

**Chapter 7a.**  
**REVISED OUTDOOR SIGN REGULATIONS<sup>1</sup>**

**11-7a-1. Purpose and application.**

The purpose of this Chapter is to establish reasonable regulations for all exterior signs and sign structures within the incorporated limits of the City and billboard and electronic billboard signs within the City's Extra Territorial Jurisdiction (ETJ), in order to:

- (A) Balance the right of individuals to identify businesses and convey messages with the right of the public to be protected against the unrestricted proliferation of signs;
- (B) Protect the public, health, safety and welfare;
- (C) Reduce traffic hazards; and
- (D) Provide for an aesthetically pleasing community.

Any sign which was not lawfully existing at the time of adoption of this Chapter shall not become or be made legal solely by adoption of this Chapter. By the passage of this Chapter, no presently illegal sign shall be deemed to have been legalized.

(Ord. No. 8648, § 1, 6-24-2008; Ord. No. 9382, § 1, 1-13-15 )

**11-7a-2. Definitions.**

Except where the context clearly indicates to the contrary, the following words and phrase shall have the indicated meaning when used in this Chapter:

*A-frame sign:* A temporary sign which has two sides, the frame or support structure of which is hinged or connected at the top of the sign in such a manner that the sign is easily moved and erected.

*Animation:* The presentation of pictorials or graphics in a progression of frames which give the illusion of motion, including moving objects, moving patterns or bands of light, or expanding or contracting shapes.

*Apartment or mobile home park identification sign:* A permanent on-premises sign for the identification of an apartment building, housing complex, or mobile home park.

*Banner:* A temporary sign composed of lightweight, flexible material on which letters, symbols or pictures are painted or printed.

*Billboard:* An off-premises sign on which the message or copy can be changed periodically through manual means.

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<sup>1</sup>Editor's note(s)—Ord. No. 8648, § 1, adopted June 24, 2008, amended former Ch. 7a, §§ 11-71-1—11-7a-16, in its entirety to read as herein set out. Former Ch. 7a pertained to similar subject matter and derived from Ord. No. 8035, § 1, 8-28-2001; Ord. No. 8262, § 2, 9-28-2004.

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*Billboard, electronic:* An off-premises sign on which the message or copy can be electronically changed by remote or automatic means.

*Building identification sign:* A building identification sign identifies the name of the building, but displays no goods or services for sale or other advertising.

*Brightness:* The maximum luminous intensity of a sign, which shall not exceed 5,000 nits (candelas per square meter) during daylight hours or 500 nits between dusk and dawn, as measured from the sign's face.

*Building frontage:* The length of a building wall which faces a street.

*Canopy:* A permanent roof-like shelter extending from part or all of a building or independent of a building, including any rigid material or cloth or fabric supported by a structural frame.

*Canopy sign:* A sign that is permanently affixed to a canopy by paint, glue, sewing, or any other type of non-structural type of attachment.

*Changeable electronic variable message (CEVM):* An off-premises sign on which the message or copy can be electronically changed by remote or automatic means.

*Construction sign:* An on-premises sign, which may be erected for a limited time as defined under Section 11-7a-5(B), identifying any or all of the property owners, engineers, architects, mortgagees or other participants in the construction or improvement of the premises, but which displays no goods or services for sale or other advertising.

*Development sign:* An on-premises sign, which may be erected for a limited time as defined under Section 11-7a-7(G), identifying and promoting one or more developments, projects or buildings proposed or currently under construction, but which displays no goods or services for sale or other advertising.

*Dilapidated or deteriorated condition:* Any sign where:

- (a) The message or wording can no longer be clearly read; or
- (b) The structural support or frame members are visibly bent, broken, dented, or torn; or
- (c) The sign face is visibly cracked or, in the case of wood and similar products, splintered in such a way as to constitute an unsightly or harmful condition; or
- (d) The sign or its elements are twisted or leaning or at angles other than those at which it was originally erected (such as may result from being blown or the failure of a structural support); or
- (e) The sign or its elements are not in compliance with the requirements of the current electrical code and/or the building code of the City.

*Directional sign:* A sign which contains only information designed to direct pedestrian or vehicular traffic to the location of a facility on the property on which the sign is located. Such signs may include, but are not limited to, arrows, words or logos. No goods or services for sale may be listed on a directional sign.

*Directory sign:* A directory sign lists tenants in the building and may list the name of the building, but displays no goods or services for sale or other advertising.

*Dissolve/fade:* A mode of message transition on an electronic sign accomplished by varying the light intensity or pattern, where the first message gradually reduces intensity or appears to dissipate to the point of not being legible and the subsequent message gradually appears or increases intensity to the point of legibility.

*Double-faced sign:* Any two adjacent signs on a single structure or separate structures with both faces oriented in the same direction and not more than ten feet apart at the nearest point between the two faces. May be referred to as a side-by-side or stacked sign.

*Electronic message center (EMC):* An on-premises sign on which the message or copy can be electronically changed by remote or automatic means.

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*Foot-candle:* A unit of illuminance on a surface that is everywhere one foot from a uniform point source of light of one candle and equal to one lumen per square foot.

*Flag:* A sign made of cloth, bunting or similar material, often attached to a pole, with specific colors, patterns, or symbolic devices, used as a national, state or local symbol, or to indicate membership in an organization. The term "flag" shall also include any such display placed for decorative purposes only, with no commercial logo or advertising message.

*Flashing:* A sign containing an intermittent or blinking light source, or which gives the illusion of intermittent or blinking light by means of animation, or an externally-mounted intermittent light source.

*Frame:* A complete, static display screen on the entire face of an electronic sign.

*Frame effect:* A visual effect accomplished by varying the light intensity or pattern on the display surface of an electronic sign to attract the attention of viewers.

*Freestanding sign:* A sign which is attached to or a part of a completely self-supporting structure such as a frame or one or more poles which is not attached to any building or any other structure and which is permanently affixed to the ground.

*Gasoline price sign:* An on-premises sign with changeable copy letters and numbers or an electronic display without movement affixed to a gasoline pump canopy or its supports or a freestanding sign with the intent to display the current price of motor fuels.

*General business sign:* An on-premise sign which identifies a business or which advertises or promotes a commodity or service offered on the premises where such sign is located.

*Glare:* An effect created when an illumination source shines with sufficient brightness to cause discomfort, distract attention, or lead to the reduction or loss of visibility or visual function of the public.

*Government sign:* A sign indicating public works projects, public services or other programs or activities conducted by any governmental agency.

*Ground sign:* A permanent sign which is affixed to the ground with a maximum height not to exceed 48 inches above natural grade.

*Incidental sign:* A sign, generally informational, that has a purpose secondary to the use of the lot on which it is located, such as "no parking", "entrance", "loading only", "telephone", an address, and other such directives or guidance, or to provide public safety information, but which displays no goods or services for sale or other advertising.

*Institutional identification sign:* A permanent, on-premises sign for the identification of a public or private school, university, church, or hospital or other similar use.

*Logo:* An identifying symbol used for advertising purposes, which may or may not be a registered trademark or service mark of the entity identified.

*Lumens:* The luminous flux emitted per unit solid angle from a uniform point source whose luminous intensity is one candela.

*Menu board:* A sign displaying the menu for drive-up window service.

*Monument sign:* A permanent sign with a display surface that is an integral part of the support structure. Any ground sign exceeding four feet in height or any pole sign with less than nine feet of ground clearance or with a sign structure that is greater than two feet in width shall be considered a monument sign.

*Nameplate sign:* An on-premises sign showing only the name and/or address of the occupant.

*Nits:* A photometric unit defined as  $\text{cd/m}^2$  (candelas per square meter).

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*Non-commercial message sign:* A sign conveying a civic, political, religious, seasonal or personal message, or a regulatory message or warning, but which displays no goods or services for sale or other advertising.

*Office identification sign:* An on-premise sign which identifies an office building or any or all of the owners, occupants or tenants of an office building and the services related thereto, but which displays no goods or services for sale or other advertising.

*Off-premises sign:* A sign which advertises or directs attention to a business, product, service, or activity which is not usually available on the premises where the sign is located.

*On-premises sign:* A sign which advertises or directs attention to a business, product, service or activity which is usually available on the premises where the sign is located.

*Pennant:* A temporary sign made of lightweight material which tapers to a point, hung individually or in a series, with or without a logo or an advertising message printed or painted on it.

*Pole sign:* A permanent sign with a display surface that is attached to a self-supporting structure which has at least nine feet of ground clearance and which the structure does not exceed two feet in width. Any pole sign with a sign structure that exceeds two feet in width shall conform with the regulations for a monument sign.

*Political sign:* A temporary sign announcing or supporting political candidates or issues in connection with any national, state or local election.

*Portable sign:* A temporary sign which is designed to permit removal and reuse, and which includes but is not limited to A-frame and other such signs, and signs mounted on a trailer, wheeled carrier, vehicle, or other portable structure.

*Projecting sign:* A sign which is attached or affixed to a building, wall or structure other than a pole, and which extends more than 15 inches from such wall or structure.

*Reader board:* An on-premises sign consisting of alphanumeric characters that can be changed periodically through manual means.

*Real estate sign:* A temporary sign pertaining to the sale or lease of the premises, or a portion of the premises, on which the sign is located.

*Roof sign:* A sign that is painted on or erected upon or above the roof of a building.

*Setback:* The distance measured from a property line to the closest point of the sign or its supporting structure.

*Searchlight:* An apparatus on a swivel base that projects a strong, far-reaching beam of light.

*Scroll/travel:* A mode of message transition on an electronic sign where the message appears to move vertically or horizontally across the display surface.

*Shopping and/or office center:* A group of four or more retail and office establishments which is planned and developed as a business center with common access and parking.

*Sign:* Any structure, object, device, display or advertising artwork, situated outdoors or in a window, visible from a public or private street or alley, which is used entirely or in part to advertise, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, logos, fixtures, colors, illumination or projected images.

*Sign area:* The entire area within a single continuous perimeter enclosing the actual message or display area of a sign, and shall include the border and trim, but excluding the sign structure, provided that no goods or services for sale or other advertising is displayed on the structure.

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*Sign face:* That portion of the sign that is or can be used to identify, display, advertise, or communicate information, or for a visual representation which attracts or intends to attract the attention of the public for any purpose.

*Sign height:* The vertical distance between the highest point of the sign or its supporting structure and the natural grade directly below the sign.

*Sign structure:* Any structure which is designed specifically for the purpose of supporting a sign, has supported or is capable of supporting a sign. This definition shall include any decorative covers, braces, wires, supports, or components attached to or placed around the sign structure. Where any goods or services for sale or other advertisement is displayed on the structure, then said structure shall be counted as part of the sign area.

*Snipe or bandit sign:* A sign which is tacked, nailed, posted, pasted, glued, or otherwise attached to trees, stakes, fences, or other like objects, the advertising matter of which is not applicable to the present use of the premises on which the sign is located.

*Spectacular sign:* Any sign that physically rotates, oscillates, contains any moving parts, or contains flashing lights, including lights flashing in sequence.

*Sponsor panel:* A portion of a sign displaying the name of a product, service or company offering goods or services on-site or having a promotional relationship for events occurring on the premises.

*Streamers:* A temporary display made of lightweight, flexible materials, consisting of long, narrow, wavy strips hung individually or in a series, with or without a logo or advertising message printed or painted on them.

*Street frontage:* The length of the property line of a lot or tract immediately adjacent to a public or private street, measured in feet.

*Subdivision identification sign:* An identification sign at the main entrance or entrances to a residential subdivision or planned development project.

*Temporary sign:* A sign not permanently affixed to the ground or to a building or other structure.

*Transition:* A visual effect used on an electronic sign to change from one message to another.

*Video display:* An electronic sign that displays motion or pictorial imagery, including a display from a "live" source. Video display signs include images or messages with these characteristics projected onto buildings or other objects.

*Visibility clearance areas:* Visibility clearance areas are triangular-shaped areas as defined in Section 10-1-10 of the Midland City Code and which are located at the intersection of streets, streets and alley rights-of-way, and the intersection of streets and driveways.

*V-type sign:* A sign structure composed of two signs with the faces oriented in opposite directions and in the general shape of the letter "V", provided, however, that only one face can be viewed from any one direction from any public street, and with a maximum angle between the faces of 60 degrees.

*Wall decoration:* A mural or display designed and intended as a decorative or ornamental feature which is painted or placed directly onto a wall or fence and which contains no copy, advertising symbols, lettering, trademarks or other references to products, services, goods or anything sold on- or off-premises.

*Wall sign:* A permanent sign which is painted on or attached directly to a fence or a building surface, including window areas (translucent areas which are visible from a street or alley), that extends not more than 15 inches from the face of the fence or wall.

*Window sign:* A temporary sign placed on, affixed to, painted on or located within the frame of a transparent opening in the wall of a building.

(Ord. No. 8648, § 1, 6-24-2008; Ord. No. 9382, § 1, 1-13-15 )

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### **11-7a-3. Prohibited signs.**

All signs not expressly permitted under this Chapter or exempt from regulation are prohibited in the City. Such signs include, but are not limited to:

- (A) Portable signs, inflatable signs, banners, streamers, pennants, and other such temporary signs, except as allowed under Sections 11-7a-11 and 11-7a-12
- (B) Signs which contain or have attached thereto banners, posters, pennants, ribbons, streamers, balloons, strings or lights, spinners or other similar devices, except as allowed Sections 11-7a-11 and 11-7a-12
- (C) Snipe or bandit signs or any advertisement placed on trees, rocks or other natural features.
- (D) Off-premises signs in the City limits, except billboards which shall be regulated in conformance with Section 11-7a-8
- (E) Billboards in the City of Midland's Extra Territorial Jurisdiction (ETJ).
- (F) Signs which advertise an activity, business, or service no longer conducted on the premises upon which the sign is located. After a period of three months following cessation of the business, activity, or service on the premises, the sign face shall be obscured.
- (G) Signs which are located on any public sidewalk, street, alley, or other public property, except as outlined in Section 11-7a-7(H)6.
- (H) Projecting signs or any portion of signs which project or extend more than 15 inches over any public right-of-way, any public sidewalk, street, alley, or other public property except as outlined in Section 11-7a-7(H)6.
- (I) Roof signs or any advertisement painted, erected or affixed on the roof of a building.
- (J) Signs which are located within a runway protection zone constructed to a height that violates any maximum height restrictions established by the United States Department of Transportation and/or the Federal Aviation Administration.
- (K) Signs which make use of any word, phrase, symbol, character, or illumination, in such manner as to interfere with, mislead, or otherwise constitute a hazard to pedestrian or vehicular traffic.
- (L) Signs which resemble official traffic control signs, signals, or devices, which bear words, "STOP," "Go Slow," "Caution," "Danger," "Warning," or similar words.
- (M) Signs which contain reflectors or glaring, strobe, or rotating light, beacon, beam or flashing illumination resembling an emergency signal.
- (N) Searchlights or any type of beacon used to attract attention to a property. This shall not prohibit the use of a searchlight by authorized personnel for emergency purposes.
- (O) Spectacular signs and signs which emit audible sound, odor, or visible matter.
- (P) Any sign or advertising device attached to any motor vehicle or any trailer or other structure parked on a public right-of-way, on public property, or on private property so as to be visible from a public right-of-way, the basic purpose of which sign or advertising device is to provide advertisement of a product or to direct people to a business or activity located on the same property or other property or premises, except as allowed under Section 11-7a-5(J).
- (Q) Video display signs, except for the use on private property where such sign is not visible from any public street.

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- (R) Any stereopticon or motion picture machine used in conjunction with or attached to any sign in such manner as to permit the images projected there from to be visible from any public street or sidewalk.

(Ord. No. 8648, § 1, 6-24-2008; Ord. No. 9382, § 1, 1-13-15 )

#### **11-7a-4. Permit, bond, and license requirements.**

- (A) *Permit required:* A sign permit issued by the City building official shall be required prior to the erection, installation, repair, alteration or relocation of a sign except for routine maintenance and according to Section 11-7a-5(A). Acceptance of the permit shall require compliance by the applicant with all applicable regulations of Title IV of the Midland City Code, as amended, as well as the regulations set forth in this Chapter.
- (B) *Sign contractors bond required:* In addition to the sign permit requirements, a surety bond in the sum of \$5,000.00 shall be filed with the building official and made conditional for the erection and/or painting of signs in accordance with the ordinances of the City and the laws of the State. Such bond shall provide for the indemnification of the City and for any and all damages or liabilities that may occur to or against the City by reason of the erection/painting, maintenance, demolition, repair, removal, defects in or collapse of any Sign erected by or under the direction of any such person. Such bond shall further provide for the indemnification of any person who shall, while upon public property of the City, incur damages for which the person erecting such signs is legally liable by reason of the erection/painting, maintenance, demolition, repair, removal, defects in or collapse of any such sign. On December 31 of each year all sign bonds, except continuous bonds, shall expire. A certificate of continuation for continuous bonds shall be provided on or before December 31 of each year.
- (C) *Licensed electrician required:* Any sign requiring a permit and incorporating any electrical lighting or wiring shall be installed, repaired, maintained, and removed by someone who is licensed and bonded for electrical sign work in the City of Midland in accordance with Title IV, Chapter 2 of the Midland City Code, as amended. A separate electrical permit shall be required for each such sign.

(Ord. No. 8648, § 1, 6-24-2008; Ord. No. 9382, § 1, 1-13-15 )

#### **11-7a-5. Exemptions.**

The following signs are exempt from the permit requirements outlined in Section 11-7a-4; however, such signs shall be located on private property and shall comply with all other Chapter requirements.

- (A) Copy change and sign face replacement, when no increase in sign area or height is made, for signs otherwise allowed under this Chapter; not to include however, changes proposed on a non-conforming sign or modifying any sign to an electronic message center.
- (B) Construction sign when placed upon the construction site following the issuance of a building permit. Only one such sign shall be allowed per street frontage and each sign shall not exceed 64 square feet in area. Such sign must be removed not later than 30 days after a certificate of occupancy is issued by the building official.
- (C) Contractor signs identifying the contractor or subcontractor performing work on the premises where the sign is displayed. Such signs may not exceed a total of six square feet in area and must be removed from the premises when the work is completed.
- (D) Directory signs and office identification signs, up to one of each such sign per building façade, provided that no one sign shall exceed 64 square feet in area.

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- (E) Flags of the United States, State of Texas, or any other political subdivision, any flag or banner of a bona fide religion, fraternal or charitable organization, and flags of corporations, subdivisions, or community associations or organizations.
  - (F) Incidental signs, provided that such signs shall not exceed four square feet and shall comply with all other requirements of this Section.
  - (G) Nameplate signs for residential locations, not to exceed two square feet in area.
  - (H) Non-commercial message signs, provided that such signs shall not exceed a total of 64 square feet in area per lot and no single sign shall exceed 32 square feet in area per face and shall not exceed five feet in height to the top from the surrounding finished grade.
  - (I) On-site directional signs and street identification signs not exceeding four square feet which denote the entrance, exit, and direction of traffic flow, provided that such directional signs do not contain advertising and are not used as such.
  - (J) Political advertising signs, but only if such signs conform to Section 11-7a-10.
  - (K) Professional name plates and occupational signs, when attached to the building face and which denote only the name and occupation of an occupant in a commercial building or public institutional building and not exceeding four square feet per sign area.
  - (L) Signs painted on or attached to any vehicle or trailer or other portable structure, provided that:
    - 1. Such a sign merely identifies the vehicle or trailer or other portable structure as belonging to such business by displaying the name, address, and/or contact information of such business, and/or generally identifies the type of product or service offered by such business, but which includes no specific advertisement of goods or services for sale; and
    - 2. The primary use of such vehicle or trailer or other portable structure is for the transportation of products or the delivery of services in connection with such business; and
    - 3. Such vehicle or trailer or, if applicable, other portable structure, is currently licensed and inspected in the State of Texas and is in operable condition; and
    - 4. Such vehicle or trailer or other portable structure does not remain parked for longer than 72 consecutive hours on the same property. Any such vehicle or trailer or other portable structure parked for longer than 72 consecutive hours on the same property shall be considered a temporary sign subject to Section 11-7a-11.
  - (M) Real estate signs which advertise the sale, rental or lease of the premises on which such signs are located provided that the dimension does not exceed:
    - 1. Ten square feet in area if located in a residential district; or
    - 2. 32 square feet if located in a nonresidential district.
  - (N) Signs on fences or other structures within public parks or signs that are positioned internally within public or private play fields, provided that no one sign shall exceed 32 square feet in area.
  - (O) Signs prepared by or for the local, state or federal government, including sites or buildings of historical significance.
  - (P) Temporary signs advertising garage sales as defined in Section 6-1-22 of the City Code, provided that such signs shall be removed within one day following the sale and shall not be placed on public property or utility poles.



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- (Q) Traffic or street signs, legal notices, public utilities, railroad crossing signs, danger, and such emergency, temporary or non-advertising signs as approved by the City of Midland, may be located in the public right-of-way.
  - (R) Window signs of a temporary nature only.
  - (S) Wall decorations and works of art that do not include a commercial message.

(Ord. No. 8648, § 1, 6-24-2008; Ord. No. 9382, § 1, 1-13-15 )

### **11-7a-6. Master sign plan.**

- (A) *Purpose.* The purpose of a master sign plan is to allow a property owner or developer, subject to approval of the City, the option of designating an area that will allow flexibility in sign location due to peculiarities in the location or configuration of parcels of real property, such as parcels with no street frontage, or multiple parcels organized into combined uses, or to allow creative sign management in exchange for a cumulative reduction in sign area, sign height or the total number of signs.
  - (B) *Minimum requirements.* To qualify for a master sign plan, an area must:
    - 1. Include one lot or parcel or two or more contiguous lots or parcels that are not included in any other master sign plan.
    - 2. The owners, or the authorized representatives of the owners, of all lots within the proposed master sign plan area must sign the application for a master sign plan.
  - (C) *Required submittals.* In order to obtain a master sign plan, the owner(s) of the property located within the proposed master sign plan area must sign and submit an application to the City's department of engineering and development, planning division, on a form provided by the planning division, which application must be accompanied by the following:
    - 1. A site plan showing the proposed boundaries of the master sign plan area.
    - 2. A site plan showing the location of all existing or proposed freestanding signs.
    - 3. A table showing the type, square footage and heights of each sign indicated on the site plan.
    - 4. The application fee established by the City for the processing of such applications.
- Upon completion of the application, the planning division shall forward the master sign plan to the planning and zoning commission for final consideration.
- (D) *When effective.* A master sign plan shall not become effective until all owners of the property within the master sign plan area have signed an agreement which indicate the property owners' agreement that:
    - 1. The master sign plan can be amended only by the written consent of all parties or their successors, and the City.
    - 2. The agreement is binding on all successors in interest to the property within the master sign plan area.
    - 3. Each party waives any right to apply for or install any sign inconsistent with the provisions of the master sign plan, even though such sign might otherwise be allowed under this Chapter.
  - (E) *Single premises.* Once approved, the area described in the master sign plan will be deemed to be a single premises for the purpose of determining whether a sign is an on-premises sign. A sign which advertises a use on a lot within the master sign plan area which is not a use which occurs on that lot shall be termed a master sign plan ("MSP") sign. The use advertised on an MSP sign shall be defined as an MSP use.

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(F) *City review of signs.* All freestanding signs included within a master sign plan area shall be individually subject to review and approval of placement, size and height, as approved by the City of Midland.

(Ord. No. 8648, § 1, 6-24-2008; Ord. No. 9382, § 1, 1-13-15 )

### **11-7a-7. Sign standards.**

In addition to all permit requirements and other regulations contained in this Chapter, the following regulations shall be applicable to all permanent signs.

(A) *Illumination.*

1. Light from any exterior source intended to illuminate a sign:
  - a. Shall be shaded, shielded, or directed in such a way so that the light intensity or brightness shall not adversely affect the vision of pedestrian or vehicle operators on public or private streets, driveways, or parking areas, or operators of aircraft in the approach path to any airport runway; and
  - b. Shall not contain flashing lights.
2. Illumination from any sign:
  - a. Shall not interfere with the effectiveness of any official traffic sign, signal or device.
  - b. Shall not contain flashing lights.
  - c. Shall not exceed 0.3 foot candles between dusk and dawn, as measured from the sign's face at ground level at the following distances:
    - i. Signs greater than zero square feet and not greater than 100 square feet shall be measured at 100 feet from the source.
    - ii. Signs greater than 100 square feet and not greater than 300 square feet shall be measured at 150 feet from the source.
    - iii. Signs greater than 300 square feet shall be measured at 200 feet from the source.
3. The display face of an illuminated billboard shall face away at a 45-degree angle from any AE, CE, 1F-1, 1F-2, 1F-3, MH, TH, 2F, MF-1, or MF-2 zoning districts.
4. Electronic message displays and electronic billboards must have an electronic control to produce the required illumination change required in subparagraph 2.

(B) *Maintenance and removal.*

1. All signs must be maintained in a safe, readable condition. Signs which are determined by the building official to be in a dilapidated, deteriorated, or otherwise unsafe condition, shall not be allowed to remain on any premises.
2. For any sign so designated as dilapidated, deteriorated, or otherwise unsafe, written notice shall be given to remove the sign or bring the sign into compliance with this ordinance, as follows:
  - a. Any written notice to alter or to remove a sign shall be given by the building official by certified mail, return receipt requested, or written notice served personally upon the owner, lessee, or person responsible for the sign, or the owner's agent; and

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- b. If such order is not complied with within 15 working days after the written notice is sent, the building official may initiate proceedings to revoke the permit and remove the sign at the expense of the owner, lessee, or person responsible for such sign.
- (C) *Foundation requirements.* All monument signs and freestanding pole signs that exceed 30 feet in height shall have the foundation plan prepared by a professional engineer.
- (D) *Calculating sign area.*
1. *Back-to-back signs.* Only one side of a back-to-back sign is measured in calculating sign area.
  2. *V-type signs.*
    - a. Only the largest face of a V-type sign shall be measured in determining the total sign area of the sign.
    - b. If a two-face sign is erected in a "V" shape, both faces of which can be seen from the same public street, or are at an angle of greater than 60 degrees to each other, then such sign is not a V-type sign, and shall be considered two separate signs for all purposes under this Chapter.
  3. *Canopy signs:* The area of canopy sign shall count towards the total area of wall signs allowed on a property.
  4. *Use of advertising on a sign structure.* Any portion of a sign structure that is used for advertising shall be calculated as part of the allowed freestanding sign area.
- (E) *Setback requirements.*
1. *Ground and pole signs.* Except as regulated elsewhere in this Chapter, there shall be no minimum setback from property lines for a ground or pole sign, provided that no portion of a sign face shall overhang into the public right-of-way.
  2. *Maximum width of a pole sign.* A sign that is attached to a structure that exceeds two feet in width shall be considered a monument sign.
  3. *Monument signs.* All monument signs must be installed or constructed with a minimum ten-foot setback from the property line.
  4. In all cases, a sign must observe the visibility clearance area restrictions as defined in Section 10-1-10.
- (F) *Use of an electronic message center (EMC) sign.*
1. *Operational limitations.*
    - a. The display of a static message or image and the use of scroll/travel to display a message or image shall be permitted.
    - b. The use of any other type of transition, such as dissolve/fade, and the use of frame effects, such as animation whereby text or graphics appear to move or change in size, shall be prohibited except in accordance with the following:
      - i. Each message or image must be displayed for a minimum of three seconds; and
      - ii. The change of message or image must be accomplished within two seconds or less and must occur simultaneously on the entire sign face.
  2. *Size limitations.* In all cases, the use of an electronic message center (EMC) shall count toward the total area of signs allowed on a property.

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- a. In the AE-MF-2 Districts a sign permit may be issued for property occupied by a conforming, non-residential use in accordance with the following:
    - i. An EMC shall not exceed 24 square feet in area.
    - ii. The EMC may be a single-face or back-to-back sign. The use of a double-faced EMC (side-by-side or stacked) is prohibited.
    - iii. The maximum height of a freestanding EMC shall be 15 feet.
    - iv. For an EMC mounted on a pole, a clearance of not less than seven feet from the bottom of the EMC shall be required.
  - b. In the O-1, Office and less restrictive zoning districts:
    - i. The area of an EMC shall be limited to 15% of the total area of signs permitted for the property or 42 square feet, whichever is less.
    - ii. The maximum height of a freestanding EMC shall be 20 feet.
    - iii. For an EMC mounted on a pole, a clearance of not less than nine feet from the bottom of the sign shall be required.
  - c. For a property which (a) has street frontage on Loop 250, FM 1788, or Highway 191 west of Loop 250, and (b) is located in an LR-1, Local Retail District or less restrictive zoning district, the following shall apply:
    - i. The area of an EMC shall be limited to 20% of the total signs allowed for the property or 75 square feet, whichever is less.
    - ii. The maximum height of a freestanding EMC shall be 30 feet.
    - iii. For an EMC mounted on a pole, a clearance of not less than nine feet from the bottom of the sign shall be required.
  - d. For a property which (a) has street frontage on Interstate Highway 20 and (b) is located in an LR-1, Local Retail District or less restrictive zoning district, the following shall apply:
    - i. The area of an EMC shall be limited to 20% of the total signs allowed for the property or 75 square feet, whichever is less.
    - ii. The maximum height of a freestanding EMC shall be 40 feet.
    - iii. For an EMC mounted on a pole, a clearance of not less than nine feet from the bottom of the sign shall be required.

(G) *Development sign.* Development signs shall be allowed in all zoning districts provided that:

- 1. Only one such sign shall be allowed per street frontage and each sign shall not exceed 128 square feet; and
- 2. Such signs may be placed no earlier than 90 days prior to construction; and
- 3. All such signs must be removed within 30 days upon the receipt of a certificate of occupancy for the project or upon the completion of 90 percent of the project; and
- 4. The use of an electronic message center as a development sign shall be prohibited.

(H) *General business sign.*

- 1. In the AE - MF-2 Districts, a sign permit may be issued for property occupied by a conforming, non-residential use in accordance with the following:

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- a. For a residential subdivision, two freestanding identification signs shall be allowed at each main entrance to the subdivision, provided that the sign area of any one sign shall not exceed 64 square feet and the total sign area shall not exceed 100 square feet. Such signs may be externally illuminated in accordance with paragraph (A) above, and shall make no reference to the sale or lease of the lots or houses located within said subdivision.
  - b. For an apartment or mobile home park:
    - i. One building identification freestanding sign, up to 64 square feet in area, shall be allowed per street frontage.
    - ii. One building identification wall sign, up to 50 square feet in area, shall be permitted for each building façade.
  - c. For institutional uses and all other non-residential uses:
    - i. One electronic message center shall be allowed per property.
    - ii. One freestanding business sign shall be allowed per street frontage, not to exceed 120 square feet for any one sign.
    - iii. The use of an EMC as any portion of a freestanding sign shall be in compliance with paragraph (F) above.
    - iv. The maximum height for a freestanding sign shall be 15 feet. No sign may be placed on a berm or other structure so as to artificially increase the height.
    - v. Wall signs shall not exceed 50 square feet or 15 percent of the area of the wall to which such signs are painted or affixed, whichever is less, except that the use of an EMC as wall sign shall comply with paragraph (F) above.
    - vi. No illuminated wall sign shall be permitted on the rear or side of the building that is adjacent to a residential use.
2. In the O-1 and O-2 Districts, except for buildings over five stories, see paragraph 7 below:
- a. One electronic message center shall be allowed per property.
  - b. One freestanding sign shall allowed per street frontage. The use of an EMC as any portion of a freestanding sign shall be in compliance with paragraph (F) above.
  - c. The maximum height for a freestanding sign shall be:
    - i. 20 feet on an arterial street; or
    - ii. 15 feet on a non-arterial street. No sign may be placed on a berm or other structure so as to artificially increase the height.
  - d. Wall signs shall not exceed 50 square feet or 15 percent of the area of the wall to which such signs are painted or affixed, whichever is greater, except that the use of an EMC as wall sign shall comply with paragraph (F) above.
  - e. No illuminated wall sign shall be permitted on a side of a building where said sign would be adjacent to a residential use.
  - f. No wall sign shall be permitted on the rear of the building where said sign would be adjacent to a residential use.
  - g. On property with a single street frontage of less than 150 feet in length, the combined area of freestanding and wall signs shall not exceed one and one-half times the length of street frontage of said property, up to a maximum of 180 square feet, provided that no one sign

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shall exceed 120 square feet in area. In all cases, a minimum of 60 square feet cumulative sign area shall be allowed.

- h. On property with a single street frontage of 150 feet or more in length, the combined area of freestanding and wall signs shall not exceed 240 square feet, and no one sign shall exceed 120 square feet in area;
- i. On property with multiple street frontages, the length of each street frontage shall be used to calculate total sign area according to subparagraphs g or h above, provided that the cumulative area of all signs shall not exceed 300 square feet, and that no one sign shall exceed 120 square feet in area.

3. In the NS District and less restrictive districts, except for buildings in the C-1 District, see paragraph 6 below, and for buildings over four stories, see paragraph 7 below:

- a. One electronic message center shall be allowed per property.
- b. One freestanding sign shall be allowed per street frontage. The use of an EMC as any portion of a freestanding sign shall be in compliance with paragraph (F) above.
- c. The maximum height for a freestanding sign shall be:
  - i. 30 feet on an arterial street; or
  - ii. 15 feet on a non-arterial street.

No sign may be placed on a berm or other structure so as to artificially increase the height.

- d. Wall signs shall not exceed 50 square feet or 15 percent of the area of the wall to which such signs are painted or affixed, whichever is greater, except that the use of an EMC as wall sign shall comply with paragraph (F) above.
- e. No wall sign shall be permitted on the rear of the building where said sign would be adjacent to a residential use.
- f. Gasoline price signs shall not be counted toward the total sign area for the property, provided that no more than one such sign, up to 20 square feet in area, shall be allowed per street frontage.
- g. Freestanding menu boards for drive-through service that do not exceed 32 square feet in area and six feet in height shall not be counted against the allowable total.
- h. On property with a single street frontage of less than 150 feet in length, the combined area of freestanding and wall signs shall not exceed one and one-half times the length of street frontage of said property, up to a maximum of 240 square feet, provided that no one sign shall exceed 180 square feet in area. In all cases, a minimum of 60 square feet cumulative sign area shall be allowed.
- i. On property with a single street frontage of 150 feet or more in length, the combined area of freestanding and wall signs shall not exceed 300 square feet and no one sign shall exceed 180 square feet in area.
- j. On property with multiple street frontages, the length of each street frontage shall be used to calculate total sign area according to subparagraphs h and i above, provided that the cumulative area of all signs shall not exceed 360 square feet, and that no one sign shall exceed 180 square feet in area.

4. *Shopping center/office center developments.*

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- a. Only freestanding signs shall be calculated against the total sign area allowed on the property, provided that all wall signs are in compliance with subparagraphs 3d and 3e above;
  - b. The use of any electronic message center sign shall be allowed in compliance with paragraph (F) above;
  - c. One freestanding sign, the area of which may be two times the length of the street frontage up to a maximum of 180 square feet, may be installed on each street frontage, provided that the total sign area of all freestanding signs on said property shall be 400 square feet.
  - d. In addition to the other signs otherwise permitted by this Chapter, one sign with a maximum area of 250 square feet, which only identifies an on-premises movie theater and advertises current and future movie attractions at said theater, may be installed at a shopping center.
5. *Motor vehicle and heavy equipment dealerships.* Car, truck, motorcycle, boat, recreational vehicle, mobile home, or construction equipment dealerships located on an individual lot or combined lots or parcels:
- a. Only freestanding signs shall be calculated against the total sign area allowed on the property, provided that all wall signs are in compliance with subparagraphs 3d and 3e above;
  - b. The use of any electronic message center sign shall be allowed in compliance with paragraph (F) above;
  - c. One freestanding sign shall be allowed for each 150 feet of street frontage, provided that the area of any one sign shall not exceed 200 square feet, and the total area of all freestanding signs on the property shall not exceed 500 square feet.
6. *C-1, Central Area District:*
- a. Signs located on any public sidewalk, street, alley, or other public property shall be allowed only with approval of a permit from the Director of Transportation. The area of such a sign shall be calculated as a freestanding sign.
  - b. Signs which project or extend more than 15 inches over any public sidewalk, street, alley, or other public property shall be allowed provided that such signs (a) shall not extend into the public right-of-way for a distance of more than ten feet or less than 18 inches from the back of the street curb, whichever is more restrictive, and (b) shall have a minimum clearance of nine feet above the sidewalk grade or ground level. The area of such projecting signs shall be calculated as a wall sign.
7. *Multi-story buildings.* The following shall apply to all buildings over four stories in the C-1 District and to buildings over five stories in the O-1 or less restrictive zoning districts.
- a. One building identification wall sign, up to 200 square feet in area, shall be allowed per building façade.
  - b. One building identification freestanding sign, up to 100 square feet in area, shall be permitted per property, provided such sign is an on-premises sign located on private property.
  - c. In addition to subparagraph a above, wall signs shall be limited to two per building façade, not to exceed 50 square feet or 15 percent of the area of the wall to which such signs are painted or affixed, whichever is greater, except that the use of an EMC as a wall sign shall

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comply with paragraph (F) above. The total area for all wall signs shall not exceed 400 square feet per building.

8. *Loop 250, FM 1788, and portions of Highway 191 frontage.* A property which (a) has street frontage on Loop 250, FM 1788, or Highway 191 west of Loop 250, and (b) is located in an LR-1, Local Retail District or less restrictive zoning district, may have one on-premises freestanding sign which exceeds the 30-foot height specified in subparagraph 3 above subject to the following regulations:
  - a. The height of such sign, which must be located adjacent to the Loop 250 frontage, shall not exceed 37 feet.
  - b. No portion of the sign or support shall be less than 75 feet from the boundary of a property zoned MF-2, Multi-Family Dwelling District or more restrictive.
  - c. All signs must be placed and comply with state and federal regulations, even if more restrictive than the foregoing regulations.
  - d. No sign described in this subsection shall be placed in any airport runway protection zone.
9. *Interstate Highway 20 frontage.* A property which (a) has street frontage on Interstate Highway 20 and (b) is located in an LR-1, Local Retail District or less restrictive zoning district, may have one on-premises freestanding sign which exceeds the 30-foot height specified in subparagraph 3 above, subject to the following regulations:
  - a. The height of such sign, which must be located adjacent to the Interstate Highway 20 frontage, shall not exceed 50 feet.
  - b. The maximum sign area shall be 400 square feet.
  - c. No portion of the sign or support shall be less than 15-feet from any adjacent right-of-way.
  - d. No portion of the sign or support shall be less than 100-feet from the boundary of a residential zoning district.
  - e. All signs must be placed in compliance with state and federal regulations, even if more restrictive than the foregoing regulations.
  - f. No signs described in this subsection shall be placed in any airport runway protection zone.
- (I) *Planned districts.* Any property located within a planned district, or governed by a specific use permit, may be subject to additional regulations beyond those in this Section. Said regulations may be either more or less restrictive than those set out herein.

(Ord. No. 8648, § 1, 6-24-2008; Ord. No. 9382, § 1, 1-13-15 )

### **11-7a-8. Billboards and electronic billboards (CEVM).**

- (A) *Prohibition.* Billboards and electronic billboards are hereafter prohibited in the City's extra territorial jurisdiction (ETJ) but may be located within the City limits in accordance with Title XI, Chapter 1 of the City Code and in compliance with the following restrictions. All such signs must be placed in conformity with state and federal regulations, even if such are more restrictive than the following regulations.
- (B) *Special control areas.*
  1. New billboards and electronic billboards are prohibited within the following special control areas:



a. <i>Midland Protection Zone</i>	The area located within the following boundaries: <ul style="list-style-type: none"> <li>Western Boundary: 500 feet west of the centerline of Loop 250, except where the western corporate limits of the City of Midland lie to the east of this location, in which case the western corporate limits of the City of Midland shall be the Western Boundary.</li> </ul>
	<ul style="list-style-type: none"> <li>Northwestern and Northern Boundaries: 500 feet northwest and 500 north of the centerline of Loop 250.</li> </ul>
	<ul style="list-style-type: none"> <li>Eastern Boundary: The eastern corporate limits of the City of Midland.</li> </ul>
	<ul style="list-style-type: none"> <li>Southern Boundary: Interstate Highway 20, except where the southern corporate limits of the City of Midland lie to the north of Interstate Highway 20, in which case the southern corporate limits of the City of Midland shall be the Southern Boundary. However, the Midland Protection Zone does not include property fronting on Interstate Highway 20 or within 500 feet of the centerline of Interstate Highway 20.</li> </ul>
b. <i>Big Spring Street</i> (Business State Highway 349-C and State Highway 349)	The area located within 300 feet of either side of the centerline of Business State Highway 349-C and State Highway 349 (commonly known as Big Spring Street), from Loop 250 north to the corporate limits of the City of Midland.
c. <i>Andrews Highway</i> (State Highway 191)	The area located within 300 feet of either side of the centerline of State Highway 191 (commonly known as Andrews Highway) from Loop 250 west to the corporate limits of the City of Midland.

2. The following rules shall apply to replacement of billboards and electronic billboards in special control areas:

- a. An existing billboard may be replaced one time.
- b. An electronic billboard may be used to replace an existing billboard or electronic billboard one time, provided that the person seeking to replace the existing billboard or electronic billboard removes two other billboards, electronic billboards, or combination thereof which are located within Special Control Areas.

(C) *Annexation.* In addition, any land which is in the City's ETJ as of the effective date of this ordinance and henceforth and is subsequently annexed by the City shall remain subject to the billboard prohibition under this ordinance regardless of any zoning classification established for said land. Any billboard which was legally in existence on any property prior to annexation of said property into the City limits or prior to the expansion of the City's ETJ shall become non-conforming and shall be subject to Section 11-7a-9.

(D) *Compliance.*

- 1. *Permits required.*

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- a. A sign permit and a specific use permit with term shall be required prior to constructing any new billboard or modifying any legally conforming billboard, all of which shall be in compliance with the requirements set forth herein. The requirement of a specific use permit with term shall apply notwithstanding zoning district regulations or any other provisions in this Code.
  - b. A new sign permit and a new specific use permit with term for a billboard must identify the proposed location by latitude and longitude coordinates.
  - c. An application for a specific use permit with term under this Subsection shall be subject to the rules and procedures set out in Section 11-1-9.07 of this Code. The Council shall not vote on granting or denying the specific use permit with term at the Council meeting when the public hearing is held. At the conclusion of the public hearing, the Council shall allow 30 days for written input from the public, the owner of the property identified in the application, and the specific use permit with term applicant. All written material shall be submitted to the City Manager. A majority vote of the Council is required to pass an ordinance granting a specific use permit with term under this Subsection.
  - d. In no case shall a billboard be allowed in an area in which billboards are prohibited by current zoning district regulations.
  - e. Billboards advertising on-premises goods or services shall be considered on-premises signs and shall comply with on-premises sign regulations.
2. *Minimum separation.* No proposed billboard location may be approved which is:
    - a. Within 1,500 feet of either an existing billboard or property zoned with a specific use permit with term or a specific use permit without term for location of a billboard; or
    - b. Within 1,500 feet of either an existing electronic billboard or property zoned with a specific use permit with term or a specific use permit without term for location of an electronic billboard; or
    - c. Within 150 feet of an on-premises sign on the same property or abutting property.
  3. *Maximum height.* The maximum height of a billboard shall be 30 feet, except for a billboard located on property fronting on Interstate Highway 20, which shall have a maximum height 42.5 feet.
  4. *Maximum sign area.* The total area of each sign face of a billboard shall not exceed the following:
    - a. 672 square feet for a billboard located on property fronting Interstate Highway 20.
    - b. 400 square feet for a billboard located on property fronting US Route 80.
    - c. 300 square feet for a billboard located on property fronting a street other than Interstate Highway 20 or US 80.
  5. *Limits of sign faces.* A billboard shall be limited to a single face viewed from any one direction. The use of a double-faced billboard (side-by-side or stacked) is prohibited.
  6. *Lighting.* Exterior lighting shall be shielded to prevent glare. No external lighting shall be used to illuminate a nonconforming sign.
  7. *Setback and side yard requirements.*
    - a. A billboard must comply with the same side yard and setbacks required for buildings in the zoning district in which it is located;
    - b. No portion of the billboard or its support shall be closer than 150 feet from the boundary of a property used for residential purposes or zoned MF-2, Multiple-Family Dwelling District or more restrictive.

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- (E) *Non-conforming billboards.* Any legally existing billboard which does not comply with these restrictions shall become a non-conforming sign and shall be regulated in conformance with Section 11-7a-9. A non-conforming billboard may not be enlarged beyond its present size or modified to an electronic billboard without forfeiting its non-conforming status.
- (F) *Electronic billboards.*
1. *Permits required:*
    - a. A sign permit and a specific use permit with term shall be required prior to constructing any new electronic billboard or modifying any legally conforming electronic billboard, all of which shall be in compliance with the requirements set forth herein. The requirement of a specific use permit with term shall apply notwithstanding zoning district regulations or any other provisions in this Code.
    - b. A new sign permit and a new specific use permit with term for an electronic billboard must identify the proposed location by latitude and longitude coordinates.
    - c. An application for a specific use permit with term under this Subsection shall be subject to the rules and procedures set out in Section 11-1-9.07 of this Code. The Council shall not vote on granting or denying the specific use permit with term at the Council meeting when the public hearing is held. At the conclusion of the public hearing, the Council shall allow 30 days for written input from the public, the owner of the property identified in the application, and the specific use permit with term applicant. All written material shall be submitted to the City Manager. A majority vote of the Council is required to pass an ordinance granting a specific use permit with term under this Subsection.
    - d. In no case shall an electronic billboard be allowed in an area in which billboards are prohibited by current zoning district regulations.
    - e. Electronic billboards advertising on-premises goods or services shall be considered on-premises signs and shall comply with on-premises sign regulations.
  2. *Minimum separation.* No proposed electronic billboard location may be approved which is:
    - a. Within 1,500 feet of either an existing billboard or property zoned with a specific use permit with term or a specific use permit without term for location of a billboard; or
    - b. Within 1,500 feet of either an existing electronic billboard or property zoned with a specific use permit with term or a specific use permit without term for location of an electronic billboard; or
    - c. Within 150 feet of an on-premises sign on the same property or abutting property.
  3. *Maximum height.* The maximum height of an electronic billboard shall be 30 feet, except for an electronic billboard located on property fronting on Interstate Highway 20, which shall have a maximum height 42.5 feet.
  4. *Maximum sign area.* The total area of each sign face of an electronic billboard shall not exceed the following:
    - a. 672 square feet for an electronic billboard located on property fronting Interstate Highway 20.
    - b. 400 square feet for an electronic billboard located on property fronting US Route 80.
    - c. 300 square feet for an electronic billboard located on property fronting a street other than Interstate Highway 20 or US 80.
  5. *Limits of sign faces.* An electronic billboard shall be limited to a single face viewed from any one direction.

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6. *Setback and side yard requirements.*

- a. An electronic billboard must comply with the same side yard and setbacks required for buildings in the zoning district in which it is located.
- b. No portion of an electronic billboard or its support shall be closer than 200 feet from the boundary of a property used for residential purposes or zoned MF-2, Multiple-Family Dwelling District or more restrictive.

7. *Lighting.* No external lighting shall be used to illuminate an electronic billboard.

8. *Prohibitions:* An electronic billboard:

- a. Shall not contain, display, or be illuminated by flashing, intermittent, or moving lights;
- b. Shall not contain or display animated, moving video, or scrolling advertising;
- c. Shall not consist of a static image projected upon a stationary object; and
- d. Shall not be a portable sign.

9. *Operation requirements:*

- a. An electronic billboard shall display static messages only in compliance with the following:
  - i. The dwell or hold time of each message, defined as the interval between each message change, shall be at least eight seconds.
  - ii. Each message change must be accomplished within two seconds or less and must occur simultaneously on the entire sign face.
- b. An electronic billboard shall not be configured to resemble or simulate a warning or danger signal or any official lights or signs used to control traffic.
- c. An electronic billboard shall not display light of such intensity to cause glare, impair vision, or otherwise result in a nuisance to the public. An electronic billboard shall:
  - i. Comply with Section 11-7a-7(A)2; and
  - ii. Be equipped with both a dimmer control or other such electronic control and a photocell or other such automatic control, which will produce the required illumination change according to natural ambient conditions.
- d. An electronic billboard shall contain a default mechanism that will freeze the sign in one position if a malfunction occurs.

10. *Emergency notification:*

- a. The City of Midland, through appropriate personnel, may protect public health, safety, and welfare by requiring emergency information to be displayed on electronic billboards.
- b. Upon notification, the operator of an electronic billboard shall display emergency information such as Amber Alert notices or other public safety alerts.
- c. Emergency information messages are to remain in rotation according to the protocols of the designated issuing agency.

(G) *Takings determination.*

- 1. Any aggrieved person who believes that an action taken pursuant to this Section by the City Council or any officer or employee of the City constitutes a taking under the Texas or United States Constitution

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or under other state law, may file an application with the City Council requesting a takings determination.

2. The applicant seeking a takings determination from the City Council shall file his or her appeal with the office of the City Secretary. The City Secretary shall then forward the appeal to the City Council for consideration. An appeal fee in the amount of \$250.00 dollars shall accompany each filing.
3. The appeal shall state the reasons that the applicant believes would support a finding that the City's actions constitute a taking under the Texas or United States Constitution or pursuant to other state law and shall include evidence substantiating the purported diminution in value of the applicant's real property.
4. If the City Council finds by a majority vote in favor of the applicant it may: (1) grant the relief requested, or (2) direct the City Manager to rescind action taken by City staff that formed the basis of the takings determination appeal. If the City Council denies the appeal, the applicant may appeal the decision or inaction of the City Council to the county or district court of the county in which the affected real property is located within 30 days of the date that the City Council issued its final decision. If after a favorable determination the City Council fails to take action as specified above, the applicant may appeal inaction of the City Council to the county or district court of the county in which the affected real property is located after the expiration of 120 days from the date the application is heard by the City Council.

(Ord. No. 8648, § 1, 6-24-2008; Ord. No. 9382, § 1, 1-13-15 )

### **11-7a-9. Non-conforming signs.**

- (A) *Non-conforming signs defined.* A non-conforming sign is any sign which was lawfully erected prior to the effective date of this ordinance governing signs in the City of Midland and in the City's extra territorial jurisdiction, but which is no longer in compliance with such regulations due to either a change in such regulations or a change in the City's boundaries.
- (B) *Operational limitations of non-conforming electronic message center signs.* Any non-conforming electronic message center sign shall be allowed to remain as a legal non-conforming sign if structural changes or removal are required in order to bring said sign into compliance; however, operation of the electronic portion of said sign must be brought into compliance as defined in Section 11-7a-7(F).
- (C) *Loss of legal non-conforming status.* A non-conforming sign shall immediately lose its non-conforming designation and must be brought into compliance with these regulations, or be removed, if:
  1. The sign structure is replaced; this shall not prevent the replacement of the face(s) to accommodate a new business, express a different message, or upgrade conditions, except that no such sign may be modified or otherwise converted to an electronic message center; or
  2. The sign is relocated; or
  3. The sign is part of an establishment that discontinues its operation for a period of six months or longer; or
  4. The sign is damaged or structurally altered to an extent greater than 60 percent of the current estimated replacement value.

(Ord. No. 8648, § 1, 6-24-2008; Ord. No. 9382, § 1, 1-13-15 )

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### **11-7a-10. Political advertising.**

Political signs may be erected and maintained as follows:

- (A) *Stake signs.* Signs with an area not exceeding 30 inches by 30 inches and installed on a stake at a height not more than 36 inches above the adjacent grade may be located on any private property within the City.
- (B) *Other political signs.* Political signs with a sign area not exceeding four feet by eight feet in size may be located on any private property within the City provided that:
  - 1. The bottom of said sign is not less than five feet above the adjacent grade; and
  - 2. The sign is not closer than 20 feet from the back of the curb if located on a corner lot; and
  - 3. The sign is not closer than ten feet from the back of the curb on any other lot.
- (C) *Oversize political signs.* Any political sign larger than that referred to in subsection (B) above must be located in a C-2, Commercial District or less restrictive zoning district and must not exceed 64 square feet.
- (D) *Time limit for display.* Political signs may be erected not earlier than 120 days preceding the election to which the sign pertains and must be removed not later than 14 days following the day of such election.

(Ord. No. 8648, § 1, 6-24-2008; Ord. No. 9382, § 1, 1-13-15 )

### **11-7a-11. Temporary signs.**

- (A) *Applicability of section.* The following regulations shall be applicable to all temporary signs, as defined herein, except as follows:
  - 1. Political signs or displays erected in accordance with Section 11-7a-10.
  - 2. Non-illuminated real estate signs, as specified in Section 11-7a-5(M).
  - 3. Portable signs owned and leased by portable sign company licensees as defined in Section 11-7a-11(C) in accordance with the following:
    - a. Such signs will continue to be permitted pursuant to Ordinance 7484 until January 1, 2005.
    - b. Until January 1, 2005, any permit issued to a portable sign company licensee shall not apply as part of the regulations governing other temporary signs contained in Section 11-7a-11(B) below.
    - c. After January 1, 2005, all portable sign permits will be issued pursuant to Section 11-7a-11(B), below.
- (B) *Permits required.* It shall be unlawful for any person to place or locate any temporary sign on any property within the City, or allow the placement or location of any temporary sign on premises within the City owned or controlled by such person, unless a permit for such temporary sign and such location has first been obtained from the City building official in accordance with all regulations, including the following:
  - 1. One temporary sign permit is required for the placement of a temporary sign on a lot or tract within the City for a promotional period not to exceed:
    - a. One 60-day period; or
    - b. Two 30-day periods; or

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- c. Four 15-day periods, each calendar year per legal business; provided that under options b and c, no permit shall be issued for the placement or location of any temporary sign for any tract of land within the City stated in a previously issued permit until a period of 30 days has elapsed since the term of duration of the previous permit has expired.
  2. In the case of a special promotion for a grand opening celebration, one additional seven-day period shall be allowed provided the promotion commences within the first three months of the date of issuance of a certificate of occupancy and the grand opening is limited to the address noted on the certificate of occupancy.
  3. A temporary sign may be one of the following: a portable sign; or a banner; or pennants; or streamers; or balloons; or any legal on-premises sign allowed by this Chapter.
  4. A legal business shall include apartment complexes and any commercial, industrial, or institutional use for which the building official has issued a certificate of occupancy.
  5. When more than one legal business exists on the same lot or tract, one such business may place one permitted temporary sign on said lot or tract, provided a period of 30 days has elapsed since a previously permitted temporary sign was removed.
  6. A temporary sign which exceeds 30 square feet in area shall not be permitted for any location within 150 feet of a legally existing temporary sign.
  7. An annual permit fee of \$50.00 shall be charged to each business upon application for a temporary sign permit, except that portable sign company licensees shall not be charged permit fees for portable signs.
  8. A separate temporary sign permit is required for each promotional period used; however, after the annual fee of \$50.00 is paid, no additional fee is required for a one year term.
  9. If a temporary sign is installed prior to issuance of a permit, an investigation fee of \$75.00 will be assessed in addition to the permit fee.
  10. A temporary sign remaining on display for a period of time in excess of that stated in the permit shall be considered in violation of this Chapter and shall be subject to Sections 11-7a-13 and 11-7a-14.
- (C) *License required for portable sign businesses.* It shall be unlawful for any person to engage in the business of leasing or renting portable signs for the placement of such signs on property not owned by such person without first having obtained a portable sign company license and showing proof of a sign contractors bond as outlined in Section 11-7a-4, all in accordance with and subject to the following regulations:
1. Upon application and payment made to the City building official of an annual license fee of \$50.00 per temporary sign, a temporary sign company license may be renewed annually for a term not to exceed one year.
  2. In addition to any other penalty provided by this Code, the City building official may deny applications and revoke licenses issued under the provisions of this Section after notice and hearing for any of the following causes:
    - (a) Any violation of this Chapter by the licensee.
    - (b) Any violation of this Chapter by anyone renting or leasing signs from a licensee. Licensees shall be deemed to be held strictly responsible for the compliance with the terms of this Chapter by such person leasing or renting signs from such licensee.
  3. Notice of the hearing for denial of an application or revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall

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be mailed, postage prepaid, to the licensee or applicant at his last known address at least five days prior to the date set for the hearing.

4. Any person aggrieved by the action of the City building official in the denial of an application for a license or in his decision with reference to the revocation of a license shall have the right to appeal as set forth in Section 11-7a-15(C).

(D) *Temporary sign standards.* In addition to all other applicable regulations, temporary signs must conform to the following restrictions:

1. A temporary sign may be used for on-premise advertising only.
2. The use of an electronic message center as a temporary sign shall be prohibited.
3. The use of an inflatable sign as a temporary sign shall be prohibited except with a temporary permit issued for a grand opening celebration as noted in paragraph (B2) above.
4. The sign area of a temporary sign shall not exceed 35 square feet.
5. A temporary sign shall be contained on the property of the legal business and shall not extend into the City right-of-way or be located in any visibility clearance area. In no event shall such sign be erected or placed less than ten feet from the back of the curb.
6. Banners must be attached to the face of the building used by the business or organization to which the banner relates.
7. Ground signs shall be secured with a minimum of four separate points by metal pins and/or sandbags where necessary. Such metal pins must penetrate the ground by a distance of not less than ten inches.
8. Any temporary sign which exceeds 30 square feet in area shall have permanently affixed thereto the name and phone number of the owner of such sign.
9. Temporary signs may be lighted with white light or lights only, and such light or lights shall not be of a flashing, intermittent, moving or similarly lighted type. Exterior lighting shall be shielded to prevent glare.
10. Notwithstanding any provisions to the contrary contained within this Code, all electrical connections to temporary signs shall be three-prong (grounded) type using grounded, all-weatherproof outlets. Electrical cords must be all-weatherproof type and may not exceed ten feet in length unless they are then run in conduit. In addition, such cords must be so positioned as to not impact vehicular traffic.

(Ord. No. 8648, § 1, 6-24-2008; Ord. No. 9382, § 1, 1-13-15 )

### **11-7a-12. Special event signs.**

- (A) Upon request, and subject to approval, the building official may authorize a permit for the display of any temporary sign, or any legal sign allowed by this section, to give notice of or direct the public to a special event of civic interest including, but not limited to:
1. Parades, organized community holiday festivities, and special events organized by charitable and/or non-profit organizations.
  2. In acting upon such request, the building official shall consider, among other things, the limitations on size, proposed location(s), materials, and construction of such special event signs.
- (B) If authorized, such signs shall be erected for a period of time no more than 60 days preceding the date of the event and shall be removed within three days after the event.



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- (C) Such signs may be located or placed on or over private property only with the permission of the owner of the property and may be located or placed on or over public property, including streets, only if authorized by the building official.

(Ord. No. 8648, § 1, 6-24-2008; Ord. No. 9382, § 1, 1-13-15 )

### **11-7a-13. Impoundment and seizure.**

- (A) The owner or occupant of any property upon which there is located a sign in violation of this Chapter shall be given written notice by the building official or duly authorized representative stating the nature of the violation and ordering that the violation be corrected or removed from said property within 72 hours. Such notice shall be mailed or delivered to the licensee or applicant at his or her last known address at least five days prior to the date set for the hearing.
- (B) If the owner, lessor, lessee, or the representative of the lessor of the sign fails to correct or remove such sign within 72 hours of written notification from the building official or duly authorized representative, the sign may be removed by the building official or duly authorized representative. Such sign shall be transported to a location to be designated by the building official for storage at the expense of the sign owner or the person installing, leasing, using, or maintaining it.
- (C) The custodian of the storage area shall maintain records of where such signs were located when they were so impounded and the date on which they were so impounded and shall hold the same in the storage area for a period of not more than 30 days.
- (D) Any sign so held may be redeemed by the owner thereof upon the payment of a fee to the City consisting of a total of \$50.00 for hauling the same to storage plus \$10.00 per day storage fee for each day the sign is stored. Such fee shall be in addition to and not in lieu of any fine imposed upon such owner for violation of this chapter.
- (E) Any sign not redeemed within 30 days shall be considered abandoned property and shall become the property of the City. Any such signs shall either be destroyed or transferred to surplus and sold or disposed of in the same manner as surplus property of the City. In calculating the length of the storage period and the storage fee, the first working day after the date of the impoundment shall be considered day number one; thereafter, all days including weekends and holidays shall be counted.

(Ord. No. 8648, § 1, 6-24-2008; Ord. No. 9382, § 1, 1-13-15 )

### **11-7a-14. Violations and penalties.**

Any person found in violation of this Chapter shall be subject to the penalties and procedures found in Title 1, Chapter 3, Section 1 of this Code.

(Ord. No. 8648, § 1, 6-24-2008; Ord. No. 9382, § 1, 1-13-15 )

### **11-7a-15. Appeal procedures.**

- (A) Any person who receives notification of a sign found in violation of this Chapter may appeal the action or decision by requesting in writing within a 72-hour period after the service of notice is given, a hearing to determine whether he or she is in violation of this Chapter. If a person does request the hearing, it will be held before the Building Official within five business days of the date the request for appeal is received, at a time to be determined by the Building Official.

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- (B) If the Building Official, after considering the evidence, decides that the sign in question is in fact in violation of this Chapter then the sign shall be removed or brought into compliance within 72 hours from the time the Building Official's decision is rendered. Any further appeal of the building official's decision may be made to the Midland City Council. This process shall in no way negate the right of the City to immediately remove any sign creating real and immediate danger to life or property.
  - (C) Any person aggrieved by the action of the City Building Official in the denial of an application for a permit or in his decision with reference to the issuance of a sign permit shall have the right to appeal to the Midland City Council. Such appeal shall be taken by filing with the City Manager's Office, not later than 14 days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Midland City Council shall set a time and place for a hearing on such appeal and notice of such hearing shall be mailed to the appellant. The decision and order of the Midland City Council on such appeal shall be final and conclusive.

(Ord. No. 8648, § 1, 6-24-2008; Ord. No. 9382, § 1, 1-13-15 )

### **11-7a-16. Enforcement authority.**

- (A) The Building Official is hereby authorized and directed to administer and enforce all terms and conditions of this Chapter. The Building Official is further authorized to render interpretations of this Chapter, which are consistent with its spirit and purpose.
- (B) The provisions of Chapter 1, Standard Building Code, 1997 Edition, shall apply to this Chapter regarding the Building Official's administration of this Code, including but not limited to right of entry, stop work orders, revocation of permits, issuance of permits, inspections, submittal of drawings and specifications, and appeals.

(Ord. No. 8648, § 1, 6-24-2008; Ord. No. 9382, § 1, 1-13-15 )