have no claim against the City for any reason. The City shall not be responsible or liable for any damage or loss of value to any such Sign removed by the City.

C. Replacement of damaged Sign Faces and illumination repairs following a natural disaster.

1. The replacement of damaged Sign Faces and illumination repairs to existing non-conforming Signs following a natural disaster such as a tornado, thunderstorm, wind, ice storm, or other act of nature shall be permitted without requiring a permit fee or causing the Sign to be brought into compliance with current Sign Regulations.
 2. Existing non-conforming Signs which sustain structural damage as a result of a natural disaster shall be repaired or reconstructed within ten (10) days to meet all current Sign Regulations.
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Section 435.160. Master Signage Plan.

- A. Developer/owners of commercial centers may elect to submit a Master Signage Plan to accommodate multiple Signs in one (1) development. If a developer elects to submit a Master Signage Plan, no permit shall be issued for an individual Sign requiring a permit in such development unless and until a Master Signage Plan for the platted Lot of the development on which the Sign will be erected has been approved by the City as conforming with this Section.
1. **Plan Submittals.** Master Signage Plan submittals: For any platted Lot on which the owner of the land or development proposes to erect one (1) or more Signs requiring a permit, such owner shall submit to the City a Master Signage Plan containing the following:
 - a. An accurate plot plan of the platted Lot, at such scale the Planning and Zoning Department may reasonably require;
 - b. Location of buildings, parking lots, driveways and landscaped areas on such platted Lot;
 - c. Computation of the maximum total Sign Face Area, the maximum area for individual Signs, the height of Signs and the number of freestanding Signs allowed on the platted Lot (s) included in the Master Signage Plan under these Sign Regulations; and
 - d. An accurate indication on the plot plan of the proposed location of each present and future Sign of any type, whether requiring a permit or not.
 2. Sign design standards and development requirements.
 - a. The Master Signage Plan shall specify standards for consistency among all Signs on each platted Lot with regard to:
 - (1) Lettering or graphic style;
 - (2) Lighting;
 - (3) Location of each Sign on the buildings;
 - (4) Material; and
 - (5) Sign proportions.
 - b. **Consent.** The Master Signage Plan shall be signed by all owners or their authorized agents in such form as the City shall require.

- c. ***Procedures.*** A Master Signage Plan shall be included in any site plan or other official plan required by the City for the proposed development and shall be processed simultaneously with such other plan.
- d. ***Amendment.*** A Master Signage Plan may be amended by filing a new Master Signage Plan that conforms with all requirements of the Sign Regulations then in effect.

- e. ***Binding effect.*** After approval of a Master Signage Plan, no Sign shall be erected, placed, painted or maintained except in conformance with such Master Signage Plan, and such Plan may be enforced in the same way as any provision of the Sign Regulations. In case of any conflict between the provisions of such a Plan and any other provision of the Sign Regulations, the Sign Regulations shall control.