

CHAPTER XVI. (B) BUILDING PRESERVATION CODE AND SIGN CODE

- Article 1. Historic Preservation Regulations
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ARTICLE 1. HISTORIC PRESERVATION REGULATIONS

16B-101 **DECLARATION OF POLICY.** The city council finds and declares as a matter of public policy that the identification, designation, protection, enhancement, preservation and use of historic resources is a public necessity and is required in the interest of the culture, prosperity, education and welfare of the public. Preservation of historic resources will:

- (1) Protect, enhance and perpetuate historic, distinctive and important elements of the city's cultural, social, economic, political, archaeological and architectural history;
- (2) Safeguard the city's historic and cultural heritage as embodied and reflected in such historic resources;
- (3) Stabilize and improve property values in such locations of historic resources and thus strengthen the economy of the city;
- (4) Promote and encourage restoration, rehabilitation, and maintenance of historic properties, neighborhoods and districts and thus combat blight and decay;
- (5) Foster civic pride in the beauty and noble accomplishments of the past;
- (6) Protect and enhance the city and its attractions to tourists and visitors and provide support and stimulus to business and industry; and
- (7) Promote the use and adaptive reuse of historic resources for the culture, education, enjoyment and economic welfare of the city's citizens and visitors.

16B-102 **DEFINITIONS.** As used in this chapter, the following words, terms and phrases shall be the meanings set out below:

Appurtenances and environmental setting includes, but is not limited to walkways and driveways (whether paved or not) fences, gateways, open space and waterways. Interiors of structures are included only when a historic resource is designated a historic landmark and the owner consents to the addition of the interior of the structure.

Certificate of appropriateness is the approval given for projects impacting historic landmarks and assets within historic districts.

Demolition shall mean any and all activity that requires a demolition permit.

Demolition by neglect is the failure to provide ordinary and necessary

maintenance and repair to a structure resulting in the deterioration of the structure or resulting in permanent damage, injury or loss to exterior features.

Design criteria is the standard used for issuing a certificate of appropriateness. The criteria shall be based upon the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, or guidelines adopted by the historic district and based upon criteria of the Secretary of Interior's Standards as recommended by the Haysville Historic Committee and approved by the respective jurisdiction. Examples illustrating said standards shall be made available by the preservation staff.

Historic district is a group of historic resources, consisting of three (3) or more principal use structures or a tract of ground five (5) acres or larger which are significant as a cohesive unit and contribute to the historical, architectural, archaeological or cultural values of the city, county, state, or nation which is so designated by the city council. Historic district includes all state and national registered districts provided the owner(s) of record consents in writing to the inclusion. The Historic District may also include appurtenances and environmental setting with written consent from the owner(s) of record.

Historic landmark is a historic resource that has been designated, with the written consent of the owner(s) of record, as having historical, architectural, archaeological, or cultural importance or value which the city council determines shall be protected, enhanced and preserved in the interest of the culture, prosperity, education and welfare of the public. Historic landmark may also include the interior of a structure appurtenances and environmental setting with written consent from the owner(s) of record. Historic landmark includes all state and national registered structures provided the owner(s) of record consents in writing to the inclusion.

Historic resource is a site, land area, building, structure or object, which may also include appurtenances and environmental setting, which has historical, cultural, aesthetic, architectural and/or archaeological significance, or is a site, land area, building, structure, or object with potential importance or value.

Overlay zoning. Any zoning that functions in addition to the existing land use zoning, as in the case of historic landmark or historic district zoning.

Permit means authorization whether by administrative action or actions by the city council and includes a building, demolition, moving, zoning, sign, fence, parking lot, roofing, sidewalk, siding, or swimming pool permit which is issued by the development services office.

Preservation staff means personnel assigned to provide staff services for the Haysville Historic Committee

Project classification. For the purpose of the certificate of appropriateness review

procedure, proposed work involving a historic landmark or property within a historic district shall be classified as major or minor.

(1) Major projects include:

- a. Any undertaking requiring a permit on a historic landmark unless determined minor by the preservation staff; or a structure within a historic district; unless determined minor by preservation staff;
- b. Any demolition permit or moving permit for any structure listed as a historic landmark or historic resource within a historic district.

(2) Minor project. For the purpose of certificate of appropriateness review, a minor project is any project requiring a permit on a historic landmark or property within a historic district that proposes repairing or restoring an existing exterior element, or replacing an element or material with identical material and design to that which is existing.

Preservation plan. A document developed, adopted and implemented by the Haysville Historic Committee that identifies trends affecting and impacting historic resources and provides guidance for their preservation. The preservation plan will include a list of all historic resources, historic landmarks and historic districts within the City. The preservation plan will be a component of the comprehensive plan for the city.

Preservation program. The overall program administered by the Haysville Historic Committee that involves the implementation of the historic preservation ordinance, the historic preservation plan, and all activities relating to the furtherance of historic preservation in the City.

Uniform Code for Building Conservation. A national code adopted by the city that provides for more flexible code review for older and historic properties.

16B-103 HAYSVILLE HISTORIC COMMITTEE. There is created and established a commission to be known as the "Haysville Historic Committee" of the City of Haysville. The Haysville Historic Committee will hereafter be called the "Haysville Historic Committee."

(1) Scope of duties. The duties of the Haysville Historic Committee are to advise the city council on historic resources and to safeguard the architectural and cultural heritage of the community through the preservation of historic resources, historic landmarks and historic districts. The Haysville Historic Committee may carry out these duties through the identification, nomination and designation, and documentation of historic resources; development and implementation of a historic preservation plan; administration of ordinances governing the designation, alteration and removal of historic resources; assistance with educational and incentive programs, economic development and tourism, and

coordination of public and private historic preservation activities.

- (2) Members. The Haysville Historic Committee shall be composed of (11) eleven members of which (8) eight members shall be residents from within the corporate limits or property owners of the City of Haysville, Kansas and shall be appointed by the Mayor with consent of the City Council. The remaining three members shall consist of the planning commission chair, or his or her designee; the park board chair, or his or her designee; and the mayor, or his or her designee. The Haysville Historic Committee membership shall be comprised of people who have a demonstrated interest in historic preservation through their community and/or professional involvements. The members of the commission should be drawn from such backgrounds as architecture, history, landscape architecture, architectural history, planning, archaeology, urban design, neighborhood and community development, geography, real estate, law, finance, building trades or related areas.
- (3) Terms. The term of office of the members of the Committee shall be for three (3) years excepting the first committee which shall consist of two (2) members serving for one (1) year, three (3) members serving for two (2) years and three (3) members serving for three (3) years and excepting the planning commission chair, the park board chair and the mayor whose terms shall expire annually. No member shall serve beyond the end of his or her appointed term. Upon expiration of a term, the position shall remain vacant until a successor is appointed.

16B-104 HAYSVILLE HISTORIC COMMITTEE (SAME, FUNCTIONS).

The Haysville Historic Committee shall have the following functions:

- (1) The Haysville Historic Committee shall familiarize itself with the historic resources within the community and those which may be eligible for designation as historic resources, historic landmarks or historic districts and shall administer the identification, documentation and designation of such historic landmarks and historic districts, and shall present verification of significance to the city planning department, and the city council.
- (2) The Haysville Historic Committee, using the criteria identified herein, shall determine whether certain buildings, structures, land areas, and interiors (only for historic landmarks and with owner consent) should be designated as historic landmarks or historic districts.
- (3) The Haysville Historic Committee shall administer certificate of appropriateness review according to design criteria as defined to determine whether to grant or deny approval of proposed undertakings.
- (4) The Haysville Historic Committee shall review and comment on projects which may be determined to pose a threat to an archaeological site as designated

by the Kansas State Historical Office.

(5) The Haysville Historic Committee may apply for or suggest sources of funds for preservation and restoration activities for acquisition, to include federal, state, municipal, private and foundation sources.

(6) The Haysville Historic Committee may implement incentive programs for preservation.

(7) If the Haysville Historic Committee finds that certain historic resources cannot be preserved without acquisition, the Haysville Historic Committee may recommend to the city council that the fee or a lesser interest in the property be acquired by gift, or purchase, using funds or facilities available for preservation or restoration.

(8) The Haysville Historic Committee shall annually review the status of designated historic resources, historic landmarks and historic districts and include in the Haysville Historic Committee minutes a report of such review.

(9) The Haysville Historic Committee shall make and adopt a historic preservation plan and review and update the plan as needed. The plan may include a list of historic resources which may not have attained the status of a historic landmark or as historic district. Twenty (20) days prior to a historic resource listing determination by the Haysville Historic Committee, the following procedures shall be initiated and administered by the preservation staff:

- a. Property owners of those sites and structures which are being considered for nomination as historic resources shall be notified of a pending decision to list their property as historic resources.
- b. Property owners of nominated historic resources shall be provided the opportunity to "agree," or "not agree" with the inclusion of their property in the listing.
- c. If the owner agrees to the historic resource listing, notice of the "historic resource" listing of a property shall be filed with the register of deeds and recorded as an official notice subject to subsequent property owners. If the owner does not agree to the "historic resource" listing, the property shall not be listed as a "historic resource."

(10) The Haysville Historic Committee may implement a receivership program for conservation easement donations for the purpose of historic preservation. Such easements shall be held by the city and monitored by the Haysville Historic Committee.

(11) The Haysville Historic Committee may recommend programs and legislation to the city council to encourage historic preservation.

(12) The Haysville Historic Committee, upon request of the property owner, may assist in the preparation of national and/or state register nominations.

(13) The Haysville Historic Committee, upon request of the property owner, may render advice and guidance with respect to any proposed work on a historic resource.

16B-105 HISTORIC LANDMARK AND HISTORIC DISTRICT DESIGNATION.

The city council may designate certain historic resources as historic landmarks or historic districts. Such designation shall be in addition to any other zoning designation established in the comprehensive zoning regulations of the city and be known as historic overlay zoning. An official register of all historic designations in the city shall be created, maintained and filed for public information and use in the office of the city clerk.

16B-106 HISTORIC LANDMARK DESIGNATION AND NOMINATION CRITERIA.

A. DESIGNATION

(1) In the designation of buildings, structures and objects as historic landmarks certain criteria must be met. These properties must be fifty (50) years or older. In addition, the property must meet one (1) or more of the following criteria:

- (a) Is associated with events that have made a significant contribution to the broad pattern of history of the city, county, state or nation;
- (b) Is associated with a significant person or group of persons in the history of the city, county, state or nation;
- (c) Embodies distinctive characteristics of a type, period, or method of construction; represents the work of a master builder/architect; possesses high artistic values; or represents a distinguishable entity whose components may lack individual distinction;
- (d) Yields or is likely to yield information important in prehistory or history; or
- (e) Possesses integrity of location, design, setting, materials and workmanship.

(2) Properties less than fifty (50) years old may be eligible for designation provided they are of extreme historical significance. All other criteria listed herein shall apply.

B. NOMINATION.

(1) The process is initiated when a historic landmark or historic district nomination form is accompanied by the following information and submitted to the Haysville Historic Committee. The nomination form shall include:

(a) A description of the specific historic resource nominated as a historic landmark or a list of specific historic resources located within the proposed district boundaries and a description of the particular importance or value of each such historic resources, such description to include the following:

- I. Approximate date of construction, and dates of major alterations, if known;
- II. Builder and/or architect, if known;
- III. Architectural style;
- IV. Primary building materials;
- V. Current owner of record; and
- VI. Legal description of each property.

(b) A map showing the boundaries of the proposed historic district and the location of each asset of importance or value identified by a number or letter designation;

(c) Sufficient photographs of each historic resource proposed as a historic landmark or historic resources listed within the historic district;

(d) Written consent to the nomination by all of the owners of record of the proposed historic landmark. In the event of a contract sale, both the owner of record and the party or parties holding an equitable interest in the property must consent to the nomination; and

(e) For a historic district, sixty-five (65) percent of the owners of record within the proposed historic district must provide written consent. In the event of a contract sale of real property, both the owner of record and party or parties holding an equitable interest in the property must consent to the nomination.

(2) Applications to increase the boundaries of a historic district may be made if one (1) or more of the following conditions are met:

- (a) When additional historic resources which relate to the historic district are requested for inclusion;
- (b) When facts previously undisclosed to or unknown by the Haysville Historic Committee are revealed which indicate that a particular building or site is possessed of special architectural, archaeological, or cultural character, or economic viability to the district.

(3) Applications to reduce the boundaries of a historic district may be made when one (1) or more of the following conditions have been met:

- (a) When it can be shown that a particular building, structure, site, object or land area has no historic, architectural, archaeological, or cultural importance or value to the viability of the historic district;
- (b) When it can be shown that no physical, historical, architectural,

archaeological or cultural degradation will result from exclusion of property from the district.

16B-107 HISTORIC DISTRICT DESIGNATION CRITERIA.

(1) In the designation of buildings, structures and objects as historic districts certain criteria must be met. The historic resources within the historic district must be fifty (50) or more years old. In addition, the historic resources must meet one (1) or more of the following criteria:

- (a) Are associated with events that have made a significant contribution to the broad pattern of history of the city, county, state or nation;
- (b) Are associated with a significant person or group of persons in the history of the city, county, state or nation;
- (c) Embody distinctive characteristics of a type, period, method of construction; represent the work of a master builder/architect; possess high artistic values; or represent a distinguishable entity whose components may lack individual distinction;
- (d) Yield or are likely to yield information in prehistory or history; or
- (e) Possess integrity of location, design, settings, materials and workmanship.

(2) The boundaries of historic districts shall be drawn so as to include all buildings, structures, sites, objects or land areas which meet one (1) or more of the criteria set out herein or which directly affect or relate to such buildings, structures, sites, objects or land areas meeting one (1) or more of the above criteria, provided that at least seventy-five (75) percent of the total structures within the boundaries are of architectural, historical, archaeological, or cultural importance or value as determined by the Haysville Historic Committee.

16B-108 PROCEDURE FOR DESIGNATION OF HISTORIC LANDMARK AND HISTORIC DISTRICT. An application for historic landmark and historic district designation requires the following procedures:

(1) A historic landmark or historic district nomination form, accompanying material, and for historic districts, historic district preservation guidelines as defined herein, shall be submitted to the historic committee.

(2) Upon receipt of such nomination, the Haysville Historic Committee shall make its decision regarding the designation within a reasonable time. In the event a member of the Haysville Historic Committee shall make application, evidence shall be presented in the same manner as all other persons and the Haysville Historic Committee member shall not vote on the matter contained in the application. A simple majority vote shall be required to constitute a recommendation of approval on any nomination application presented to the Haysville Historic Committee.

(3) After consideration and recommendation by the Haysville Historic Committee, the application shall be submitted to the City Planning Department. The following is required as part of the designation application:

- a. The Haysville Historic Committee recommendation;
- b. Legal description and map of the boundaries of the proposed designation;
- c. Completed historic landmark or historic district nomination form and accompanying materials;
- d. Applicable historic district preservation guidelines as defined herein; and
- e. A list of property owner(s) of record.

(4) The designation shall be placed on the Haysville Planning Commission agenda for public hearing to consider historic landmark or historic district designation. The same public notices and public hearing as required by law in a zoning case shall be observed. The owner or owners of record of any parcel on which a proposed historic landmark is situated or within a proposed historic district as well as all property owners of record within a two hundred (200) foot radius in the city will be notified of the hearing. At the conclusion of its hearing, the Haysville Planning Commission shall set forth in writing its findings as to whether the designation is consistent with adopted plans and shall transmit such findings to the city council.

(5) After notice and public hearing as required by law in a zoning case, a historic landmark or historic district may be created by ordinance by the city council. Upon passage of such ordinance a certified copy shall be filed with the Sedgwick County Register of Deeds.

(6) Upon approval of a historic landmark or historic district designation ordinance by the city council, the city planning department shall cause the official designation and delineation of the property or properties involved.

16B-109 **HISTORIC DISTRICT EXEMPTIONS.** Within thirty (30) days of approval of a historic district by the city council, property owners located within the district may elect to exempt their property from the requirements of the historic district by providing written notice of the self-exemption to the preservation staff. In the event of a contract sale of real property, both the owner of record and party or parties holding an equitable interest in the property must consent to the exemption. The property shall automatically convert to the historic overlay zoning district upon sale of the property, including a contract sale.

16B-110 **HISTORIC DISTRICT PRESERVATION GUIDELINES.** Preservation guidelines for a proposed historic district shall be submitted with a nomination application. The district preservation guidelines shall not apply to the interior of

commercial structures. Further, the district guidelines shall include, but not be limited to the following:

(1) Guidelines for those seeking a certificate of appropriateness including, but not limited to the following:

- a. Acceptable materials for any construction, additions, remodeling or rehabilitation activities to the exterior of the structures;
- b. Appropriate architectural character, scale, and detail for any construction, additions, remodeling or rehabilitation activities;
- c. Acceptable appurtenances to the structures;
- d. Acceptable textures and ornamentation to the exterior of the structures;
- e. Acceptable accessories on structures;
- f. Such other building regulations which would have impact on the buildings;
- g. Acceptable standards for changes to non-contributing resources within the district; and
- h. Acceptable signage.

(2) Guidelines for public improvements in the district, including street furniture, signs, design textures of sidewalks, streets and parks.

16B-111 HISTORIC DISTRICT DESIGNATION ADMINISTRATIVE REQUIREMENTS.

The following shall apply:

(1) When the Haysville Historic Committee considers an area as a possible historic district, the Haysville Historic Committee shall, prior to rendering its final recommendation, submit the nomination package including district preservation guidelines to appropriate city departments and other public agencies directly affected.

(2) In addition, the Haysville Historic Committee shall, prior to rendering its final recommendation, make the historic district preservation guidelines available upon request to all landowners in the proposed historic district.

(3) The Haysville Historic Committee approved graphics for designated historic resources within a historic district may be made available to the owners of designated structures.

16B-112 CERTIFICATE OF APPROPRIATENESS REVIEW.

The following procedures and requirements shall apply to certificate of appropriateness review:

(1) A permit for any project as defined herein affecting a designated historic landmark or any property within a designated historic district shall not be issued

for any major project, as defined in 16B-102, to any applicant by the office of the Public Works Director unless an application for a certificate of appropriateness has first been reviewed and approved by the preservation staff, by the Haysville Historic Committee and, if a protest is filed, by the city council. Minor projects, as defined in 16B-102, and those not requiring a permit but which propose to alter features which have been defined in a historic district's preservation guidelines as requiring protection shall require a certificate of appropriateness application. Projects which will or have the potential to damage or destroy historic features of a historic landmark or a historic resource which is located within a historic district shall be subject to a certificate of appropriateness review.

(2) When applying for a certificate of appropriateness, the applicant shall provide plans, specifications or other documentation pertaining to the work as required on the Haysville Historic Committee's adopted application forms. A complete certificate of appropriateness application and accompanying materials shall be submitted to the preservation staff for review of the application and determination if the proposed work is a major or minor project.

(3) The Haysville Historic Committee shall review the application after the classification of the project being minor or major as determined by the preservation staff. (refer to 16B-102).

a. Major Project - The Haysville Historic Committee shall recommend approval, approval with conditions, or denial within thirty (30) days of the receipt of an application. Upon receiving the recommendation of the Haysville Historic Committee, the Haysville Planning Commission shall call and hold a public hearing. Notice of such hearing shall be published at least once in the official city newspaper. Such notice shall be published at least 20 days prior to the hearing. Such notice shall fix the time and place for such hearing and shall describe such proposal in general terms. The Planning Commission shall prepare its recommendations by a majority vote, and shall submit a summary of the hearing to the Governing Body. The Governing Body either may approve, override or return the recommendation to the Planning Commission. The Planning Commission may resubmit original, new, or an amended recommendation to the Governing Body. Upon return from the Planning Commission to the Governing Body, the Governing Body by simple majority may adopt, revise, or amend and adopt or take no further action. If the Planning Commission fails to deliver its recommendation to the Governing Body following the Planning Commission's next regular meeting, the Governing Body shall consider it as a resubmission of the original recommendations and proceed accordingly.

b. Minor Project - A certificate of appropriateness for a minor project shall be reviewed and approved or denied by the preservation staff. If approved, the preservation staff shall provide a certificate of appropriateness to the applicant and provide a copy of documented approval to the office of the public works director. An appeal from a denial of an application for a minor project may be

recommendation to the Governing Body. Upon return from the Planning Commission to the Governing Body, the Governing Body by simple majority may adopt, revise, or amend and adopt or take no further action. If the Planning Commission fails to deliver its recommendation to the Governing Body following the Planning Commission's next regular meeting, the Governing Body shall consider it as a resubmission of the original recommendations and proceed accordingly. In addition to the recommendation of the Haysville Historic Committee, the Planning Commission shall consider the state of repair of the building, the reasonableness of the cost of restoration or repair, owner hardship, the purpose of preserving the designated historic landmark or structure within a historic district, alternatives presented by interested parties, the character of the neighborhood, the economic consequences to the city and the affected owner(s), and all other factors which it finds appropriate. The owner(s) of the historic landmark or owner(s) of the structure within the historic district shall bear the burden of proof demonstrating hardship. The proposed certificate of appropriateness shall become effective upon publication of the respective adopting ordinance.

(4) The city council may approve the certificate of appropriateness or deny the certificate of appropriateness if it determines that feasible alternatives to demolition or moving of the historic landmark or structure within the historic district exist and that in the interest of preserving historical values, the historic landmark or structure within the historic district should not be demolished or moved.

(5) In the event of an "emergency" demolition of a historic landmark or a structure within a historic district, the Public Works Department shall notify the preservation staff as soon as possible. "Emergency" includes, but is not limited to, the need for demolition upon the determination by the Public Works Department that the structure poses a threat to human safety.

16B-114 REVIEW OF DEMOLITION BUILDINGS AND MOVING PERMITS HISTORIC RESOURCES. An application to the office of public works director for a demolition or moving permit shall require notification to preservation staff if the permit is for a historic resource determined by preservation staff to have potential for landmark designation. These resources shall be fifty (50) years or older and meet one (1) or more of the criteria for landmark designation described herein. The following procedure applies:

(1) Demolition and moving permit applications for buildings or structures listed as historic resources will be reviewed by preservation staff.

(2) Preservation staff may make the determination that a building, site or structure threatened with demolition or removal meets the criteria for landmark designation.

(3) If a building, site or structure is determined by the preservation staff to meet criteria for historic landmark designation a written notice shall be sent by certified mail to the owner or owners of such building, site or structure. Said notice shall describe the property which meets historic landmark criteria including its location and boundaries and justification of its historic or architectural significance. The notice shall also be delivered to the office of public works director.

(4) Following application for a moving or demolition permit for a listed historic resource, a ninety (90) day delay shall occur prior to the issuance of the requested moving or demolition permit in order for alternatives to be explored with the owner by the Haysville Historic Committee staff.

(5) During such period, no permit shall be issued unless for emergency public safety reasons, or a certificate of appropriateness has been issued.

(6) After the delay, if demolition of the historic resource is the conclusive alternative of the Haysville Historic Committee, the Haysville Historic Committee shall direct staff to document the resource with photography, and/or measured drawings for record purposes.

16B-115 HISTORIC LANDMARK AND HISTORIC DISTRICT DEMOLITION BY NEGLECT. In the event of demolition by neglect of a historic landmark or structure within a historic district on public or private property, the following provisions shall apply:

(1) If a historic landmark or a property within a historic district has been determined by the Haysville Historic Committee to be the subject of demolition by neglect, the Haysville Historic Committee or preservation staff shall provide the owner of record with a written notice specifying the conditions of deterioration and the minimum items of repair or maintenance necessary to correct or prevent further deterioration.

(2) Such notice shall be sent by certified mail, return receipt requested, addressed to the owner of the property, contract purchaser, if applicable, at his or her last known address, or the address shown on the real property tax records in the Clerk's Office of Sedgwick County, Kansas. Such notice, when so addressed and deposited with the United States Postal Service with proper postage prepaid, shall be deemed complete and sufficient. In the event that notification cannot be accomplished, as aforesaid, after reasonable efforts, notice shall be accomplished by posting a public notice on the property. A copy shall also be provided to the office of public works director.

(3) The notice shall provide that corrective action shall commence no later than thirty (30) days from the receipt or posting of said notice, unless an extension is granted by the Haysville Historic Committee. The owner or contract purchaser, if

applicable, shall demonstrate continual progress and all repairs shall be completed within a reasonable period of time. The notice shall state that the owner(s) of record of the subject property may within ten (10) days request a hearing before the Haysville Historic Committee challenging the finding of demolition by neglect and/or the notice to repair. If such request for a hearing is received within this time period, a hearing will be at the next regular meeting of the Haysville Historic Committee. The Haysville Historic Committee shall review all evidence of demolition by neglect at the scheduled hearing.

(4) In the event that the Haysville Historic Committee finds that, notwithstanding the necessity for such improvements, corrective action would impose a substantial hardship on the owner or any or all persons with any right or title in the subject property, then the commission shall establish a period of forty-five (45) days and direct preservation staff to seek alternative methods to preserve the historic landmark or property located within a historic district.

(5) If no alternative is found to preserve the structure without undue hardship to the owner, and any or all persons with any right or title in the subject property and the structure is determined a threat to human safety and is in violation of city code a demolition permit may be issued.

16B-116 CONTINUATION OF EXISTING DESIGNATION. Nothing contained in this section shall eliminate, change, or otherwise affect the existing designation of an historic landmark or an historic resource in the City of Haysville.

16B-117 SEVERABILITY. If any part or parts of this article shall be held unconstitutional, invalid, or otherwise unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this article.

16B-118 PENALTY. It is unlawful to construct, reconstruct, structurally alter, remodel, renovate, restore, demolish, deface, move or maintain any historic landmark or asset within a historic district in violation of the provisions of this article. Any violation of the provisions of these regulations shall be a misdemeanor and shall be punishable by a fine of not to exceed \$500 or by imprisonment for not more than six months for each offense or by both such fine and imprisonment. Each day's violation shall constitute a separate offense.

ARTICLE 2. SIGNS

16B-200 PURPOSE. The purpose of this article is: to encourage the effective use of signs as a means of communication in the city; to maintain and enhance the aesthetic environment and the city's ability to attract sources of economic development and growth; to improve pedestrian and traffic safety; to minimize the possible adverse effect of signs on nearby public and private property; and to enable the fair and consistent enforcement of these sign restrictions.

16B-201 APPLICABILITY. A sign may be erected, placed, established, created, altered or maintained in the city only in conformance with the standards, procedures, exemptions, and other requirements of this article.

16B-202 GENERAL STANDARDS ALL SIGNS

(a) Gross Surface Area of Sign. The area of a sign face shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself. The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces. When two or more signs are located on a zoning lot, the gross surface area of all signs on the lot shall not exceed the maximum gross surface per street frontage set by the applicable district regulations, except as is provided by Section 16B-203(b)

(b) Corner and Through Lots. On corner and through lots, each lot line that abuts a street or highway shall be considered a separate street frontage. On corner and through lots, restrictions that are phrased in terms of "signs per zoning lot" shall be deemed to permit the allowable number of signs facing each street or highway that abuts the lot.

(c) Height of Sign. The maximum height of signs shall be measured from ground level at the base of or below the sign to the highest element of the

sign and shall be determined for purposes of Article 10 as independent from the maximum structure height for zoning districts.

(d) Building and Electrical Codes Applicable. All signs must conform to the structural design standards of any applicable building code. Wiring of all electrical signs must conform to any applicable electrical code.

(e) Clearance for Projecting Awning, Canopy, or Marquee Signs. All awning, canopy, or marquee signs shall maintain a clearance of at least seven feet to the grade directly below the sign.

(f) Accessway or Window. No sign shall block any accessway or window required by any applicable building, housing, fire or other codes or regulations.

(g) Signs on Trees or Utility Poles. No private sign shall be attached to a tree or utility pole whether on public or private property, except identification markers.

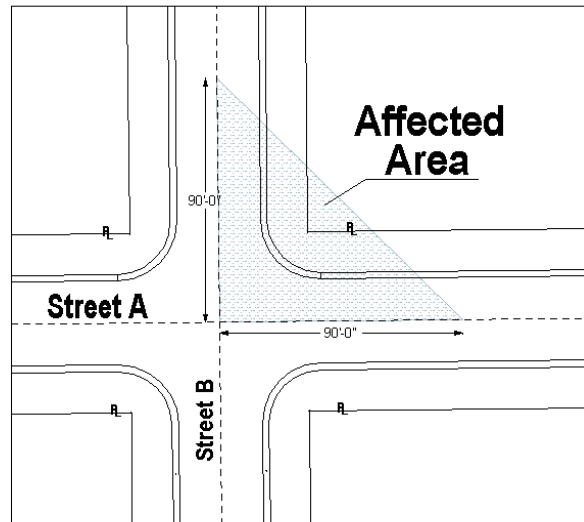
(h) Traffic Safety.

(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 control sign, signal or device; or where it may interfere with, mislead or confuse traffic.

(2). No sign shall be located in any vision triangle except official traffic signs and signs mounted eight feet or more above the ground whose supports, not exceeding two, do not exceed 12 inches at the widest dimension and, thus, do not constitute an obstruction. "Vision triangle" shall mean, when applied to uncontrolled intersections, a triangular area bounded on one side (Side "A" on the Fig.1) by an unmarked line measured from the midpoint of the intersection and extending ninety (90) feet, bounded further on the adjacent side (Side B on the attached Fig.1) by an unmarked line measured from the midpoint of the intersection and extending ninety (90) feet, and bounded further on the final side (Side "C" on the attached Fig.1) by an unmarked line joining the unmarked lines extending from the midpoint of the intersection. The Public Works Director, or his or her designee, shall determine, upon request, the location of any sight triangle.

(i) Digital Signs: Any Digital Sign adjacent to or across from any residential zoning within the City or surrounding jurisdiction may not be operational between 11:00 p.m. and 6:00 a.m.

Figure 1.



(j) Location. No sign or structure thereof shall be permitted on a public right-of-way or public easement, except:

- (1). As an exception granted by the Public Works Director, or designee based on the conditions stated in K.S.A. 12-759(e)(1) for granting a variance, for signs otherwise permitted in a district; or
- (2). As a use permitted by the Governing Body for public informational or directional purposes; or
- (3). Garage sale signs, not to exceed six square feet in size.

Any unauthorized sign placed on public property, including the public street right-of-way, is declared to be a public nuisance and be the cause of its removal and impoundment without notice. If not redeemed within 30 days by the owner paying a service charge of \$20, the City may dispose of the sign in any manner deemed appropriate. The Public Works Director, or his or her designee, may revoke the permit for any sign deemed to be in violation of this Section, i.e., 16B-203L, or of any condition on which the permit was based and order its removal within a reasonable period consistent with public safety. Repeat offenders may face a loss of privilege or increased fees.

(k) Damaged, Unsafe or Blight Signs. The Public Works Director, or his or her designee, shall require the immediate repair or removal of any conforming or nonconforming sign or sign structure which has been damaged or deteriorated so as to become a public hazard or blight. Such a sign or sign structure may be restored to its original condition without obtaining a permit, unless the sign is replaced and, thus, must conform to the current regulations. (Blight is defined as possessing defects that increase the hazards of fire, accident, or other calamities; dilapidation; disrepair; structural defects; uncleanness; overcrowding; impinging upon adequate ingress and egress; or of a quality and appearance not commensurate with the character of the properties in the neighborhood.)

(l) Abandoned signs. Any sign which is located on a property which becomes vacant and unoccupied for a period of thirty days, or any sign which was erected for an occupant or business unrelated to the present occupant or his

business shall be deemed to have been abandoned. Permanent signs applicable to a business temporarily suspended because of a change of ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of six months or more. An abandoned sign is prohibited and shall be removed within thirty days after notification by the public works director, or designee.

(m) Maintenance of Signs.

(1) All signs, together with all their supports, braces, connections, anchors and any appurtenance thereto shall be kept in repair and in proper state of preservation. The display surfaces of all signs shall be kept neatly painted or posted at all times. Every sign and the immediate surrounding premises shall be maintained by the owner or person in charge thereof in a safe, clean, sanitary and inoffensive condition, and shall be kept free and clear of all obnoxious substances, rubbish and weeds.

(2) Any crazing, fading, chipping, peeling or flaking of paint, plastic or glass, or any mechanical, electrical or structural defect shall be corrected. No repair required by the public works director, zoning administrator, or their designee, take longer than thirty days after notice has been made in conformance with the provisions of this Article.

(3) If any sign is not maintained in good condition so as to meet the approval of the public works director, zoning administrator or their designees, then the public works director, zoning administrator or their designees may order such sign to be removed under the provisions of the nuisance code of this City.

(Ord. 901; Code 2007; Code 2010)

16B-203. CLASSIFICATION OF SIGNS.

(a) Functional Types:

(1). Bulletin Board Sign: A sign that indicates the name of an institution or organization on whose premises it is located and which contains the name or names of persons connected with it, and announcements of persons, events or activities occurring at the institution. Such sign may also present a greeting or similar message.

(2). Business Sign: A sign which directs attention to a business or profession conducted; or to a commodity or service sold, offered or manufactured; or an entertainment offered on the premises where the sign is located or to which it is affixed.

(3). Construction Sign: A temporary sign indicating the names of designers and contractors involved in the construction of a project during the construction period and only on the premises on which the construction is taking place.

(4) Digital Signs: A variable message sign that utilizes computer-generated messages or some other electronic means of changing copy. These signs include displays using incandescent lamps, LEDs, LCDs

or a flipper matrix, and may also enable changes to be made to messages from locations other than at the sign. Any Digital Sign adjacent to or across from any residential zoning within the City or surrounding jurisdiction may not be operational between 11:00 p.m. and 6:00 a.m.

(5). Directional/Informational Sign: An on-premise sign giving directions, instructions or facility information and which may contain the name or logo of an establishment but no advertising copy, e.g., parking or exit and entrance signs. Such signs may contain a logo; provided, that the logo may not comprise more than 20% of the total sign area.

(6) *Flashing* or Moving Signs: Flashing, rotating or moving sign, animated sign, sign with moving lights or signs which create the illusion of movement achieved by electrical pulsation or by other means such as sequential light phasing.

(7). Garage Sale Sign: A sign which directs attention to a garage sale, yard sale, estate sale or auction. All garage sale signs must contain the address of the garage sale and the date or dates of the sale. Garage sale signs may be placed in public right-of-way. All garage sale signs must be picked up within one week from the last day posted on the garage sale sign. Such signs remaining after this period will be deemed litter and will be subject to the provisions of Chapter 11 of the City Code of the City of Haysville.

(8). Identification Sign: A sign giving the name and address of a building, business, development or establishment. Such signs may be wholly or partly devoted to a readily recognized symbol.

(9). Illuminated Signs: any sign 1) designed to give forth any amount of artificial light, or 2) designed to reflect such light deriving from any source which is intended to cause such light or reflection, such as spotlights.

(10). Nameplate Sign: A sign giving the name and/or address of the owner or occupant of a building or premises on which it is located, and where applicable, their professional status.

(11). Off Site Advertising Sign: Off-site advertising signs are allowed only in areas of like or less restrictive zoning. Example: An advertisement for a business allowed in Heavy Commercial zoning will only be permitted for off-site advertising in a Heavy Commercial Zone through a Heavy Industrial Zone.

(12) Off Premises Real Estate Signs. Notwithstanding the provisions of Section 16B-203N and, to temporarily provide additional visibility for new real estate developments within the City but not located along major traffic routes, the Public Works Director, or designee, may consider an application for an exception to allow off premises real estate signs in any zoning district. If approved, such real estate signs shall otherwise comply with the provisions for real estate signs of the district in which it is located. Such sign shall be removed when all of the lots in the subdivision have been sold.

(13) Real Estate Sign: A sign pertaining to the sale or lease of

the lot or tract of land on which the sign is located, or to the sale or lease of one or more structures, or a portion thereof located thereon.

(14). Retail Promotional Sign: A temporary sign which promotes a sale associated with a business.

(b) Structural Types:

(1). Awning, Canopy or Marquee Sign: A sign that is mounted or painted on, or attached to, an awning, canopy or marquee that is otherwise permitted by these regulations. No such sign shall project further below than seven feet from the ground level or beyond the physical dimensions of the awning, canopy or marquee.

(2). Monument or Ground Sign: Any sign placed upon the ground or supported by a base that is a minimum of 50% of the width of the monument at its widest point, independently of the principal building or structure on the property. A sign on accessory structures shall be considered a ground sign.

(3). Pole Sign: A sign that is mounted on free-standing poles or pylon. All pole signs shall be separated from residential property a distance measured in feet equal to the gross surface area of the sign measured in square feet.

(4). Portable Sign: Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, included, but not limited to, signs designed to be transported by means of wheels; signs converted to A-or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

(A) Use of a vehicle for a sign or sign support. It shall be prohibited to park or use a vehicle in such a way as to function as a sign, defined to include the parking of any vehicle, trailer or similar movable structure containing or supporting any signage with the exception of:

(i) Vehicles actively involved in construction on or the serving of the site;

(ii) Vehicles delivering products to the site in designated loading areas;

(iii) Vehicles parked in designated truck parking areas of business park districts that have been screened from or are not generally visible from the public right of way; or

(iv) Passenger vehicles, pick-up trucks and vans of a size that can fit fully within a standard parking space, containing signs painted on or permanently affixed on the doors or integral side body panels.

(5). Projecting Sign: A sign that is wholly or partly dependent

upon a building for support and which projects more than 12 inches from such building.

(6). Temporary Sign: A sign in the form of a banner, pennant, valance or advertising display constructed of fabric, card board, wall-board or other light weight materials, with or without a frame, intended for temporary display of not more than 30 days, four times per calendar year.

(7). Wall Sign: A sign fastened to or painted on a wall of a building or structure in such a manner that the wall becomes merely the supporting structure or forms the background surface, and which does not project more than 12 inches from such building.

(8). Billboard Sign: Any sign or advertisement used as an outdoor display for the purpose of making anything know, the origin or point of sale of which is remote from the display.

(Ord. 901;Code 2007; Code 2010)

16B-204 EXEMPTIONS.

(a) The following signs shall be exempt from the requirements of this Article:

(1) Signs of a duly constituted governmental body, including traffic or similar regulatory devices, legal notices, warnings at railroad crossings, and other instructional or regulatory signs having to do with health, hazards, parking, swimming, dumping, etc.

(2) Flags or emblems of a government or of a political, civic, philanthropic, educational or religious organizations, when displayed on private property.

(3) Directional/Informational signs, not exceeding six square feet in area, displayed on private property.

(4) Address numerals and other signs required to be maintained by law, rule or regulation; provided, that the content and size of a sign does not exceed such requirements.

(5) Memorial signs which are displayed on private property.

(6) Scoreboards in athletic fields or stadiums.

(7) Political campaign signs, not exceeding six square feet in gross surface area, which are displayed on private property and not otherwise in the public right-of-way. Such signs must be removed 48 hours after a candidate is elected to office or is eliminated from further participation in the election as a candidate, with similar provisions for bond issues and other ballot issues. Such signs may also be displayed as advertising signs where permitted by Section 16B-210.

(8) Portable signs promoting an event sponsored by a government, civic, educational or religious organization, not exceeding 32 square feet in gross surface area, which are displayed on private property. Such signs must be removed 72 hours after the event being promoted. Such signs may be placed on public property, public rights-of-way and public easements with permission from the Governing Body.

(9) Window displays and temporary on-site signs placed in or

upon windows of a commercial or industrial building, whether painted or attached.

(10) Signs designed as an integral part of vending machines and dispensing equipment, signs which are an integral part of merchandise display racks, and similar merchandise and advertising displays. All such signs included in this exception shall be located within eight feet of the building and not on public right-of-way; provided, however, such signs located on service station properties may also be located on, or immediately adjacent to, the service islands. This provision shall in no way be deemed to permit the display or storage of merchandise, vending machines or equipment not otherwise permitted by the provisions of this code.

(11) Menu board signs, except in any residential zoning district, provided that any ground menu board sign is located no closer to a front property line than the front wall elevation of the principal use structure, and no closer to a rear or side property line than the building setback allowed by the zoning ordinance or by any overlay zoning district standards or requirements. Menu board signs shall be limited to a maximum of two, fifty square foot maximum menu board signs per business, or one maximum one hundred square foot menu board sign per business, for display of menu items, pictures and/or prices. Smaller menu boards of up to six square feet may be located at individual parking stalls without meeting the building or compatibility setback requirements outlined above.

(b) The following signs are exempt from the permit requirements of Section 16B-205, but shall comply with all of the other regulations imposed by this Article:

(1) Nameplate signs not exceeding two square feet in gross surface area accessory to a residential building, including all types of manufactured and mobile homes.

(2) Identification signs not exceeding 24 square feet in gross surface area accessory to a multiple-family dwelling.

(3) Bulletin board signs not exceeding 24 square feet in gross surface area accessory to a church, school or public or non-profit institution.

(4) Business signs when located on property used for agricultural purposes and pertaining to the sale of agricultural products produced on the premises.

(5) Real estate signs not exceeding six square feet in surface area which may also be placed on the public rights-of-way and public easements; provided, (1) that they are placed no more than five feet from the property line, (2) permission is obtained from the adjacent private property owner, and (3) such signs shall only be displayed during such period of time as the model homes are regularly available for showing, or open houses for not more than four days at any one showing. Commercial property real estate signs not to exceed 32 square feet gross surface area.

(6) Temporary construction signs not exceeding 32 square feet of gross surface area.

(c) The following signs are exempt from the fee requirements of Section 16B-205, but shall comply with all of the other regulations imposed by this Article:

(1) Signs of a public or private school or of a religious organization, when located on private property.

(d) The following signs shall conform to the General Standards *All Signs* requirements of this Article, but are exempt from all of the other regulations imposed by this Article:

(1) Retail Promotional Signs when located on the private property of the business offering the sale/promotion.

(2) Ideological signs such as may pertain to religious or political expressions or personal beliefs when located on private property of the proponent.

(Ord. 901; Code 2007)

16B-205 GENERAL PERMIT PROCEDURES. The following procedures shall govern the application for, and the issuance of, all sign permits under this article:

(a) Applications. All applications for sign permits of any kind shall be submitted to the Public Works Director on forms prescribed by the Governing Body. Each application shall be accompanied by the applicable fees, which shall be established by the Governing Body of the city from time to time by ordinance.

(b) Action. Within fourteen days of the submission of a complete application for a sign permit, the Public Works Director, or his or her designee, shall either:

(1) Issue the sign permit, if the sign(s) that is the subject of the application conforms in every respect with the requirements of this article; or

(2) Reject the sign permit if the sign(s) that is the subject of the application fails in any way to conform with the requirements of this article. In case of a rejection, the Public Works Director, or his or her designee, shall specify in the rejection the section or sections of the ordinance or applicable plan with which the sign(s) is inconsistent.

(c) After a sign permit has been issued, the copy, wording or pictures may be changed without the necessity of obtaining a new permit or paying any additional fees, so long as the new copy, wording or pictures comply with the provisions of this article, but no change shall be made in the type, size, or shape of a sign nor shall any structural alterations be made without first obtaining a new sign permit.

The issuance or granting of a permit shall not be deemed or construed to be a permit for or an approval of any violation of any of the provisions of this Article. No permit presuming to give authority to violate or cancel the provisions of this Article shall be valid, except insofar as the work or use which it authorizes is lawful.

(Ord. 901; Code 2007; Code 2010)

16B-206 PERMITS TO CONSTRUCT OR MODIFY SIGNS. Permanent signs shall be erected, installed or created only in accordance with a duly issued and valid sign construction permit from the Public Works Director, or his or her designee. Such permits shall be issued only in accordance with the following requirements and procedures.

(a) Permit for New Sign or for Sign Modification. The individual applying for the permit must be either the property owner or the owner of the sign. An individual shall be the permittee, not a corporation or other legal entity. The property owner shall sign the Permit acknowledging such property owner's responsibility for maintaining such sign in conformance with this Article. An application for construction, creation, or installation of a new sign or for modification of an existing sign shall be accompanied by detailed drawings to show the dimensions, design, structure, and location of each particular sign. If the Public Works Director, or his or her designee, deems it necessary, he may also require that a licensed engineer furnish information concerning structural design of the sign and the proposed attachments. One application and permit may include multiple signs on the same zone lot.

(b) Permit to Operate. Such Permit for New Sign or for Sign Modification shall become the permit to maintain and operate the sign upon completion of construction of such sign, and approval by the Public Works Director as described below. The holder of the Permit shall be the primary party to whom notice of any violation shall be sent, and one of the party's subject to prosecution for maintaining or operating a sign in violation of this Code.

(c) Inspection. The Public Works Director, or his or her designee, shall cause an inspection of the zone lot for which each permit for a new sign or for modification of an existing sign is issued during the sixth month after the issuance of such permit or at such earlier date as the owner may request. If the construction is not substantially complete at the time of inspection, the permit shall lapse and become void. If the construction is complete and in full compliance with this ordinance and with the building and electrical codes, the Public Works Director, or his or her designee, shall affix to the premises a permanent symbol identifying the sign(s) and the applicable permit number or other reference. If the construction is substantially complete but not in full compliance with this ordinance and applicable codes, the Public Works Director, or his or her designee, shall give the owner or applicant notice of the deficiencies and shall allow an additional 30 days from the date of inspection for the deficiencies to be corrected. If the deficiencies are not corrected by such date, the permit shall lapse. If the construction is then complete, the Public Works Director, or his or her designee, shall affix to the premises the permanent symbol described above.

(d) Permit Not a Defense to Nuisance. No permit for a sign issued under this chapter shall be deemed to constitute permission or authorization to

maintain a public or private nuisance, nor shall any permit issued hereunder constitute a defense in an action to abate a nuisance.
(Code 2007; Code 2010)

16B-207. Reserved

16B-208 TEMPORARY SIGN PERMITS. Temporary signs on private property shall be allowed only upon the issuance of a Temporary Sign Permit, which shall be subject to the following requirements:

(a) Term. A temporary sign permit shall allow the use of a temporary sign for a specified 30-day period.

(b) Number. Only four temporary sign permits shall be issued to the same property owner or business license holder on the same zone lot in any calendar year.

16B-209 TEMPORARY FIREWORK SIGNS

In order to allow accessory signage for temporary fireworks sales locations, the following standards shall apply:

(1). Structural Types Permitted: One of each structural type of sign shall be permitted, excluding permitted permanent signs.

(2). Maximum Gross Surface Area: One square foot of sign area for each one lineal foot of arterial street or U. S. Highway 81 frontage or four hundred square feet, whichever is lesser.

(3). Required Setback: All temporary firework signs not otherwise affixed to the fireworks sales structure shall be separated from any principal residential building by one foot for every one square foot of sign surface area or one hundred feet, whichever is the lesser.

(4). Maximum Height: 25 feet when adjacent to an arterial street.

(5). Time Restrictions: Temporary firework sign permits issued accessory to temporary fireworks sales locations shall be limited to three days prior to, and three days past the duration of the fireworks sales temporary use permit. Upon the expiration of the temporary sign permit, all of the elements of the sign, including any temporary support structure shall be removed.

16B-209 PORTABLE SIGN PERMITS. Portable signs on private property shall be allowed only upon the issuance of a Portable Sign Permit, which shall be subject to the following requirements:

(j) Term, Commercial. A portable sign permit shall allow the use of a portable sign for a specified 30-day period when used for a commercial use on a non-residential zoned lot.

(k) Term, Celebratory. A portable sign permit shall allow the use of a portable sign for a specified 7-day period when used for a celebratory purpose (i.e., birth announcements, graduations, etc.) on a residential lot.

(l) Number. Only three portable sign permits shall be issued to the same resident, property owner or business license holder on the same zone lot in any calendar year.

(Ord. 901; Code 2007)

16B-210 DISTRICT REGULATIONS.

(a) AA, AAA, A, AB, AC, AZ, BB, B, Residential Districts

- (1) Functional Types Permitted:
 - (A) Bulletin Board signs.
 - (B) Business signs pertaining to home occupations.
 - (C) Construction signs.
 - (D) Garage Sale signs.
 - (E) Identification signs.
 - (F) Nameplate signs.
 - (G) Real estate signs.
- (2) Structural Types Permitted:
 - (A) Ground signs.
 - (B) Pole signs.
 - (C) Wall signs.
 - (D) Business signs pertaining to home occupations shall be affixed flush to the wall of a building.
 - (E) Temporary signs limited to those attached to the face of the principal structure, a permanent fence, or screening wall.
- (3) Number of Signs Permitted: One of each functional type per zoning lot.
- (4) Maximum Gross Surface Area.
 - (A). Bulletin board, business and identification signs: 16 square feet in all residential districts, but 40 square feet is permitted for churches or public institutions in all residential districts.
 - (B) Construction signs: 32 square feet.
 - (C) Nameplate signs: Two square feet.
 - (D) Real estate signs: Six square feet per lot; provided, that one sign not more than 100 square feet in area announcing the sale of lots and/or houses in a subdivision may be located on such development. Such sign shall be removed when all of the lots in the subdivision have been sold.
 - (E) Entry Monument: One per phase of development, or arterial or collector street entrance to a development. Limited to 10 feet maximum height, two square feet of gross surface area per lot or dwelling unit for sale or lease included in such development, but not to exceed 100 square feet maximum area, including the structure. Limited to ground lighting only.

(F) Wall signs shall be limited to 5% of the area of the wall area on which they are located.

(G) Temporary signs: 21 square feet.

(5) Maximum Height: 15 feet; provided, that signs associated with one and two-family dwellings and all types of manufactured and mobile homes shall not be located at a height greater than eight feet above ground floor elevation.

(6) Required Setback: 15 feet from the front line, except temporary real estate and garage sale signs, and none from the side yard setbacks.

(7) Illumination: No sign shall be illuminated, except that entry monument, bulletin board, and identification signs may be indirectly illuminated with incandescent or fluorescent light.

(b) CC Residential District and C Manufactured Home District.

(1) Functional Types Permitted:

(A) Bulletin board signs.

(B) Business signs pertaining to home occupations.

(C) Construction signs.

(D) Garage Sale signs.

(E) Identification signs.

(F) Nameplate signs.

(G) Real estate signs.

(2) Structural Types Permitted:

(A). Ground signs.

(B). Pole signs.

(C). Wall signs.

(D). Business signs pertaining to home occupations shall be affixed flush to the wall of a building.

(E). Temporary signs limited to those attached to the face of the principal structure, a permanent fence, or screening wall.

(3) Number of Signs Permitted: One of each functional type per zoning lot.

(4) Maximum Gross Surface Area.

(A) Bulletin board, business signs and identification signs: 16 square feet in all residential districts, but 40 square feet is permitted in the C District and for churches or public institutions in all residential districts.

(B) Construction signs: 32 square feet.

(C) Nameplate signs: Two square feet.

(D) Real estate signs: Six square feet per lot; provided, that one sign not more than 100 square feet in area announcing the sale of lots and/or houses in a subdivision may be located on such development. Such sign shall be removed when all of the lots in the subdivision have been sold.

(E) Entry Monument: One per phase of development, or arterial or collector street entrance to a development. Limited to 10 feet maximum height, two square feet of gross surface area per lot or dwelling unit for sale or lease included in such development, but not to exceed 100 square feet maximum area, including the structure. Limited to ground lighting only.

(F) Wall signs shall be limited to 5% of the area of the wall area on which they are located.

(G) Temporary signs: 21 square feet.

(5) Maximum Height: 15 feet; provided, that signs associated with one and two-family dwellings and all types of manufactured and mobile homes shall not be located at a height greater than eight feet above ground floor elevation.

(6) Required Setback: 15 feet from the front line, except temporary real estate and garage sale signs, and none from the side yard setbacks.

(7) Illumination: No sign shall be illuminated, except that entry monument, bulletin board, and identification signs may be indirectly illuminated with incandescent or fluorescent light.

(c) OC Office Commercial Districts.

(1) Functional Types Permitted:

- (A) Bulletin Board signs.
- (B) Business signs.
- (C) Construction signs.
- (D) Directional/Informational signs.
- (E) Garage Sale signs.
- (F) Identification signs.
- (G) Illuminated signs.
- (H) Name Plate signs.
- (I) Off Site Advertising signs for “OC Commercial” businesses.
- (J) Real Estate signs.
- (K) Retail Promotional signs.

(2) Structural Signs Permitted:

- (A) Awning, Canopy, Marquee signs.
- (B) Monument/Ground signs.
- (C) Pole signs.
- (D) Portable signs.
- (E) Temporary signs.
- (F) Wall signs.

(3) Number of Signs permitted:

- (A) Monument, ground and pole signs: One of each functional type per zoning lot.
- (B) Other structural types permitted: Limited to one of any of the other structure types.

(4) Maximum Gross Surface Area: One square foot of sign area for each one foot lineal of street frontage or One Hundred square foot maximum area, whichever is the lesser. Wall signs shall be limited to 5% of the area of the wall on which they are located. *(Refer to 16B-203a for calculation).*

(5) Maximum Height: 10 feet, except when adjacent to an arterial street within 200 feet of an intersection of two arterial streets, then 20 feet.

(6) Required Setback: No minimum required.

(d) D Light Commercial Districts.

(1) Functional Types Permitted:

- (A) Bulletin Board signs.
- (B) Business signs.
- (C) Construction signs.
- (D) Digital signs.
- (E) Directional/Informational signs.
- (F) Garage Sale signs.
- (G) Identification signs.
- (H) Illuminated signs.
- (I) Name Plate signs.
- (J) Off Site Advertising signs for “D Light Commercial” and “OC Commercial” businesses.
- (K) Real Estate signs.
- (L) Retail Promotional signs.

(2) Structural Signs Permitted:

- (A) Awning, Canopy, Marquee signs.
- (B) Monument/Ground signs.
- (C) Pole signs.
- (D) Portable signs.
- (E) Temporary signs.
- (F) Wall signs.

(3) Number of Signs Permitted:

(A) Ground, monument or pole signs: One of each functional type per zoning lot, except that each freestanding principal building which is part of an integrated shopping center may also have a ground, monument or pole sign and/or complexes with over 300 feet of frontage will be allowed one additional free standing sign for each additional 300 feet or portion thereof.

(B) Other structural types permitted: Limited to one of any of the other structural types per business establishment.

(4) Maximum Gross Surface Area: One square foot of sign area per one lineal foot of street frontage; provided, no single sign shall exceed 150 square feet, except when adjacent to an arterial street within 500 feet of the intersection of an arterial street and a highway, or adjacent to a highway, then 200 square feet. Wall

signs shall be limited to 5% of the wall area on which they are located. (Refer to 16B-203a for calculation).

(5) Maximum Height:

(A) Thirty-five feet when adjacent to a highway, or adjacent to an arterial street within 500 feet of the intersection of an arterial street and a highway.

(B) Thirty feet at all other locations.

(6) Required Setback: No minimum required.

(e) E Heavy Commercial District.

(1) Functional Types Permitted:

(A) Bulletin Board signs.

(B) Business signs.

(C) Construction signs.

(D) Digital signs.

(E) Directional/Informational signs.

(F) Garage Sale signs.

(G) Identification signs.

(H) Illuminated signs.

(I) Name Plate signs.

(J) Off Site Advertising signs for “E Heavy Commercial”, “D Light Commercial”, and “OC Commercial” businesses.

(K) Real Estate signs.

(L) Retail Promotional signs.

(2) Structural Signs Permitted:

(A) Awning, Canopy, Marquee signs.

(B) Billboard

(C) Monument/Ground signs.

(D) Pole signs.

(E) Portable signs.

(F) Temporary signs.

(G) Wall signs.

(3) Number of Signs permitted: One of each structural type permitted except that complexes with more than 500 feet of highway frontage may have two ground, monument, or pole signs, and a business with frontage also on an arterial or collector street may have one ground, monument, or pole sign per 300 feet of street frontage.

(4) Maximum Gross Surface Area: One square foot of sign area for each one lineal foot highway frontage, provided no single sign shall exceed a gross surface area of 400 square feet, except that one additional square foot of gross surface area shall be allowed for each one foot of set back from the front property line. In the instance a sign is located at the intersection of two streets, the additional square footage shall be based on the lesser of

setback. Signs adjacent to an arterial or collector street within 500 feet of the intersection of the arterial or collector street and the highway will be limited to 200 square feet. Wall signs shall be limited to 5% of the wall area on which they are located. (*Refer to 16B-203a for calculation*).

(5) Maximum Height: 20 feet above the highest point of the principal structure or 40 feet above the average ground level, whichever is less.

(6) Required Setback: No minimum required.

(f) F and G Industrial Districts.

(1) Functional Types Permitted:

- (A) Bulletin Board signs.
- (B) Billboard
- (C) Business signs.
- (D) Construction signs.
- (E) Digital signs.
- (F) Directional/Informational signs.
- (G) Garage Sale signs.
- (H) Identification signs.
- (I) Illuminated signs.
- (J) Name Plate signs.
- (K) Off Site Advertising signs
- (L) Real Estate signs.
- (M) Retail Promotional signs.

(2) Structural Signs Permitted:

- (A) Awning, Canopy, Marquee signs.
- (B) Monument/Ground signs.
- (C) Pole signs.
- (D) Portable signs.
- (E) Temporary signs.
- (F) Wall signs.

(3) Number of Signs Permitted. One of each structural type except that complex with frontage on more than one street may have one group or monument.

(4) Maximum Gross Surface Area: One square foot of sign area for each one foot lineal street frontage, provided no single sign shall exceed a gross surface area of 400 square feet.

(5) Maximum Height: 10 feet. Awning, canopy, marquee, and projecting signs shall be limited to the height of the building.

(6) Required Setback: No minimum required.

16B-211 TIME OF COMPLIANCE: NONCONFORMING SIGNS AND SIGNS WITHOUT PERMITS. Except as otherwise provided herein, the owner of any zone lot or other premises on which exists a sign that does not conform with the requirements of this ordinance or for which there is not a current and valid sign

permit shall be obligated to remove such sign or, in the case of a nonconforming sign, to bring it in to conformity with the requirements of this ordinance.

(a) Signs Existing on Effective Date. For any sign existing in the city on November 12, 2004, an application for a sign permit must be submitted to the Public Works Director, or his or her designee, before June 1, 2005. For any sign on property annexed at a later date, applications for sign permits shall be submitted within six months of the effective date of the annexation or within such period as may be established in an annexation agreement between the city and the landowner. Signs that are the subject of applications received after the applicable date set forth in this section shall be subject to all of the terms and conditions of this ordinance and shall not be entitled to the protection of Section 16-1011(b).

Applications for permits for existing signs submitted before June 1, 2005 shall be exempt from the initial fees adopted under authority of this article, but not from renewal and subsequent fees.

(b) Nonconforming Existing Signs, Permits and Terms. A permanent sign that would be permitted under this article only with a sign permit, but which was in existence on November 12, 2004 or on a later date when the property is annexed to the city, and which was constructed in accordance with the ordinances and other applicable laws in effect on the date of its construction, but which by reason of its size, height, location, design, or construction is not in conformance with the requirements of this ordinance, shall be issued a Nonconforming Sign Permit if an application in accordance with Section 16-B-211(a) of this article is timely filed.

Such permit shall allow the sign(s) subject to such permit, which were made nonconforming by the adoption of this article, to remain in place and be maintained provided that no action is taken which increases the degree or extent of the nonconformity. Any nonconforming sign shall either be eliminated or made to conform with the requirements of this Section when any proposed change, repair, or maintenance would constitute an expense of more than 25 percent of the lesser of the original value or replacement value of the sign. A legal nonconforming sign is subject to the provisions of Section 16B-203(l) and 16B-203(s) (abandoned signs). A change in the information on the face of an existing nonconforming sign is allowed.

(c) Nonconforming Portable Signs and Temporary Signs. Any portable or temporary sign legally in existence on November 12, 2004, shall be allowed to remain at the same location for a period ending no later than December 31, 2005, as a legal nonconforming use. Any portable or temporary sign remaining past said date shall be declared a violation, and become subject to the provisions of Section 16B-212.

(Ord. 901; Code 2007)

16B-212 REVOCATION OF PERMITS.

The public works director, zoning administrator or their designees may revoke any sign permit under the provision of this Article or order the removal of any sign for any of the following reasons:

- (1) Whenever a permit holder is convicted of a violation of any of the provisions of this Article or any other ordinance relating to signs;
- (2) Whenever a permit holder is convicted of any violation of any condition on which the permit was based;
- (3) Whenever any false statement or misrepresentation has been made on the application on which the issuance of the permit was based;
- (4) Whenever the sign owner has failed to maintain a sign in conformance with this Article or any other ordinance relating to signs;
- (5) Whenever the owner obtains a change in the zoning of the lot and the existing sign becomes nonconforming.

Any sign for which a permit has been revoked in conformance with this Article shall be removed by the property owner immediately, or may be removed by the City in conformance with Section 16B-214, with costs assessed to the property owner.

16B-213 VIOLATIONS OF ARTICLE; FINES AND COST OF SIGN REMOVAL.

(a) It shall be unlawful to violate any provision of this Article.

(1) Any owner of the sign, holder of the sign permit, or the owner of the property upon which the sign is located shall be subject to administrative citation for such violation issued by the public works director, zoning administrator or their designee. Every day of violation shall be a separate and distinct offense.

(2) An administrative monetary penalty in the amount of \$50.00 shall be levied for each violation. If the property owner or permittee fails to pay the fine, such fine shall be certified to the city clerk, who shall assess the costs as a special assessment against the lot or parcel of land upon which the sign was located in the manner provided by law.

(b) Any sign removed by the public works director, zoning administrator or their designees may be disposed of in any reasonable manner deemed appropriate by the city. The following fee schedule for removal and storage of unauthorized or hazardous signs is hereby established:

- (1) Routine removal, each\$30.00
- (2) Removal requiring special equipment or extra labor: Actual cost of removal.

The fee may be collected from the property owner, sign owner, or sign permittee. If the property owner, sign owner, or permittee fails to pay the authorized fee, such fee shall be certified to the city clerk, who shall assess the costs as a special assessment against the lot or parcel of land upon which the sign was located in the manner provided by law.

(c) Notwithstanding the foregoing, any property owner where a sign is located, permittee or owner of a sign which is being operated or maintained in violation of the provisions of this Article or any reasonable rule or order of the public works director, zoning administrator or their designee, or causing, permitting or suffering the same to be

done, is guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars or by imprisonment of not more than six months or both such fine and imprisonment, and any such violation may be prosecuted in municipal court.

16B-214 REMOVAL OF SIGNS.

(a) Any sign placed on private property, including billboards, in violation of any provision of this Article or any other Article of the Code of the city may be removed and impounded by the public works director, zoning administrator or their designees. The public works director, zoning administrator or their designees shall prepare a written notice specifying the violation involved which shall also state that if the sign is not removed or the violation not corrected within three days, the sign shall be impounded. Additionally, the notice shall inform the recipient that he or she may appeal the violation in conformance with the provisions of the nuisance code of this City. If the violation is not corrected within the stated time period, the sign shall be removed by the public works director, zoning administrator or their designees. The city will hold the sign(s) for ten business days. After at least ten business days of storage, the city shall have the sign properly disposed. Prior to the expiration of the ten business day period the owner of the sign may secure its return upon the payment of any fines and the removal and storage fee.

(b) Any sign, including billboards, placed on city property, city right-of-way, and city easements, in violation of any provision of this Article or any other Article of the Code of the city may be immediately removed and impounded by the public works director, zoning administrator or their designees. The public works director, zoning administrator or their designees shall prepare a written notice specifying the violation involved for which the sign has been impounded, and mailed by certified and regular mail to the address provided upon the sign permit and the property owner. Additionally, the notice shall inform the recipient that he or she may appeal the violation in conformance with the provisions of the nuisance code of this City. After at least ten business days of storage, the city shall have the sign properly disposed. Prior to the expiration of the ten business day period the owner of the sign may secure its return upon the payment of any fines and the removal and storage fee.

(c) Notwithstanding the above, the public works director, zoning administrator or their designees may cause immediate removal of a dangerous or defective sign, including any billboard, which poses an immediate threat or hazard to person or property. The public works director, zoning administrator or their designees shall prepare a written notice specifying the violation involved for which the sign has been impounded. Additionally, the notice shall inform the recipient that he or she may appeal the violation in conformance with the provisions of the nuisance code of this City. After at least ten business days of storage, the city shall have the sign properly disposed. Prior to the expiration of the ten business day period the owner

of the sign may secure its return upon the payment of any fines and the removal and storage fee.

(d) Any notice provided for in this Article involving administrative violations of this Article or removal of signs shall be served by certified mail, personal delivery or posting in a conspicuous place upon the property. Notice of an administrative violation may be served upon 1) the owner of the sign, holder of the sign permit, or an employee or representative of the permittee, and 2) the owner of the property upon which the sign is located or owner of property adjacent to the city right-of-way on which it is located as shown on the records of the register of deeds. Notice of an infraction offense shall be served upon the party to be prosecuted in conformance with the applicable law.

(Code 2010)