

City of Palm Coast

Sign Code Amendment



Community Development Department
Presented by: Estelle Lens, AICP, Planner

Land Development Code (LDC)

Chapter 12

Signs and Advertising



Sign Code Adopted 2008 with the City's Land Development Code

Certain sections were amended in 2009 and 2012

Code is being amended now to:

- Comply with changes in the law
- Address challenges and make the code more business and community friendly.



Proposed changes to the LDC include:

- Revising Section 12.06 – Temporary signs to generalize the categories and simplify the categories by providing a table.
- Revising Definitions by deleting and revising content-based definitions.
- Generally, signs that are currently permitted will remain permitted, and signs that are currently prohibited will remain prohibited.



Two Stakeholder Meetings were held Summer 2023

Attendees included:

- Flagler County Association of Realtors (FCAR)
- Flagler County Association of Responsible Developers (FCARD)
- Palm Coast – Flagler Regional Chamber of Commerce
- Local Attorneys
- Local Developers



August 22, 2023 – 1st Stakeholder Meeting

- FCARD Representative suggestion for signage in commercial subdivisions
- FCAR provided letter with recommendations for open house signs

September 26, 2023 – 2nd Stakeholder Meeting

- Staff addressed the FCARD representative's suggestion by modifying LDC Section 12.02.02.B.2.a. to allow one additional sign.
- Discussed the FCAR letter. The proposed ordinance meets or exceeds their proposed recommendations with the exception of allowing signs in the right of way.



October 18, 2023 – Planning and Land Development Regulation Board (PLDRB) Workshop

- Only one suggestion was made regarding the temporary sign chart for signs posted on parcels with active site/building permits. The maximum area was increased to 6' to make it consistent with the other categories.

November 14, 2023 – City Council Workshop

- Discussion centered on whether to allow signs in the right of way (ROW)
- The City attorney was tasked with researching litigation regarding signs in the ROW.
- Council member suggested that the amendment be presented to the Beautification and Environmental Advisory Committee (BEAC).



- January 25, 2024 - Beautification and Environmental Advisory Committee (BEAC) – Recommended by a 3-0 vote that the PLDRB and City Council approve the proposed ordinance amending the sign code as presented, which prohibits any sign located within a right-of-way as regulated in Land Development Code Chapter 12.
- February 21, 2024 – PLDRB Business Meeting - Recommended by a vote of 7-0 that City Council adopt the proposed ordinance amending the sign code as presented, which prohibits any sign located within a right-of-way as regulated in Land Development Code Chapter 12.



To summarize:

- The proposed amendment has been to two stakeholder meetings, two workshops (PLDRB and Council), the BEAC, and a PLDRB business meeting.
- The proposed changes have all been recommended for Council approval. The issue remaining from the Council workshop being...
- Whether to allow signage within the City Rights of Way.

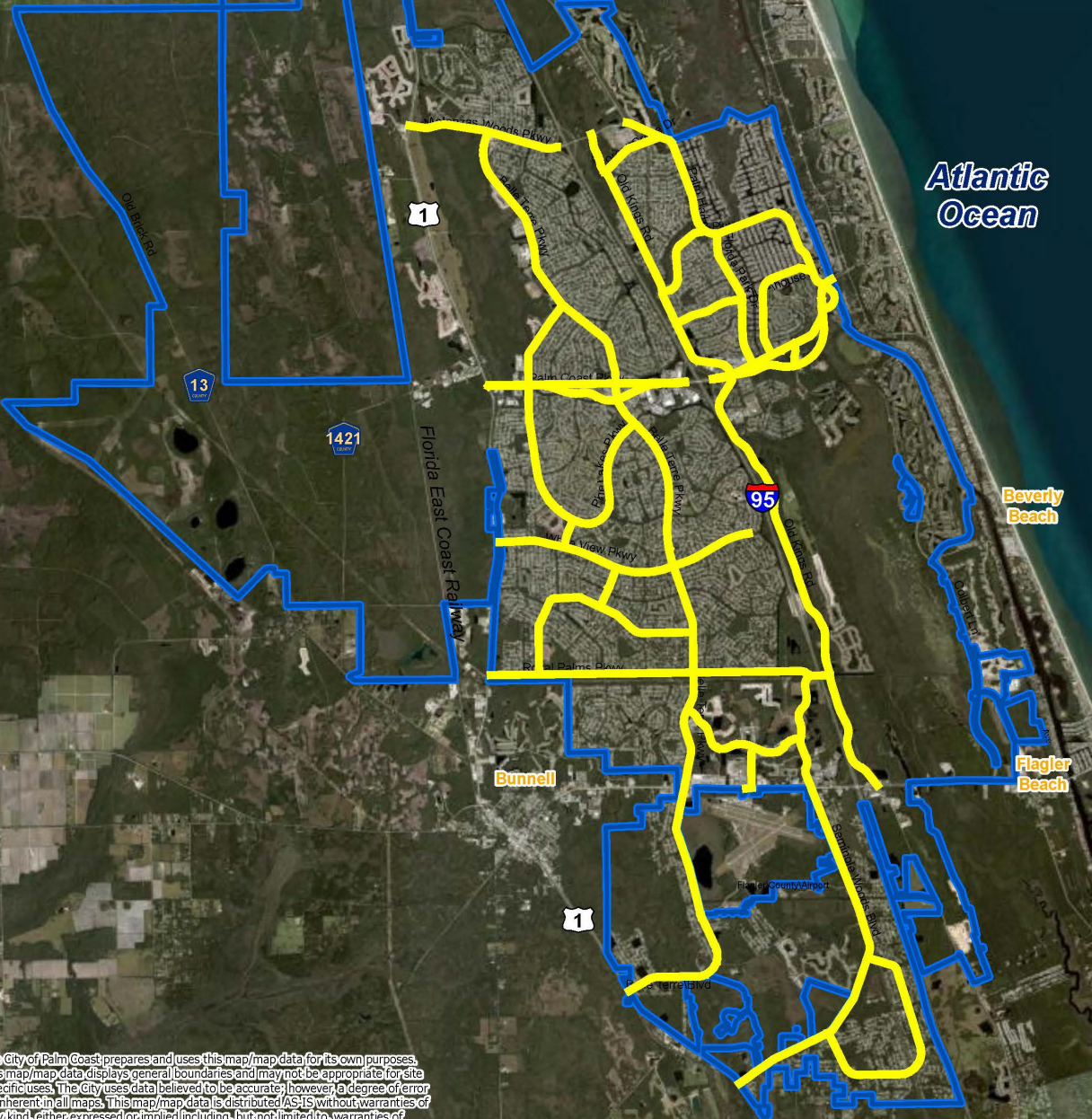


- Due to changes in the law, signage cannot be regulated on content. Therefore, if temporary signage is allowed in the City ROW, all similar signs would be allowed including:
 - Freedom of speech signs, political, commercial, open house signs, etc.
- Purpose of the Right of Way (In addition to the paved lanes for travel):
 - Utilities including; electric lines, fiber optic, cable, water and sewer pipes, storm/drainage facilities - swales
- Maintenance of ROW (mowing of grass): Public Works and Private Owners
 - The Public Works Department stated that signage in the ROW creates issues including - personal injury, additional employee hours, damage to equipment.



City ROW

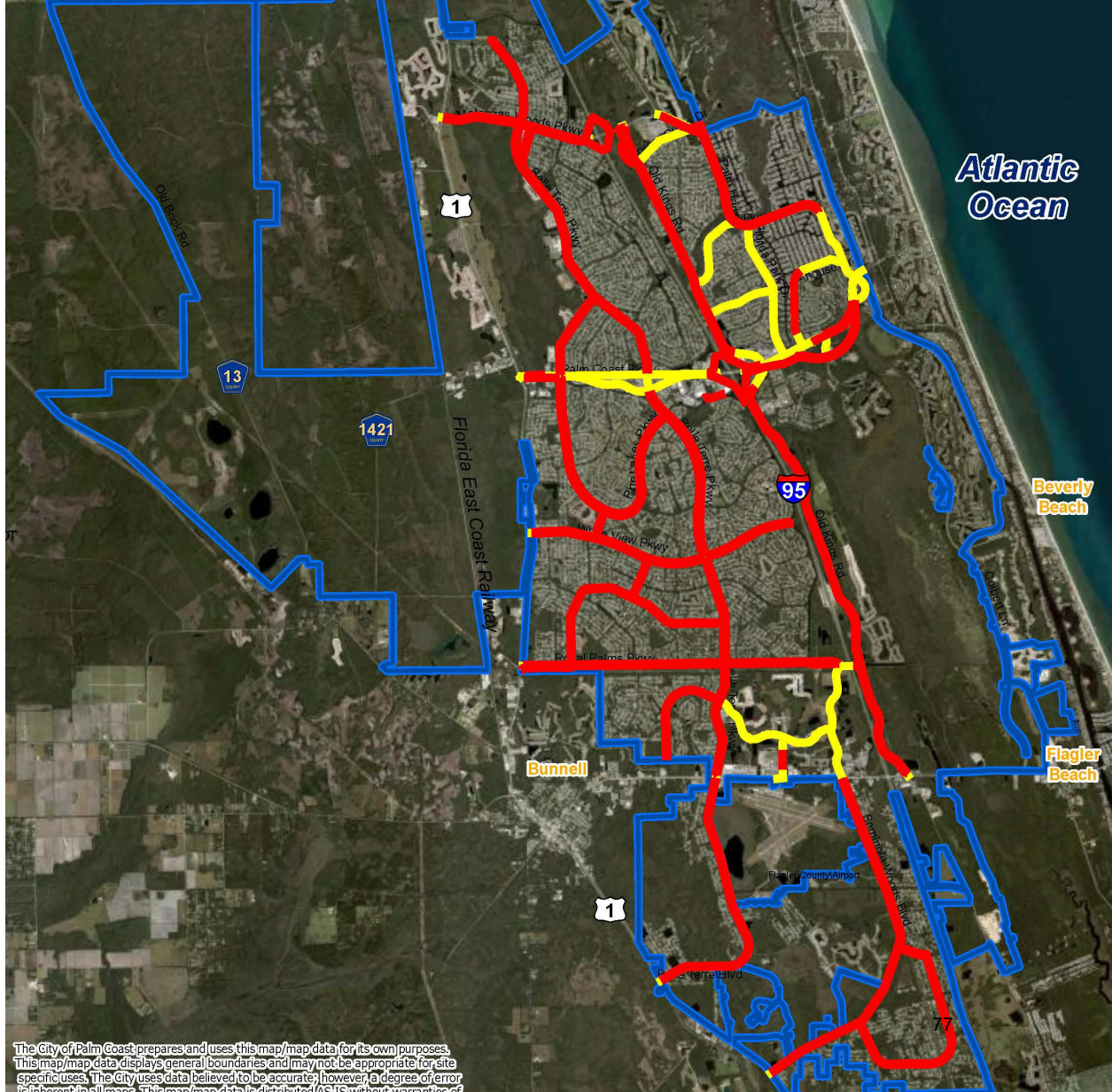
Arterial and Collector Roads



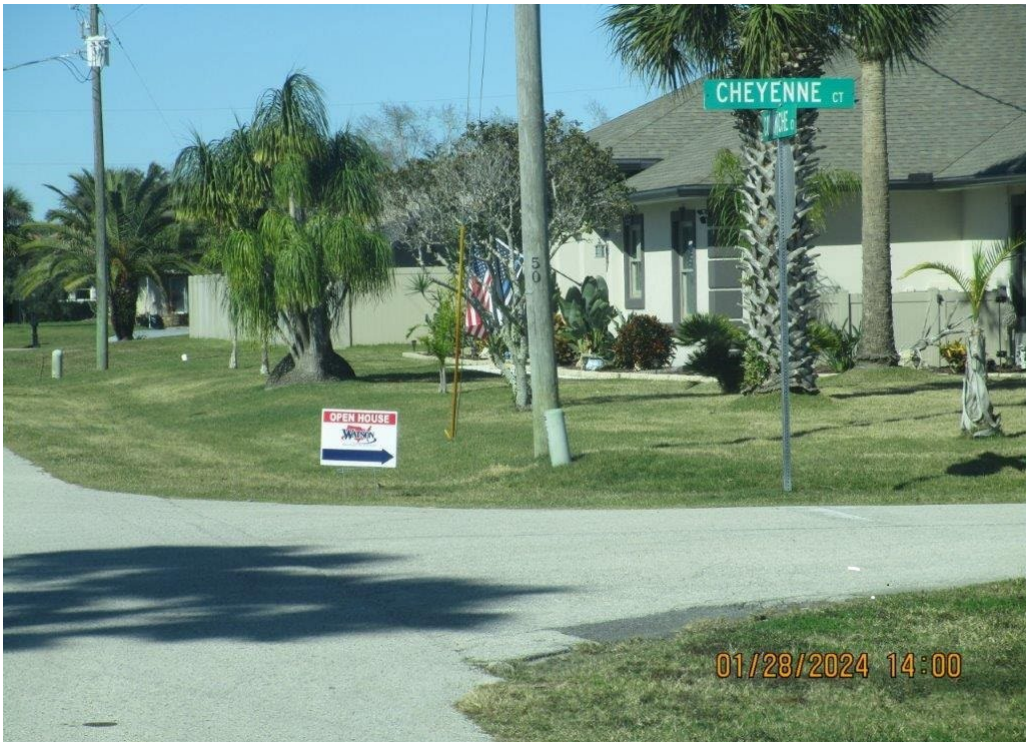
The City of Palm Coast prepares and uses this map/map data for its own purposes. This map/map data displays general boundaries and may not be appropriate for site specific uses. The City uses data believed to be accurate; however, a degree of error is inherent in all maps. This map/map data is distributed AS-IS without warranties of any kind, either expressed or implied including, but not limited to, warranties of

Red: City maintained ROW

Yellow: Privately maintained ROW



The City of Palm Coast prepares and uses this map/map data for its own purposes. This map/map data displays general boundaries and may not be appropriate for site specific uses. The City uses data believed to be accurate; however, a degree of error is inherent in all maps. This map/map data is distributed AS-IS without warranties of







MEMORANDUM

TO: City Council

COPY TO: Denise Bevan, City Manager
Ray Tyner, Deputy Chief Development Officer

FROM: Catherine D. Reischmann, Assistant City Attorney

RE: Sign Code Revisions

DATE: November 30, 2023

The Council asked for research on potential liability for allowing unlimited signs in the rights of way along the City's major streets. First I will provide some cases discussing sign safety rationale, and then provide some studies discussing the safety issues involved in sign placement.

1. *Lewis v. Searles*, 2002 WL 31947782 (D. Ct. Vt. 2002).

The State of Vermont bans signs within the public row for safety and aesthetics; this ban was upheld by the Court. The Court acknowledged that the only way to deal with visual clutter along roads is to ban signs in the ROW. Plaintiff may accomplish the goals of expressing his political views and promoting his candidacy by posting signs on the land of willing private property owners, placing them on public land that has not been restricted, or by mailings, picketing, distribution of bumper stickers, door-to-door canvassing, car signs and handing out leaflets. The right-of-way statute does nothing to jeopardize this fair and equal access by discriminating, or providing room for discrimination, against any particular party or candidate. It only serves to balance the state's economic and public safety interests with its political ones. The Court has found no reason under the Constitution to affect that balance.

2. *Constr. & Gen. Laborers' Union No. 330 v. Town of Grand Chute*, 915 F.3d 1120 (7th Cir. 2019)

Town's concern about safety and aesthetics, given the town's sporadic and arbitrary enforcement of its prohibition against signs in public rights-of-way, rings hollow.

3. *Selah All. for Equal. v. City of Selah*, 1:20-CV-3228-RMP (E.D. Wash. Sep. 8, 2022).

The town prohibits freestanding signs from public property, but historically had allowed what Selah considers "true political signs" in public rights-of-way pursuant to an admittedly unconstitutional provision of the Code which has yet to be repealed.

City Attorney

Attorney discussion of the legal issues regarding the sign code amendment and allowing signs in the right of way



- The Beautification and Environmental Advisory Committee (BEAC) recommends that City Council approve the proposed ordinance amending the sign code as presented, which prohibits any sign located within a right-of-way as regulated in LDC Chapter 12.
- The Planning and Land Development Regulation Board (PLDRB) recommends that City Council approve the proposed ordinance amending the sign code as presented, which prohibits any sign located within a right-of-way as regulated in LDC Chapter 12.



- March 19, 2024 – City Council 1st Reading of the Ordinance
- April 2, 2024 – City Council 2nd Reading of the Ordinance



ORDINANCE 2024-____
UNIFIED LAND DEVELOPMENT CODE

AN ORDINANCE OF THE CITY OF PALM COAST, FLORIDA, AMENDING SECTION 3.01.06, USES NOT PERMITTED IN THE CITY, CHAPTER 3, ZONING USES, AND DIMENSIONAL STANDARDS, OF THE CITY OF PALM COAST LAND DEVELOPMENT CODE, TO PROHIBIT OUTDOOR ADVERTISING; AMENDING CHAPTER 12, SIGNS AND ADVERTISING OF THE CITY OF PALM COAST UNIFIED LAND DEVELOPMENT CODE, TO ENSURE COMPLIANCE WITH CONSTITUTIONAL AND OTHER LEGAL REQUIREMENTS AND TO PROVIDE A PURPOSE, INTENT AND SCOPE; AMENDING SECTION 14.02 GLOSSARY, OF CHAPTER 14 OF THE CITY OF PALM COAST UNIFIED LAND DEVELOPMENT CODE TO ADD, DELETE AND RESTATE VARIOUS DEFINITIONS; AMENDING CRITERIA RELATED TO THE AMENDED DEFINITIONS; PROVIDING THAT EXISTING NON-CONFORMING SIGNS MAY BE CONTINUED; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Palm Coast finds and determines that it is appropriate to update and revise its Land Development Code relative to signs; and

WHEREAS, the City of Palm Coast finds and determines that it is appropriate to delete sections, subsections, paragraphs, subparagraphs, divisions, subdivisions, clauses, sentences, phrases, words, and provisions of the existing ordinance which are obsolete or superfluous, and/or which have not been enforced, and/or which are not enforceable, and/or which would be severable by a court of competent jurisdiction; and

WHEREAS, the City Council of the City of Palm Coast has determined the need to update and revise the definitions as they relate to signs in its Land Development Code, and to update and revise other definitions in its Land Development Code; and

WHEREAS, the City Council wishes to ensure that the definitions in the City's Land Development Code as they relate to signs are in compliance with all constitutional and other legal requirements; and

WHEREAS, the City of Palm Coast finds and determines that the updated and revised definitions herein are consistent with all applicable policies of the City's adopted Comprehensive Plan; and

WHEREAS, the City of Palm Coast finds and determines that the updated and revised definitions herein are not in conflict with the public interest; and

WHEREAS, the City of Palm Coast recognizes that definitions in the City's Land Development Code need to be deleted, revised or added to in light of the recent decision in *Reed v. Town of Gilbert, Ariz.*, 576 U.S. 155 , 135 S. Ct. 2218, 192 L. Ed. 2d 236 (2015); and

WHEREAS, the City of Palm Coast finds and determines that it is appropriate to ensure that the Land Development Code as it relates to signs is in compliance with all constitutional and other legal requirements; and

WHEREAS, the City of Palm Coast finds and determines that the purpose, intent and scope of its signage standards and regulations should be detailed so as to further describe the beneficial aesthetic and other effects of the City's sign standards and regulations, and to reaffirm that the sign standards and regulations are concerned with the secondary effects of speech and are not designed to censor speech or regulate the viewpoint of the speaker; and

WHEREAS, the City of Palm Coast finds and determines that the limitations on the size (area), height, number, spacing, and setback of signs, adopted herein, are based upon sign types; and

WHEREAS, the City of Palm Coast finds and determines that limitations on signs are related to the zoning districts for the parcels and properties on which they are located; and

WHEREAS, the City of Palm Coast finds and determines that various signs that serve as signage for particular land uses, such as drive-through lanes for businesses, are based upon content-neutral criteria in recognition of the functions served by those land uses, but not based upon any intent to favor any particular viewpoint or control the subject matter of public discourse; and

WHEREAS, the City of Palm Coast finds and determines that the sign standards and regulations adopted hereby still allow adequate alternative means of communications; and

WHEREAS, the City of Palm Coast finds and determines that the sign standards and regulations adopted hereby allow and leave open adequate alternative means of communications, such as newspaper advertising and communications, internet advertising and communications, advertising and communications in shoppers and pamphlets, advertising and communications in telephone books, advertising and communications on cable and satellite television, advertising and communications on UHF and/or VHF television, advertising and communications on AM and/or FM radio, advertising and communications on satellite and internet radio, advertising and communications via direct mail, and other avenues of communication available in the City of Palm Coast [*see State v. J & J Painting*, 167 N.J. Super. 384, 400 A.2d 1204, 1205 (Super. Ct. App. Div. 1979); *Board of Trustees of State University of New York v. Fox*, 492 U.S. 469, 477 (1989); *Green v. City of Raleigh*, 523 F.3d 293, 305-306 (4th Cir. 2007); *Naser Jewelers v. City of Concord*, 513 F.3d 27 (1st Cir. 2008); *Sullivan v. City of Augusta*, 511 F.3d 16, 43-44 (1st Cir. 2007); *La Tour v. City of Fayetteville*, 442 F.3d 1094, 1097 (8th Cir. 2006); *Reed v. Town of Gilbert, Ariz.*, 587

F.3d 966, 980-981 (9th Cir. 2009), *aff'd in part & remanded in part on other grounds*, 832 F. Supp. 2d 1070, *aff'd*, 707 F.3d 1057, 1063 (9th Cir. 2013), *cert. granted*, 134 S. Ct. 2900 (2014), *rev'd on other grounds & remanded*, 135 S. Ct. 2218 (2015).]; and

WHEREAS, the City of Palm Coast finds and determines that the provisions of Chapter 12 (Unified Land Development Code), City of Palm Coast Code of Ordinances, that replace the current Chapter 12 are consistent with all applicable policies of the City's adopted Comprehensive Plan; and

WHEREAS, the City of Palm Coast finds and determines that these amendments are not in conflict with the public interest; and

WHEREAS, the City of Palm Coast finds and determines that these amendments will not result in incompatible land uses; and

WHEREAS, the City of Palm Coast recognizes that under established Supreme Court precedent, a law that is content-based is subject to strict scrutiny under the First Amendment of the U.S. Constitution, and such law must therefore satisfy a compelling governmental interest; and

WHEREAS, the City of Palm Coast recognizes that under established Supreme Court precedent, a compelling government interest is a higher burden than a substantial or significant governmental interest; and

WHEREAS, the City of Palm Coast recognizes that under established Supreme Court precedent, aesthetics is not a compelling governmental interest but is a substantial governmental interest; and

WHEREAS, the City of Palm Coast recognizes that until a recent Supreme Court decision released in June 2015, there had not been clarity as to what constitutes a content-based law as distinguished from a content-neutral law; and

WHEREAS, the City of Palm Coast recognizes that in *Reed v. Town of Gilbert, Ariz.*, -- U.S. —, 135 S. Ct. 2218, 192 L. Ed. 2d 236 (2015), the United States Supreme Court, in an opinion authored by Justice Thomas, and joined in by Chief Justices Roberts, Scalia, Alito, Kennedy and Sotomayer, addressed the constitutionality of a local sign ordinance that had different criteria for different types of temporary noncommercial signs; and

WHEREAS, the City of Palm Coast recognizes that in *Reed*, the Supreme Court held that content-based regulation is presumptively unconstitutional and requires a compelling governmental interest; and

WHEREAS, the City of Palm Coast recognizes that in *Reed*, the Supreme Court held that government regulation of speech is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed; and

WHEREAS, the City of Palm Coast recognizes that in *Reed*, the Supreme Court held that if a sign regulation on its face is content-based, neither its purpose, nor function, nor justification matter, and the sign regulation is therefore subject to strict scrutiny and must serve a compelling governmental interest; and

WHEREAS, the City of Palm Coast recognizes that in *Reed*, Justice Alito in a concurring opinion joined in by Justices Kennedy and Sotomayer pointed out that municipalities still have the power to enact and enforce reasonable sign regulations; and

WHEREAS, the City of Palm Coast recognizes that Justice Alito in the concurring opinion joined in by Justices Kennedy and Sotomayer provided a list of rules that would not be content-based; and

WHEREAS, the City of Palm Coast recognizes that Justice Alito noted that these rules, listed below, were not a comprehensive list of such rules; and

WHEREAS, the City of Palm Coast recognizes that Justice Alito included the following rules among those that would not be content-based: (1) rules regulating the size of signs, which rules may distinguish among signs based upon any content-neutral criteria such as those listed below; (2) rules regulating the locations in which signs may be placed, which rules may distinguish between freestanding signs and those attached to buildings; (3) rules distinguishing between lighted and unlighted signs; (4) rules distinguishing between signs with fixed messages and electronic signs with messages that change; (5) rules that distinguish between the placement of signs on private and public property; (6) rules distinguishing between the placement of signs on commercial and residential property; (7) rules distinguishing between on-premises and off-premises signs [*see discussion in Memorandum dated September 11, 2015 from Lawrence Tribe to Nancy Fletcher, President, Outdoor Advertising Association of America, re Applying the First Amendment to Regulations Distinguishing Between Off-premises and On-premises Signs After Reed v. Town of Gilbert*]; (8) rules restricting the total number of signs allowed per mile of roadway; and (9) rules imposing time restrictions on signs advertising a one-time event, where rules of this nature do not discriminate based on topic or subject and are akin to rules restricting the times within which oral speech or music is allowed; and

WHEREAS, the City of Palm Coast recognizes that Justice Alito further noted that in addition to regulating signs put up by private actors, government entities may also erect their own signs consistent with the principles that allow governmental speech [*see Pleasant Grove City, Utah v. Summum*, 555 U.S. 460, 467-469 (2009)], and that government entities may put up all manner of signs to promote safety, as well as directional signs and signs pointing out historic sites and scenic spots; and

WHEREAS, the City of Palm Coast recognizes that Justice Alito noted that the *Reed* decision, properly understood, will not prevent cities from regulating signs in a way that fully protects public safety and serves legitimate esthetic objectives, including rules that distinguish between on-premises and off-premises signs; and

WHEREAS, the City of Palm Coast recognizes that as a result of the *Reed* decision, it is appropriate and necessary for local governments to review and analyze their sign standards and regulations, beginning with their temporary sign standards and regulations, so as to make the necessary changes to conform with the holding in *Reed*; and

WHEREAS, the City of Palm Coast recognizes that under established Supreme Court precedent, commercial speech may be subject to greater restrictions than noncommercial speech and that doctrine is true for both temporary signs as well as for permanent signs; and

WHEREAS, the U.S. Supreme Court has determined that persons desiring to sell their homes have the same right to communication via signage as other commercial interests, and residents were entitled to information on sales activity, so real estate signs could not be prohibited, in *Linmark Associates, Inc. v. Township of Willingboro*, 97 S.Ct. 1614 (1977); and

WHEREAS, the City of Palm Coast finds and determines that it should continue to prohibit discontinued signs regardless of whether or not there was any intent to abandon the sign; and

WHEREAS, the City of Palm Coast finds and determines that a traffic control device sign, exempt from regulation under the City's land development regulations for signage, is any government sign located within the right-of-way that functions as a traffic control device and that is described and identified in the Manual on Uniform Traffic Control Devices (MUTCD) and approved by the Federal Highway Administrator as the National Standard, and according to the MUTCD traffic control device signs include those signs that are classified and defined by their function as regulatory signs (that give notice of traffic laws or regulations), warning signs (that give notice of a situation that might not readily be apparent), and guide signs (that show route designations, directions, distances, services, points of interest, and other geographical, recreational, or cultural information); and

WHEREAS, the City of Palm Coast finds and determines that it is appropriate to continue to prohibit certain vehicle signs similar to the prohibition suggested in Article VIII (Signs) of the Model Land Development Code for Cities and Counties, prepared in 1989 for the Florida Department of Community Affairs by the UF College of Law's Center for Governmental Responsibility and by a professional planner with Henigar and Ray Engineering Associates, Inc., and that is nearly identical to Section 7.05.00(x) of the Land Development Regulations of the Town of Orange Park, which were upheld against a constitutional challenge in *Perkins v. Town of Orange Park*, 2006 WL 5988235 (Fla. 4th Cir. Ct.); and

WHEREAS, the City of Palm Coast finds and determines that in order to preserve the City as a desirable community in which to live, recreate and do business, a pleasing, visually-attractive urban environment is of foremost importance; and

WHEREAS, the City of Palm Coast finds and determines that the regulation of signs within the City is a highly contributive means by which to achieve this desired end, and that the sign standards and regulations in this proposed Ordinance are prepared with the intent of enhancing the urban environment and promoting the continued well-being of the City; and

WHEREAS, the City of Palm Coast finds and determines that Article II, Section 7, of the Florida Constitution, as adopted in 1968, provides that it shall be the policy of the state to conserve and protect its scenic beauty; and

WHEREAS, the City of Palm Coast finds and determines that the regulation of signage for purposes of aesthetics is a substantial governmental interest and directly serves the policy articulated in Article II, Section 7, of the Florida Constitution, by conserving and protecting its scenic beauty; and

WHEREAS, the City of Palm Coast finds and determines that the regulation of signage for purposes of aesthetics has long been recognized as advancing the public welfare; and

WHEREAS, the City of Palm Coast finds and determines that as far back as 1954 the United States Supreme Court recognized that “the concept of the public welfare is broad and inclusive,” that the values it represents are “spiritual as well as physical, aesthetic as well as monetary,” and that it is within the power of the legislature “to determine that the community should be beautiful as well as healthy, spacious as well as clean, well balanced as well as carefully patrolled” [Justice Douglas in *Berman v. Parker*, 348 U.S. 26, 33 (1954)]; and

WHEREAS, the City of Palm Coast finds and determines that aesthetics is a valid basis for zoning, and the regulation of the size of signs and the prohibition of certain types of signs can be based upon aesthetic grounds alone as promoting the general welfare [see *Merritt v. Peters*, 65 So. 2d 861 (Fla. 1953); *Dade Town v. Gould*, 99 So. 2d 236 (Fla. 1957); *E.B. Elliott Advertising Co. v. Metropolitan Dade Town*, 425 F.2d 1141 (5th Cir. 1970), *cert. dismissed*, 400 U.S. 805 (1970)]; and

WHEREAS, the City of Palm Coast finds and determines that the enhancement of the visual environment is critical to a community’s image and its continued presence as a master planned community; and

WHEREAS, the City of Palm Coast finds and determines that the sign control principles set forth herein create a sense of character and ambiance that distinguishes the City as one with a commitment to maintaining and improving an attractive environment; and

WHEREAS, the City of Palm Coast finds and determines that the beauty of the City of Palm Coast, both with regard to its natural and built and developed environment has provided the foundation for the economic base of the City’s development, and that the City’s sign regulations not only help create an attractive community for its residents, but also bolster Palm Coast’s image as a master planned community; and

WHEREAS, the City of Palm Coast finds and determines that the goals, objectives and policies from planning documents developed over the years, demonstrate a strong, long-term commitment to maintaining and improving the City’s attractive and visual environment; and

WHEREAS, the City of Palm Coast finds and determines that, from a planning perspective, one of the most important community goals is to define and protect aesthetic resources and community character; and

WHEREAS, the City of Palm Coast finds and determines that, from a planning perspective, sign regulations are especially important to cities with a master planned community, and sign control can create a sense of character and ambiance that distinguishes one community from another; and

WHEREAS, the City of Palm Coast finds and determines that preserving and reinforcing the uniqueness of a community like Palm Coast attracts future residents and, more importantly, establishes a permanent residential and commercial base to ensure the future viability of the community; and

WHEREAS, the City of Palm Coast finds and determines that the purpose of the regulation of signs as set forth in this Ordinance is to promote the public health, safety and general welfare through a comprehensive system of reasonable, consistent and nondiscriminatory sign standards and requirements; and

WHEREAS, the City of Palm Coast finds and determines that the sign regulations in this Ordinance are intended to enable the identification of places of residence and business; and

WHEREAS, the City of Palm Coast finds and determines that the sign regulations in this Ordinance are intended to allow for the communication of information necessary for the conduct of commerce; and

WHEREAS, the City of Palm Coast finds and determines that the sign regulations in this Ordinance are intended to lessen hazardous situations, confusion and visual clutter caused by proliferation, improper placement, illumination, animation and excessive height, area and bulk of signs which compete for the attention of pedestrian and vehicular traffic; and

WHEREAS, the City of Palm Coast finds and determines that the sign regulations in this Ordinance are intended to enhance the attractiveness and economic well-being of the City as a place to live, recreate and conduct business; and

WHEREAS, the City of Palm Coast finds and determines that the sign regulations in this Ordinance are intended to protect the public from the dangers of unsafe signs; and

WHEREAS, the City of Palm Coast finds and determines that the sign regulations in this Ordinance are intended to permit signs that are compatible with their surroundings and aid orientation, and to preclude placement of signs in a manner that conceals or obstructs adjacent land uses or signs; and

WHEREAS, the City of Palm Coast finds and determines that the sign regulations in this Ordinance are intended to encourage signs that are appropriate to the zoning district in which they are located and which are consistent with the category of use to which they pertain; and

WHEREAS, the City of Palm Coast finds and determines that the sign regulations in this Ordinance are intended to curtail the size and number of signs and sign messages to the minimum reasonably necessary to identify a residential or business location and the nature of any such business; and

WHEREAS, the City of Palm Coast finds and determines that the sign regulations in this Ordinance are intended to establish sign size in relationship to the scale of the lot and building on which the sign is to be placed or to which it pertains;

WHEREAS, the City of Palm Coast finds and determines that the sign regulations in this Ordinance are intended to preclude signs from conflicting with the principal permitted use of the site or adjoining sites; and

WHEREAS, the City of Palm Coast finds and determines that the sign regulations in this Ordinance are intended to regulate signs in a manner so as to not interfere with, obstruct the vision of or distract motorists, bicyclists or pedestrians; and

WHEREAS, the City of Palm Coast finds and determines that the sign regulations in this Ordinance are intended to require signs to be constructed, installed and maintained in a safe and satisfactory manner; and

WHEREAS, the City of Palm Coast finds and determines that the sign regulations in this Ordinance are intended to preserve and enhance the natural and scenic characteristics of this master planned community committed to aesthetics and environmentally sensitive design; and

WHEREAS, the City of Palm Coast finds and determines that the regulation of signage was originally mandated by Florida's Local Government Comprehensive Planning and Land Development Regulation Act in 1985 (*see* Chapter 85-55, §14, Laws of Florida), and this requirement continues to apply to the City of Palm Coast through Section 163.3202(2)(f), Florida Statutes; and

WHEREAS, the City of Palm Coast finds and determines that it has adopted a land development code, known as the Unified Land Development Code, in order to implement its Comprehensive Plan, and to comply with the minimum requirements in the State of Florida's Growth Management Act, at Section 163.3202, Florida Statutes, including the regulation of signage and future land use; and

WHEREAS, the City of Palm Coast finds and determines that the Unified Land Development Code is the manner by which the City has chosen to regulate signage; and

WHEREAS, the City of Palm Coast finds and determines that the Unified Land Development Code and its signage regulations were and are intended to maintain and improve the quality of life for all citizens of the City; and

WHEREAS, the City of Palm Coast finds and determines that in meeting the purposes and goals established in these preambles, it is appropriate to continue to prohibit certain sign types; and

WHEREAS, the City of Palm Coast finds and determines that consistent with the foregoing preambles, it is appropriate to continue to generally prohibit the sign types listed in Sec. 12.03.02, Prohibited Signs within this Ordinance; and

WHEREAS, the City of Palm Coast finds and determines that billboards detract from the natural and manmade beauty of the City; and

WHEREAS, the City of Palm Coast agrees with the American Society of Landscape Architects' determination that billboards tend to deface nearby scenery, whether natural or built and the Sierra Club's opposition to billboard development and proliferation and the American Society of Civil Engineers Policy Statement 117 on Aesthetics that aesthetic quality should be an element of the planning, design, construction, operations, maintenance, renovation, rehabilitation, reconstruction, and security enhancement of the built environment; and

WHEREAS, the City of Palm Coast recognizes that states such as Vermont, Alaska, Maine, and Hawaii have prohibited the construction of billboards in their states and are now billboard-free in an effort to promote aesthetics and scenic beauty; and

WHEREAS, the City of Palm Coast finds and determines that the prohibition of the construction of billboards and certain other sign types, as well as the establishment and continuation of height, size and other standards for on-premise signs, is consistent with the policy set forth in the Florida Constitution that it shall be the policy of the state to conserve and protect its scenic beauty; and

WHEREAS, the City of Palm Coast agrees with the courts that have recognized that outdoor advertising signs tend to interrupt what would otherwise be the natural landscape as seen from the highway, whether the view is untouched or ravished by man, and that it would be unreasonable and illogical to conclude that an area is too unattractive to justify aesthetic improvement [*see E. B. Elliott Adv. Co. v. Metropolitan Dade Town*, 425 F.2d 1141 (5th Cir. 1970), *cert. dismissed*, 400 U.S. 805 (1970); *John Donnelly & Sons, Inc. v. Outdoor Advertising Bd.*, 339 N.E.2d 709, 720 (Mass. 1975)]; and

WHEREAS, the City of Palm Coast recognizes that local governments may separately classify off-site and on-site advertising signs in taking steps to minimize visual pollution [*see City of Lake Wales v. Lamar Advertising Association of Lakeland Florida*, 414 So.2d 1030, 1032 (Fla. 1982)]; and

WHEREAS, the City of Palm Coast finds and determines that billboards attract the attention of drivers passing by the billboards, thereby adversely affecting traffic safety and constituting a public nuisance and a noxious use of the land on which the billboards are erected; and

WHEREAS, the City of Palm Coast finds, determines and recognizes that billboards are a form of advertisement designed to be seen without the exercise of choice or volition on the part of the observer, unlike other forms of advertising that are ordinarily seen as a matter of choice on the part of the observer [*see Packer v. Utah*, 285 U.S. 105 (1932); and *General Outdoor Advertising Co. v. Department of Public Works*, 289 Mass. 149, 193 N.E. 799 (1935)]; and

WHEREAS, the City of Palm Coast acknowledges that the United States Supreme Court and many federal courts have accepted legislative judgments and determinations that the prohibition of billboards promotes traffic safety and the aesthetics of the surrounding area. [*see Markham Adver. Co. v. State*, 73 Wash.2d 405, 439 P.2d 248 (1969), *appeal dismissed for want of a substantial federal question*, 439 U.S. 808 (1978); *Markham Adver. Co., Inc. v. State*, Case No. 648, October Term, 1968, Appellants' Jurisdictional Statement, 1968 WL 129277 (October 14, 1968); *Suffolk Outdoor Adver. Co., Inc. v. Hulse*, 43 N.Y.2d 483, 372 N.E.2d 263 (1977), *appeal dismissed for want of a substantial federal question*, 439 U.S. 808 (1978); *Suffolk Outdoor Adver. Co., Inc. v. Hulse*, Case No. 77-1670, October Term, 1977, Appellant's Jurisdictional Statement (March 23, 1978); *Metromedia, Inc. v. City of San Diego*, 453 U.S. 490, 509-510 (1981); *Members of the City Council of the City of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789, 806-807 (1984), *City of Cincinnati v. Discovery Network, Inc.*, 507 U.S. 410, 425 and 442 (1993); *National Advertising Co. v. City and County of Denver*, 912 F.2d 4055, 409 (10th Cir. 1990), and *Outdoor Systems, Inc. v. City of Lenexa*, 67 F. Supp. 2d 1231, 1239 (D. Kan. 1999)]; and

WHEREAS, the City of Palm Coast finds, determines and recognizes that on-site business signs are considered to be part of the business itself, as distinguished from off-site outdoor advertising signs, and that it is well-recognized that the unique nature of outdoor advertising and the nuisances fostered by billboard signs justify the separate classification of such structures for the purposes of governmental regulation and restrictions [*see E. B. Elliott Adv. Co. v. Metropolitan Dade Town*, 425 F.2d 1141, 1153 (5th Cir. 1970), *cert. denied*, 400 U.S. 805 (1970), quoting *United Advertising Corp. v. Borough of Raritan*, 11 N.J. 144, 93 A.2d 362, 365 (1952)]; and

WHEREAS, the City of Palm Coast finds and determines that a prohibition on the erection of off-site outdoor advertising signs has and will reduce the number of driver distractions and the number of aesthetic eyesores along the roadways and highways of the City [*see, e.g., E. B. Elliott Adv. Co. v. Metropolitan Dade County*, 425 F.2d 1141, 1154 (5th Cir. 1970), *cert. denied*, 400 U.S. 805 (1970)]; and

WHEREAS, the City of Palm Coast finds and determines that billboard signs are public nuisances given their adverse impact on both traffic safety and aesthetics; and

WHEREAS, the City of Palm Coast finds and determines that billboards are a traffic hazard and impair the beauty of the surrounding area, and the prohibition of the construction of billboards will reduce these harms [*see Outdoor Systems, Inc. v. City of Lenexa*, 67 F. Supp. 2d 1231, 1239 (D. Kan. 1999)]; and

WHEREAS, the City of Palm Coast finds and determines that the presence of billboards along the federal interstate and the federal-aid primary highway systems has prevented public

property in other jurisdictions from being used for beautification purposes due to view zones established by state administrative rule; and

WHEREAS, the City of Palm Coast recognizes that Scenic America, Inc. recommends improvements in the scenic character of a community's landscape and appearance by prohibiting the construction of billboards, and by setting height, size and other standards for on-premise signs [see Scenic America's Seven Principles for Scenic Conservation, Principle #5]; and

WHEREAS, the City of Palm Coast recognizes that more than three hundred Florida communities have adopted ordinances prohibiting the construction of billboards in their communities in order to achieve aesthetic, beautification, traffic safety, and/or other related goals; and

WHEREAS, the City of Palm Coast finds and determines that in order to preserve, protect and promote the safety and general welfare of the residents of the City, it is necessary to regulate off-site advertising signs, commonly known as billboard signs or billboards, so as to prohibit the construction of billboards in all zoning districts, and to provide that the foregoing provisions shall be severable; and

WHEREAS, the City of Palm Coast finds and determines that the continued prohibition of billboards as set forth herein will improve the beauty of the City, foster overall improvement to the aesthetic and visual appearance of the City, preserve and open up areas for beautification on public property adjoining the public roadways, increase the visibility, readability and/or effectiveness of on-site signs by reducing and/or diminishing the visual clutter of off-site signs, enhance the City as an attractive place to live and/or work, reduce blighting influences, and improve traffic safety by reducing driver distractions; and

WHEREAS, the City of Palm Coast wishes to assure that new billboards are effectively prohibited as a sign-type within the City; and

WHEREAS, the City of Palm Coast finds and determines that anything beside the road which tends to distract the driver of a motor vehicle directly affects traffic safety, and signs, which divert the attention of the driver and occupants of motor vehicles from the highway to objects away from it, may reasonably be found to increase the danger of accidents, and agrees with the courts that have reached the same determination [see *In re Opinion of the Justices*, 103 N.H. 268, 169 A.2d 762 (1961); *Newman Signs, Inc. v. Hjelle*, 268 N.W.2d 741 (N.D.1978)]; and

WHEREAS, the City of Palm Coast acknowledges that the Seven Justices' views in *Metromedia*, as expressly recognized in the later Supreme Court decisions in *Taxpayers for Vincent* and *Discovery Network*; and in more than a dozen published Circuit Court of Appeal decisions following *Metromedia*, on the permissible distinction between onsite signs and offsite signs-when it comes to government's substantial interest in prohibiting the latter sign type (the offsite sign), including: *Major Media of the Southeast, Inc. v. City of Raleigh*, 792 F.2d 1269, 1272 (4th Cir. 1986); *Georgia Outdoor Advertising, Inc. v. City of Waynesville*, 833 F.2d 43, 45-46 (4th Cir. 1987); *Naegele Outdoor Adver., Inc. v. City of Durham*, 844 F.2d 172, 173-174 (4th Cir. 1988); *Nat'l Adver. Co. v. City and County of Denver*, 912 F.2d 405, 408-411 (10th Cir. 1990);

Nat'l Adver. Co. v. Town of Niagara, 942 F.2d 145, 157-158 (2nd Cir. 1991); *Outdoor Systems, Inc. v. City of Mesa*, 997 F.2d 604, 610-612 (9th Cir. 1993); *Outdoor Graphics, Inc. v. City of Burlington, Iowa*, 103 F.3d 690, 695 (8th Cir. 1996); *Ackerley Communications of Northwest v. Krochalis*, 108 F.3d 1095, 1099 (9th Cir. 1997); *Southlake Property Associates, Ltd. v. City of Morrow, Ga.*, 112 F.3d 1114, 1117-1119 (11th Cir. 1997), *cert. denied*, 525 U.S. 820 (1998); *Bad Frog Brewery, Inc. v. New York State Liquor Authority*, 134 F.3d 87, 99 (2nd Cir. 1998); *Lavey v. City of Two Rivers*, 171 F.3d 1110, 1114-1115 (7th Cir. 1999); *Long Island Bd. of Realtors, Inc. v. Incorp. Village of Massapequa Park*, 277 F.3d 622, 627 (2nd Cir. 2002); *Clear Channel Outdoor, Inc. v. City of Los Angeles*, 340 F.3d 810, 814-816 (9th Cir. 2003); *Riel v. City of Bradford*, 485 F.3d 736, 753 (3rd Cir. 2007); *Naser Jewelers, Inc. v. City of Concord, N.H.*, 513 F.3d 27, 36 (1st Cir. 2008); and *RTM Media, L.L.C. v. City of Houston*, 584 F.3d 220, 225 (5th Cir. 2009); and

WHEREAS, the U.S. Supreme Court recently affirmed these cases by ruling that laws distinguishing between on-premises and off-premises signs regulate a sign's location, not its message. Those laws are therefore subject to intermediate, not strict, scrutiny, according to *City of Austin, Texas v. Reagan Nat'l Advert. of Austin, LLC*, 142 S.Ct. 1464 (2022); and

WHEREAS, the City of Palm Coast recognizes that the distinction between the location of off-premises signs and on-premises signs is a time, place and manner regulation, and recognizes that in 1978 in *Suffolk Outdoor*, over the objection of Justices Blackmun and Powell, the U.S. Supreme Court denied review of the underlying decision for the want of a substantial federal question and that the denial on this basis was a decision on the merits, wherein the decision was framed by the petitioner's jurisdictional statement which presented its first question as to whether a total ban on billboards within an entire municipality was constitutional, claiming that this disparate treatment of off-premises billboards from on-premises accessory signs was a violation of the First Amendment; and

WHEREAS, the City of Palm Coast acknowledges that the significance of *Suffolk Outdoor* is that it was a merits decision that recognized that it is constitutionally permissible to distinguish between on-site signs and off-site signs (Billboards) for regulatory purposes, and to ban the latter, and that this merits decision has never been overturned, and that it has been recently upheld in *City of Austin, Texas v. Reagan Nat'l Advert. of Austin, LLC*, 142 S.Ct. 1464 (2022); and

WHEREAS, the City of Palm Coast finds and determines, consistent with the foregoing preambles, that the business of outdoor advertising should be a prohibited use in each of the City's zoning districts; and

WHEREAS, the City of Palm Coast finds and determines that by confirming in its ordinance that noncommercial messages are allowed wherever commercial messages are permitted, the City will continue to overcome any constitutional objection that its ordinance impermissibly favors commercial speech over noncommercial speech [*see Outdoor Systems, Inc. v. City of Lenexa*, 67 F. Supp. 2d 1231, 1236-1237 (D. Kan. 1999)]; and

WHEREAS, the City of Palm Coast finds and determines that the prohibition on billboards, as contained herein, continue in effect regardless of the invalidity or unconstitutionality

of any, or even all, other provisions of the City’s sign regulations, other ordinance code provisions, or other laws, for any reason(s) whatsoever; and

WHEREAS, the City of Palm Coast finds and determines that it desires to make clear that billboards are not a compatible land use within the City and that there can be no good faith reliance by any prospective billboard developer under Florida vested rights law in connection with the prospective erection or construction of new or additional billboards within the jurisdictional limits of the City; and

WHEREAS, the City of Palm Coast finds and determines that it is appropriate to allow for the display of allowable temporary signage without any prior restraint or permit requirement; and

WHEREAS, the City of Palm Coast finds and determines that it is appropriate to prohibit direct illumination of the surface of any temporary sign but such prohibition shall not be construed to constrain the general illumination of flags and flagpoles unless otherwise expressly prohibited; and

WHEREAS, Chapter 12 does not regulate City signs on property owned by the City, Flagler County or the State of Florida, and does not regulate Traffic Control Devices; and

WHEREAS, the City specifically finds that these sign regulations are narrowly tailored to achieve the compelling and substantial governmental interests of traffic safety and aesthetics, and that there is no other way for the City to further these interests; and

WHEREAS, the Florida Legislature has recently adopted subsection 22 of Fla. Stat. §553.79, which appears to be a content based sign code in violation of *Reed v. Gilbert*, --U.S.--, 135 S. Ct. 2218, 192 L. Ed. 2d 236 (2015); but in the interest of avoiding a claim under Fla. Stat. §57.112, the sign code is amended to recognize that to the extent of a documented conflict between the City sign code and Fla. Stat. §553.79(22), the statute will prevail.

WHEREAS, words with double underlined type shall constitute additions to the original text and ~~strike through~~ shall constitute deletions to the original text, and asterisks (* * *) indicate that text shall remain unchanged from the language existing prior to adoption of this Ordinance.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE CITY OF PALM COAST, FLORIDA:

SECTION 1. LEGISLATIVE AND ADMINISTRATIVE FINDINGS. The above recitals (whereas clauses) are hereby adopted as the legislative and administrative findings of the City Council.

SECTION 2. It is hereby ordained by the City of Palm Coast, Florida: that Section 3.01.06, Uses not permitted in the City, of Chapter 3, Zoning Uses, and Dimensional Standards, of the Unified Land Development Code, City of Palm Coast, Florida, is hereby amended to add a use to the list of prohibited uses as follows:

3.01.06. *Uses not permitted in the city.* The following uses may be permitted by a super majority vote of the City Council subsequent to an affirmative or negative recommendation by the Planning and Land Development Regulation Board. This is due to their potential incompatibility with current development trends in the City, their potential deleterious effects upon the public health, safety, and welfare, and the potential likelihood that they will create nuisances and significant adverse impacts upon adjacent land uses. The list is not all-inclusive and other uses found by the Land Use Administrator to be similar in nature and character to the listed uses shall also require approval by the City Council in the aforementioned manner.

Asphalt Manufacturing Plants

Animal Feed Lots and Livestock Operations

Bottle Clubs

Business of Outdoor Advertising*

Deep Well Injection of Waste Products

Dog Farms

Hog and Poultry Farms

Incinerator Plants

Junkyards, Salvage Yards

Motor Vehicle Race Tracks

Paper and Pulp Mills

* * *

*The business of outdoor advertising means the business of erecting, operating, using, maintaining, leasing, or selling outdoor advertising structures, outdoor advertising signs, or outdoor advertisements that are prohibited in this code.

* * *

SECTION 3. It is hereby ordained by the City of Palm Coast, Florida: that Chapter 12 – Signs and Advertising of the Unified Land Development Code, City of Palm Coast, Florida, is hereby amended to read as follows:

Chapter 12 - SIGNS AND ADVERTISING

Sec. 12.01. - Generally.

12.01.01. Purpose and intent. ~~The purpose of this chapter is to ensure adequate means of communication through signage while maintaining the attractive visual appearance within the City. This chapter does not regulate content of signage or restrain the free exercise of protected speech. By specifying criteria for all signage as stated herein, this chapter is intended to serve the following purposes:~~

(1) It is the purpose of this chapter to promote the public health, safety and general welfare through reasonable, consistent and non-discriminatory sign standards. The sign regulations in this chapter are also designed and intended to meet the statutory requirement that this municipality adopt land development regulations that regulate signage, a requirement set forth in F.S. § 163.3202(f). The sign regulations in this chapter are not intended to censor speech or to regulate viewpoints, but instead are intended to regulate the adverse secondary effects of signs. The sign regulations are especially intended to address the secondary effects that may adversely impact aesthetics and safety. The sign regulations are designed to serve substantial governmental interests and, in some cases, compelling governmental interests such as traffic safety and warning signs of threats to bodily injury or death. The City specifically finds that these sign regulations are narrowly tailored to achieve the compelling and substantial governmental interests of traffic safety and aesthetics, and that there is no other way for the City to further these interests.

This chapter regulates signs, as defined in this Unified Land Development Code, which are placed on private property. This chapter is not intended to extend its regulatory regime to objects that are not traditionally considered signs for purpose of government regulation.

The City boundary is depicted on the official zoning map. In order to preserve and promote the City as a desirable community in which to live, recreate and do business, a pleasing, visually attractive environment is of foremost importance. The regulation of signs within the City is a highly contributive means by which to achieve this desired end.

This chapter is intended to serve the following purposes:

- A. Maintain the established suburban character of the City by regulating all exterior signage in a manner which promotes low profile signage of high quality design and enhances the City's ability to attract sources of economic development and growth;
- B. Protect and maintain the visual integrity of roadway corridors within the City by establishing a maximum amount of signage on any site to avoid visual clutter;
- C. Protect motorists from visual distractions, obstructions, and hazards by regulating the location of signs;
- D. Enhance the appearance of the physical environment by requiring that signage be designed to complement the architecture of the structure which the signage is intended to identify, and sited in a manner which is sensitive to the existing natural environment;
- E. Allow signage that satisfies the visibility, identification, and communication needs of the local business community;

- F. Foster civic pride and community spirit by maximizing the positive impact of development;
- G. Establish procedures and regulations for the construction and maintenance of signs, removal of nonconforming signs, variances, and enforcement of these regulations;
- H. Improve pedestrian and traffic safety;
- I. Minimize the possible adverse effect of signs on nearby public and private property;
- J. Lessen the visual clutter that may otherwise be caused by the proliferation, improper placement, illumination, animation, excessive height, and excessive size (area) of signs which compete for the attention of pedestrian and vehicular traffic;
- ~~K. Categorize signs based upon the function that they serve and tailor the regulation of signs based upon their function;~~
- ~~L. Preclude signs from conflicting with the principal permitted use of the site and adjoining sites;~~
- ~~M. Except to the extent expressly preempted by state or federal law, ensure that signs are constructed, installed, and maintained in a safe and satisfactory manner, and protect the public from unsafe signs;~~
- ~~N. Protect property values by precluding to the maximum extent possible sign-types that create a nuisance to the occupancy or use of other properties as a result of their size, height, illumination, brightness, or movement;~~
- ~~O. Regulate the appearance and design of signs in a manner that promotes and enhances the beautification of the City and that complements the natural surroundings in recognition of this City's reliance on its natural surroundings and beautification efforts in retaining economic advantage for its master planned community, as well as for its major subdivisions, shopping centers, and industrial parks; ~~and~~~~
- ~~P. Provide the fair and consistent enforcement of these sign regulations;~~
- O. Allow for traffic control devices and government signs without regulation, consistent with state and national standards, because they promote highway safety and efficiency by providing for the orderly movement of road users on streets and highways, and by notifying road users of regulations and providing state and nationally consistent warning and guidance needed for the safe, uniform and efficient operation of all elements of the traffic stream and modes of travel, while regulating private signs to ensure that their size, location and other attributes do not impair the effectiveness of such traffic control devices;
- P. Enable the fair and consistent enforcement of these sign regulations;
- Q. Promote the use of signs that positively contribute to the aesthetics of the community, are appropriate in scale to the surrounding buildings and landscape, and advance the City's goals of quality development;

- R. Provide standards regarding the non-communicative aspects of signs, which are consistent with city, county, state and federal law;
- S. Ensure that the benefits derived from the expenditure of public funds for the improvement and beautification of streets, sidewalks, public parks, public rights-of-way, and other public places and spaces, are protected by exercising reasonable controls over the physical characteristics and structural design of signs;
- T. Ensure that the constitutional guaranteed right of free speech is protected. Applications will be reviewed only with respect to sign structure or placement, excluding any reference to message, category, subject, topic or viewpoint;
- U. Reduce the Impact of Sign Clutter. Excessive signage and sign clutter impair legibility and undermine the effectiveness of governmental signs, Traffic Control Devices and other required signs (such as building, unit or house number signs, street identification signs, and building identity signs) that are essential to identifying locations for the delivery of emergency services, mail and package delivery, and other compelling governmental purposes. The intent of these sign regulations is to enhance the visual environment of the City, ensure that City residents and visitors can safely navigate through the City to their intended destinations, and promote the continued well-being of the City. It is therefore the purpose of this Chapter to promote aesthetics and the public health, safety and general welfare, and assure the adequate provision of light and air within the City through reasonable, consistent and nondiscriminatory standards for the posting, displaying, erection, use, and maintenance of signs and sign structures that are no more restrictive than necessary to achieve these governmental interests; and
- V. Except to the extent expressly preempted by state or federal law, ensure that signs are constructed, installed and maintained in a safe and satisfactory manner, and protect the public from unsafe signs.

(2) Where there is conflict between this chapter and other sections of this Code, the most restrictive regulations shall apply.

(3) This chapter does not regulate government signs on government property.

12.01.02. *Applicability.* These regulations apply to signs within residential and nonresidential areas. Signs shall be erected, placed, established, painted, created, and maintained in the City only in conformance with the regulations, procedures, exemptions, and other requirements of this chapter and pursuant to City standards and the Florida Building Code.

12.01.03. *Effect.* The effect of this chapter is to prohibit all signs not expressly allowed in this Code, except as approved through the variance process established herein and in Chapter 2.

12.01.04. *Definitions.* Words and phrases used in this chapter are defined in Chapter 14 (Glossary).

Sec. 12.02. - Sign Permits.

12.02.01. *Permit required.*

A. It is prohibited and unlawful for any person to erect, construct, alter, or relocate within the corporate City, any sign without first obtaining a sign permit, except as otherwise specified in this chapter. Applications shall be filed in accordance with City standards.

~~B. The owner of each sign shall obtain a separate sign permit and shall be compliant with an approved signage program as described in Subsection 12.02.02~~

~~B.C.~~ When considering the placement of freestanding signs, the Land Use Administrator shall consider the location of public utilities, sidewalks, and future street widening.

~~C.D.~~ The sign permit application shall be reviewed for a determination of whether the proposed sign meets the applicable requirements of this section and any applicable zoning law. The review of a completed sign permit application shall be completed within ten calendar days.

Sec. 12.03. - Exempt and Prohibited Signs.

12.03.01. ~~*Exemption from permitting signs.*~~ The following signs are ~~shall be~~ exempt from sign permit requirements; ~~the requirements of this chapter;~~ however they shall meet all other code requirements, including applicable construction regulations, and electrical permits as determined by the adopted electrical code:

- ~~A. Temporary Signs. For each parcel in multifamily residential district and in a nonresidential district, three flags not greater than 24 square feet in sign area (each) may be displayed;~~
- ~~B. One free expression sign four square feet or less in sign area for each parcel within the City with the written permission of the property owner;~~
- ~~B.C. Signs required by federal or state law;~~
- ~~C.D. A sign (except a window sign which shall be subject to the provisions of this section) located entirely inside the premises of a building or enclosed space;~~
- ~~D.E. A motor vehicle sign, other than a prohibited vehicle sign or signs, as set forth in Subsection 12.03.02;~~
- ~~F. Traffic control devices required or allowed by the Florida Department of Transportation Traffic Control Manual;~~
- ~~E.G. The change of copy on permitted manually changeable copy signs;~~
- ~~F.H. For 911; and emergency response systems, and public safety purposes street address signs and residential mailboxes; For each parcel within the City, one attached wall street address sign shall be displayed. For parcels in residential use, the street address shall not exceed two square feet in sign copy area. For each parcel in nonresidential use, the street address sign shall not exceed four square feet in sign copy area. In addition to the street~~

~~address signs, each residence in the City with a freestanding mailbox shall be allowed a sign with the address of the property affixed to the mailbox if the sign is no larger than one side of the mailbox.~~

- ~~GI.~~ For 911 and emergency response systems, signs which identify the occupant; ~~For each residence, business or other occupancy within the City, one attached wall sign may be displayed. For residences, the occupant identification signs shall not exceed two square feet in sign copy area. For any nonresidential use, the occupant identification sign shall not exceed four square feet in sign copy area;~~
- ~~HJ.~~ Machinery and equipment signs. Machinery and equipment signs shall be allowed in all districts; ~~and~~
- ~~K.~~ Temporary window and door signs;
- ~~I.~~ Where a federal, state or local law requires a property owner to post a sign on the owner's property to warn of a danger or to prohibit access to the property either generally or specifically, the owner must comply with the federal, state or local law to exercise that authority by posting a sign on the property; Warning signs, such as "No Trespassing" and "Keep Out" measuring two square feet or less.
- ~~J.~~ Signs protected by state statutes; and
- ~~K.~~ Signs regulated by state statute. Sign applicants claiming an element of their proposed sign is regulated by F.S. § 553.79(22), as may be amended from time to time, must include all supporting documentation with their application and a clear and concise statement of regulatory applicability for review.

12.03.02. *Prohibited signs.* Except as required by state law or otherwise permitted by this Article, any sign installed or placed on public property shall be deemed illegal and shall be forfeited to the public and subject to confiscation. In addition to other remedies, the City shall have the right to recover damages from the owner or person placing such sign. It is prohibited and unlawful to erect or maintain any sign not specifically authorized by this chapter, including:

- A. Signs that are in violation of the building code or electrical code adopted by the City;
- B. Any sign that constitutes a traffic hazard or a detriment to traffic safety, as determined by accepted engineering standards, by reason of its size, location, movement, content, coloring, or intensity of illumination;
- C. ~~Specifically prohibited are signs using:~~
 - ~~1.~~ Signs using lights or illuminations that flash, move, rotate, blink, flicker, or vary in intensity or color and stock tickers, except when required by the Federal Aviation Authority;
 - ~~2D.~~ Signs using ~~Bare~~ exposed incandescent or LED bulbs in excess of 11 watts;
 - ~~3E.~~ Signs that are of such intensity or brilliance as to cause glare or impair the vision of any motorist, cyclist, or pedestrian using or entering a public way or that are a hazard or a nuisance to occupants of any property because of glare or other characteristics;

- 4F. Pursuant to state law, signs using words and traffic control symbols which interfere with, mislead, or confuse traffic, such as "stop", "look", "caution", "danger", "slow", or which violate with the Manual on Uniform Traffic Control Devices (MUTCD);
- 5G. Signs that resemble any official sign or marker erected by any governmental agency or that by reason of position, shape, or color, would conflict with the proper functioning of any traffic sign or signal, or be of a size, location, movement, color, or illumination that may be reasonably confused with or construed as, or conceal, a traffic control device; ~~and~~
- 6H. Signs within ten feet of public rights-of-way or 100 feet of traffic control lights that contain red or green lights that might be confused with traffic control lights; ~~;~~
- ~~D~~I. ~~Nongovernmental~~ Signs attached to traffic control devices or utility poles; ~~;~~
- ~~E~~J. Signs attached to trees; ~~;~~
- ~~F~~K. Signs made of combustible materials that are attached to or located within 20 feet of fire escapes or firefighting equipment; ~~;~~
- ~~G~~L. Signs that obstruct a fire escape, window, door, or other opening used as a means of ventilation, ingress, or egress; ~~;~~
- ~~H~~M. Any type of balloon signage; ~~;~~
- ~~I~~N. Signs that incorporate projected images; ~~;~~
- ~~J~~O. Signs that involve the use of live animals ~~and/or human beings;~~ ~~;~~
- ~~K~~P. Signs that emit audible sound, odor, or visible matter such as smoke or steam; ~~;~~
- ~~L~~Q. Signs that contain any lighting or control mechanism that causes unreasonable interference with radio, television, or other communication signals; ~~;~~
- ~~M~~R. Signs that are painted, pasted, or printed on buildings or any curbstone, flagstone, pavement, or any portion of any sidewalk or street, except house numbers and traffic control signs required by law; ~~;~~
- ~~N~~S. Off-site signs; ~~unless otherwise specifically allowed in this chapter~~ ~~;~~
- ~~O~~T. Banners or signs placed across any public street, park, or property; ~~unless specifically permitted in this chapter;~~ ~~;~~
- ~~P~~U. Private signs erected within any navigable waterway within the City; ~~;~~
- ~~Q~~V. Portable signs, except as provided in this Chapter; ~~;~~
- ~~R~~W. Roof, marquee, and pole/pylon signs; ~~;~~
- ~~S~~X. Abandoned signs; ~~;~~
- ~~T~~. ~~Signs containing statements, words, or pictures of an obscene nature.~~
- ~~U~~Y. Paper, cardboard, chalk, or white-board signs, except as allowed in this chapter; ~~;~~
- ~~V~~Z. Exposed neon or LED signs;
- ~~W~~AA. Animated signs, including, flashing, undulating, swinging, rotating, or otherwise moving or scrolling signs. ~~or other decorations such as banners, pennants, ribbons,~~

~~spinners, streamers, or captive balloons, or other inflatable signs, or devices designed to attract attention unless permitted as a temporary sign.~~

~~XBB.~~ Electronic display type signs, including time and/or temperature signs, or any sign displaying any type of screen using animated or scrolling displays, such as a LED (light-emitting diode) screen or any other type of video display, even if the message is stationary; or signs displaying alternating or intermittent lights or lights of changing degrees of intensity or changes. Signs that have multiple views and objects that digitally or electronically produce color and/or black and white images similar to a television screen are prohibited. In addition, signs may not be multi-vision signs or display devices capable of presenting two or more separate images or ad copy sequentially by rotating multi-sided cylinders.

~~YCC.~~ Any sign or illumination that causes any direct glare into or upon any building, other than the building to which the sign may be related.

~~ZDD.~~ A-frame signs, except as provided in this Chapter.

~~AAEE.~~ Any sign located within a right-of-way, except as may be allowed by this chapter.

~~BBFF.~~ Signs as a principal use in any zoning district, ~~except as may be allowed by this chapter.~~

~~CCGG.~~ Snipe signs.

~~DDHH.~~ Signs mounted to fences except as permitted in this chapter.

~~EEII.~~ Parasite signs.

~~FFJJ.~~ Motor vehicle signs or any signs attached thereto or placed thereon subject to the following exceptions:

1. Any vehicle appropriately parked on private property so long as the vehicle is used regularly, is only parked while not in use, and is not intentionally parked on the private property for the sole purpose of displaying the sign on the vehicle.
2. Any vehicle appropriately parked in a non-residential area upon which is placed a sign, ~~identifying the firm or its principal~~ if such vehicle is one that is operated during the normal course of business; provided, however, that no such vehicle shall be routinely parked in a location for the purpose of serving as, or constituting, additional signage.
3. Buses, taxicabs, and similar common carrier vehicles that are licensed or certified by the City of Palm Coast, Flagler County, other governmental entities, and/or Florida Public Service Commission

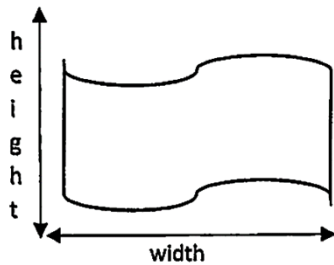
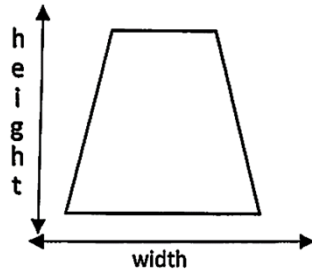
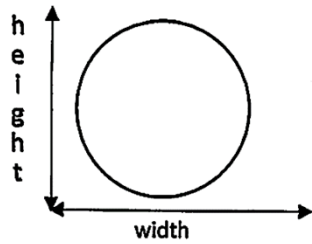
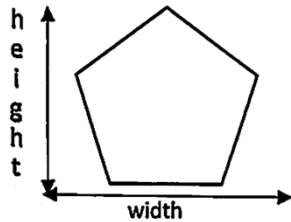
KK. Permanent commercial signs on lots without a principal use; and

LL. Pole signs.

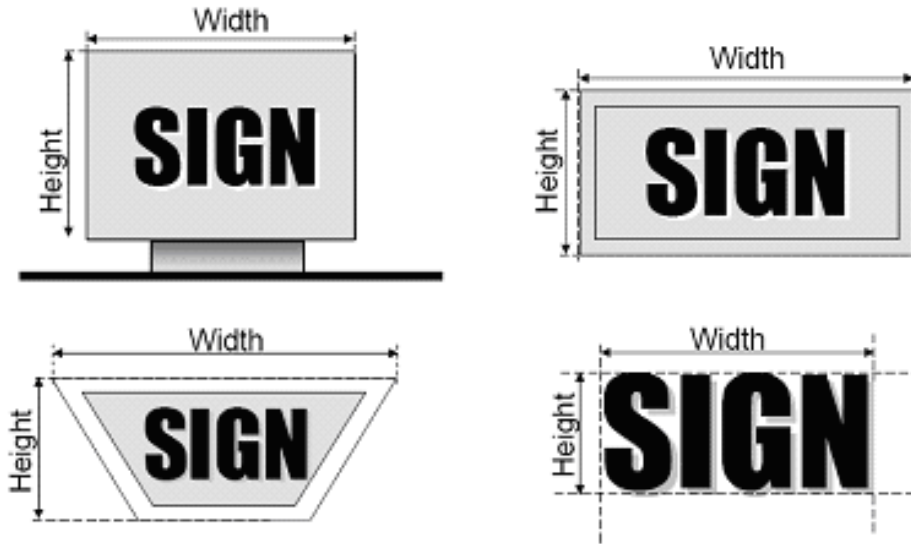
Sec. 12.04. – ~~General Sign Provisions~~ for Permanent Signs.

12.04.01 *Calculating sign area.*

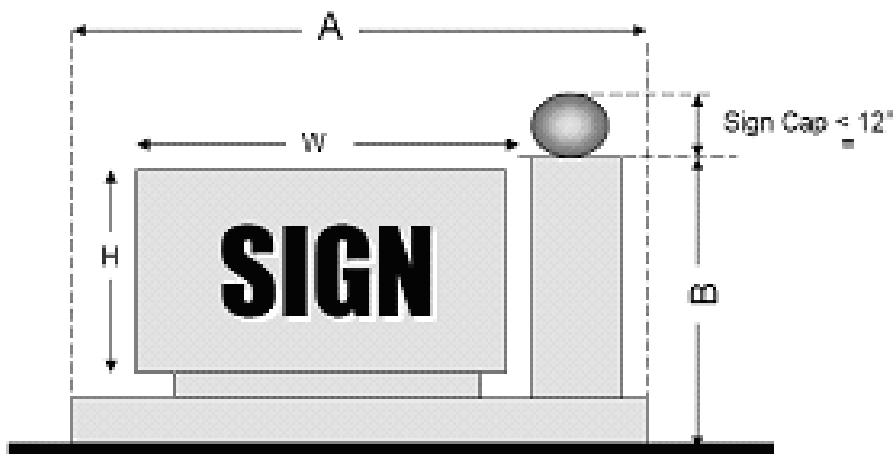
- A. In computing sign area, standard geometry formulas for common shapes shall be used. Common shapes shall include squares, rectangles, trapezoids, circles, and triangles. In the case of irregular shapes, the total sign area will be the area of the smallest common shape that encompasses the various components of the sign (see graphic below).



[ABOVE PICTURES ARE NEW TEXT TO THE CODE]



- B. All words and components of a sign, including the support base of freestanding signs, shall be deemed to be part of a single sign. Individual words or components may be considered separate signs only if they are obviously disassociated from other components. When signs are enclosed in a border (~~not to include the cabinet~~) or highlighted by background graphics, the perimeter of such border (~~not to include the cabinet~~) or background will be used to compute sign area. Double face signs that meet the definition contained in this chapter shall be considered one sign.
- C. The aggregate sign area of freestanding signs shall not be more than double of the proposed sign area, exclusive of the sign area, only to include architectural features. See graphics below.



Sign Area = $W \times H$
 Aggregate Sign Area = $A \times B$

*Graphics is not to scale

- D. The allowable size of some freestanding signs is determined based on lot frontage (i.e., the width of a site along a public street). The allowable size of some wall signs is calculated based on the building frontage (i.e., width of the building façade where the public entrance is located).

12.04.02. *Measuring sign height/clearance.*

- A. Freestanding sign height shall be measured from the ground elevation at the base of the sign to the highest point of the sign structure. The maximum height of permanent freestanding signs shall be 7 feet, unless otherwise specified in this code. Decorative column caps may extend up to 12 inches above the maximum height permitted.
- B. The clearance of a projecting sign shall be measured from the bottom of the area to the ground below.
- C. The height of a wall sign shall be measured from the grade level of the base of the building below the sign to the top of the sign. The top of the area shall be no higher than the roof eave line.

12.04.03. *Construction and maintenance requirements.*

- A. Except for ~~banners, flags,~~ temporary signs and window signs conforming in all respects with the requirements of this Code, all signs shall be constructed of durable materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.
- B. All signs and their supports, braces, guys, and anchors; electrical parts and lighting fixtures; and all painted and display areas shall be maintained in good structural condition, in compliance with all building and electrical codes and in conformance with this Code at all times. Damaged faces or structural members shall be promptly removed or replaced.
- C. Vegetation around, in front of, behind, and at the base of any sign shall be installed and maintained and neatly trimmed to conform to City landscape maintenance standards.
- D. All signs shall maintain a minimum clearance from electric power lines of ten feet horizontally and 15 feet vertically or as otherwise directed by the utility provider.
- E. No sign structure or framework may be exposed to public view due to ~~by~~ removal of sign faces or advertising copy for a period in excess of 15 days.

12.04.04. *Existing signs.*

- A. *Modifications to signs.* Modifications to signs shall not result in a sign that violates the requirements of this Code. The modification of sign height or size requires sign permit approval.
- B. *Permits not required for change of sign copy.* No permit or permit fee shall be required for changing the copy of a sign, as long as no changes are made to the sign's height, size, location, or structure. This exemption shall also apply to any change of copy on a changeable copy sign. ~~However, a change in sign color requires approval from the Land Use Administrator.~~ However, a color change to the base of a sign must be aesthetically compatible with the associated primary structure.

- C. *Nonconforming signs.* Signs lawfully existing prior to the effective date of this Code may be continued although their size, location, or other physical attributes do not conform to this chapter.
- D. *Loss of legal nonconforming status of a sign.* A sign loses its legal nonconforming status and shall be considered in violation of this Code if one or more of the following occurs:
1. The sign is structurally altered in any way, including increasing its height, weight, width, depth, or enlarging it in any manner, except for normal maintenance or repair, which tends to or makes the sign less in compliance with the requirements of this chapter than it was before the alteration.
 2. The sign is destroyed to such an extent that more than 60 percent of the upright supports of a sign structure are physically damaged such that normal repair practices of the industry would call for, in the case of wooden sign structures, replacement of the broken supports and, in the case of a metal sign structure, replacement of at least 25 percent of the length above ground of each broken, bent, or twisted support. A sign will not be considered "destroyed" within the meaning of this section where the destruction is caused by vandalism or other criminal or tortious act.
 3. Signs determined to be abandoned under the provisions of Subsection 12.04.04.E of this section.
- E. *Abandonment.* All nonconforming signs and sign messages shall be removed by the owner or lessee of the premises upon which an on-site sign is located when the business it advertises is no longer conducted. Conforming signs shall have the copy area face removed and replaced with a blank face. Said signs on vacant or unoccupied property must be removed after 30 days. Any sign face which advertises a service no longer conducted or product no longer sold upon the property must be removed after 30 days. If the owner or lessee fails to remove the sign or sign message, the sign or sign message shall be deemed in violation of this Code.
- F. *Signs subject to immediate removal.* Any sign erected without a required building permit is unlawful and must be removed by the owner thereof.
- G. *Off-site signs.* Existing off-site signs may not be converted to electronic display type signs.

12.04.05. *Sign design.* Freestanding signs shall be aesthetically compatible with the principal structure, shopping center or subdivision.

12.04.06. *Lighting of signs.*

- A. Any lighting used to illuminate signs shall be shielded such that the light source cannot be seen from abutting roads or properties.
- B. No unshielded light source may be visible from the edge of the public right-of-way at a height of three feet.
- C. Sign lighting shall not be designed or located to cause confusion with traffic lights.

- D. Illumination by floodlights or spotlights is permissible if none of the light emitted shines directly onto an adjoining property or into the eyes of the motorist using or entering public streets.
- E. Illuminated signs shall have luminance no greater than 300-foot candles.
- F. Illuminated signs shall not have lighting mechanisms that project more than 18 inches perpendicularly from any surface of the sign over public space.
- G. Backlit awnings are prohibited.

12.04.07. *Sign location criteria.* The following location standards shall apply to all signs, unless stated otherwise in this chapter.

A. Freestanding signs.

- 1. Freestanding signs shall only be allowed on sites with a frontage of 50 feet or more.
- 2. Unless specifically noted in this chapter, signs shall be located wholly within the premises, and shall maintain a minimum setback of ten feet from all property lines. ~~However, no sign shall be allowed within an easement not designated to include signs, or within a sight triangle.~~ Signs may be allowed within an easement unless it is in conflict with the purpose of the easement.
- 3. No freestanding sign shall be located closer than 15 feet from any other freestanding sign, on or off the premises. On corner lots, the freestanding signs on each frontage shall be at least 100 feet apart, measured along the rights-of-way. This requirement does not apply to temporary signs.
- 4. Freestanding signs shall include landscaping around the base of the sign as required in Chapter 11. The plant material shall be selected to complement and enhance the sign.
- 5. Signs in nonresidential districts shall not be located closer than 50 feet from a residential zoning district except signs on property where the principal use is allowed outright or by special exception in that residential district. ~~advertising uses allowed outright or by special exception in that residential district and conforming to the section of this chapter relating to that use.~~

B. Other signs.

- 1. Wall signs shall not exceed 75 percent of the width of the wall where they are placed, except if business is occupying more than one unit and no other wall signs will be placed on the adjoining unit(s); or if there are architectural elements separating facades where signs would be located on single use or multitenant buildings.
- 2. Wall signs shall not cover windows and shall preserve the architectural integrity of the building.

3. No wall sign shall extend above the roofline except where an exterior parapet wall projects above the roofline, in which case, such sign may not extend above the top edge of the parapet
4. Wall signs on multistory buildings are allowed above the first floor.
5. Wall signs shall not be allowed within 50 feet of a residential district, if facing a residential zoning district, unless it is a mixed-use district.
6. A projecting sign shall be erected only on a wall of a building and shall not project out more than four feet. Projecting signs over a parking space, travel lane, or a driveway shall have a minimum clearance from finished grade of 14 feet to the bottom of the sign.
7. Projecting signs that extend over a sidewalk or walkway shall provide a clearance of eight feet between the finished grade and the bottom of the sign.
8. Awning lettering shall be placed on the awning valance and not on the vertical arc or diagonal portion of the awning. The awning material may include a design pattern.
9. Directory signs, for emergency and traffic circulation purposes, may be attached to a wall or be freestanding, but shall not be located within ~~50~~ 10 feet of any public right-of-way line.

12.04.08. Flagpoles. Flagpoles are allowed subject to the following conditions:

- A. Two ~~One~~ flagpoles are is allowed on each parcel parcel/lot having less than 100' of road frontage. Three flagpoles are permitted on lots having 100' or greater of road frontage in the City.
- B. Maximum pole height shall be 30 feet in nonresidential districts, and 25 feet in residential districts.
- C. All poles shall be ground mounted.
- D. All flagpoles shall have a minimum five-foot setback from the property lines.

Sec. 12.05. - Permitted Permanent Signs.

This section establishes the type, location, and size of signs allowed within residential and nonresidential zoned districts.

12.05.01. *Residential zoning districts.*

- A. Monument Entrance signs at entrances. Residential subdivisions and residential ~~multitenant~~ multifamily developments may erect ~~a development entrance signs~~ meeting the following requirements at the entrance to the subdivision or multi-tenant development:

1. *Number of signs.* One double-sided freestanding sign or two identical single-sided signs, one on each side of the entrance, are allowed at each entrance to the development (excluding emergency access entrances).
 2. *Maximum sign area.* The total sign area for each entrance sign shall not exceed 32 square feet.
 - a. Signs that are combined with a minimum of two architectural embellishments, such as decorative walls, artificial rock formations, waterfalls, lake/pond mounted signs, signs located on grandiose entrance roads or other similar aesthetic features may qualify for an increase of signage square footage up to 64 square feet, and increase in height up to 14 feet, as approved by the land use administrator.
 3. *Sign location.* Entrance signs for subdivisions shall be located on a tract or parcel or easement designated for signage purposes. Such tract or parcel shall be owned and maintained by a common property association and shall be located at the entrance of the subdivision.
 4. *Maximum height.* Maximum sign height shall be seven feet. See 12.05.01.A.2,a for possible increase in height.
 5. Entry features associated with monument signs at entrances to subdivisions.
 - a. Accessory structures associated with subdivision entrance signs shall not exceed 28 feet in height from the grade of the road.
 - b. Fences and walls associated with subdivision entrance features shall comply with section 4.01.02.C.
- B. Signs for nonresidential uses. Except for those signs and sign-types allowed in residential and residentially zoned districts in accordance with Subsection 12.05.01.A, no additional permanent signs or sign-types shall be allowed for permitted nonresidential uses in residential or residentially zoned districts, except for the following sign-types:
1. Freestanding sign. One double-sided freestanding sign meeting the following:
 - a. The total sign area shall not exceed 24 square feet.
 - b. Signs shall not exceed ~~six~~ seven feet in height.
 2. Wall sign. Nonresidential uses permitted in residential districts pursuant to Table 3-2 of the LDC are allowed one wall sign per business. Such sign shall be included in the sign area calculation noted in Subsection 12.05.01.B.1. No other signs are permitted on the building, except signs to identify the number and address of the property, for 911 and emergency response systems and public safety purposes.
- C. Directional signs. Directional signs are allowed in residential districts subject to the following requirements:

1. ~~Directional signs to assist onsite vehicular traffic flow shall be~~ Signs to assist onsite traffic must be low-profile signs not to exceed three feet in height above grade and four-square feet of surface area, ~~with the legend to be affixed thereon to include arrows and the words "enter" or "exit" as appropriate so that public safety personnel can easily identify addresses and to ensure proper traffic flow.~~
2. All such ~~directional~~ signs shall be of consistent size, font, and color.

12.05.02. *Nonresidential zoning districts.* The following regulations shall apply to signs within nonresidential zoning districts, ~~however electronic game promotion all signs shall also comply with Chapter 16, Article IX, in the City of Palm Coast Code of Ordinances and F.S. ch. 166.~~

A. ~~Subdivision entrance signs.~~ Monument signs at entrances.

1. Number of signs. One double-sided freestanding sign or two identical single-sided freestanding signs, one on each side of the entrance, are allowed at each entrance to the development (excluding emergency access entrances).
2. *Maximum sign area.* The sign shall ~~only display the name of the subdivision and shall not exceed a sign area of 32 square feet~~ per sign.
3. Sign location. Entrance signs for subdivisions ~~Signs~~ shall be located on a tract or parcel or easement designated for signage purposes. Such tract or parcel shall be owned and maintained by a common property association and shall be located at the entrance of the subdivision. ~~or multitenant complex.~~
4. *Maximum height.* Maximum sign height shall be seven feet. A maximum of 12 inches cap on a column is allowed in addition to the maximum sign height.

B. Freestanding sign. Freestanding signs are allowed provided they are monument signs that meet the following requirements:

1. Single use developments.
 - a. Number of signs. One freestanding sign is allowed per lot frontage facing a street.
 - b. Maximum sign area. Thirty-two square feet for the first 100 feet of lot frontage, plus one square foot for each four lineal feet thereafter, to a maximum size of 96 square feet for each sign.
 - c. Maximum height. Maximum sign height is seven feet.
2. Multitenant development. Multitenant developments such as shopping centers, mixed use developments, retail centers, and office parks shall comply with the following standards:

- a. Number of signs. The main development/center and each outparcel may have one freestanding sign per frontage on a public street. ~~The main development/center sign shall identify the center. Center name may be placed in the aggregate sign area of the sign and not counted towards the sign area.~~ One additional freestanding sign may be allowed on parcels within a shopping center development containing a Mid-Scale Retailer or a Large-Scale Retailer and an approved Signage program.
- b. Maximum sign area. The maximum sign area permitted for freestanding signs for the main development shall be calculated based on the street frontage for the entire development site (including outparcels), using the formula noted above for single use signs. ~~The total size allowed may be divided among the center and the various outparcels fronting the street located within the master development site with a development order. The development order shall specify how the sign area will be divided amongst those qualifying and proposing to use a freestanding sign.~~ Developments that do not have outparcels or outparcels that are not part of the development order sign criteria shall calculate the maximum sign area using the formula noted above as a single use sign.
- c. Maximum height. Maximum sign height shall be seven feet.
- d. ~~Sign plan.~~
 1. ~~At master site plan application, developments shall include a conceptual wall sign plan showing consistency between architectural elements, designs, and themes for freestanding, wall, and where applicable, directory and directional signs throughout the planned development. The conceptual sign plan shall contain sufficient detail to address sign pattern, style, color, illumination, and locations(s). To encourage flexibility in the overall design of the master site plan project, up to 20 percent of total wall sign allowance on the street front facade can be transferred to the freestanding sign provided the request is depicted in a sign plan, the total size of the freestanding sign does not exceed 115 square feet, and is included in the development order. All other signs shall be in compliance with Chapter 12 of the LDC.~~
 2. ~~At site plan application, multitenant developments shall include a sign plan for all freestanding, wall, and where applicable, directory and directional signs throughout the development that identifies sign style and locations consistent with the architectural theme and architectural integrity of the proposed building(s). The sign plan shall be compatible with other sites within a master site plan development. The sign plan shall be part of the site plan development order with approved elevation plans and site plan showing the sign locations to include visual details of sign patterns, style, illuminations, and landscaping. Signs shall be in compliance with Chapter 12 of the LDC.~~

- ~~a. Wall signs. Wall signs with similar style sign casings and/or framings or architectural designated locations and illuminations are encouraged. Wall signs may have minor adjustments in location and size due to unit resizing or unit combining, but the overall architectural integrity of the building(s) and theme of the sign plan shall be maintained.~~
 - ~~b. Freestanding signs. Freestanding signs are to be compatible with the proposed architectural design and landscaping.~~
- C. Wall signs. Wall signs are allowed provided they meet the requirements of Subsection 12.04.07 (Sign Location Criteria) and the following requirements:
 - 1. Maximum sign area. Each individual business having a separate building entrance shall be permitted one wall sign per street frontage including awning and projecting signs. If the business has a customer entrance on a separate building elevation not facing a street, an additional wall sign meeting the maximum sign area requirements may be permitted for that elevation. Signs shall be subject to the following maximum square footages:

Table 12-1: Permitted Maximum Wall Sign Area in a Nonresidential District

Business Frontage (Linear Feet)	Area (Square Feet)
25 or less	32
26—50	50
51—100	75
101—150	90
151—200	110
201 or more	150

- 2. Buildings with shared space and one entrance. A building with a common entrance for multiple tenants may share wall signage with all tenants if the owner submits a master signage plan that complies with Table 12-1. The owner may share the allocation allotted under Table 12-1 among three separate signs so long as the total square footage does not exceed Table 12-1 and meets the requirements of 12.04.07. If the allocation is used for multiple signs, all signs

must be consistent with the approved signage plan. Signs must be of same style, size, font and color.

3. *Large-scale retailers.* Large-scale retailers, as defined in Chapter 14, may have one major wall sign and ~~three~~ four minor wall signs. The major wall sign shall not exceed the maximum square footage depicted in Table 12-1. The minor wall signs shall not exceed ~~32~~ 24 square feet each.
 4. *Mid-Scale Retailers.* Mid-Scale Retailers that are part of a shopping center will be allowed a major wall sign and 2 minor wall signs. The major wall sign shall not exceed the maximum square footage depicted in Table 12-1. The minor wall signs shall not exceed 24 square feet each.
 - 3.5. *Canopies.* No additional sign area is permitted for canopies over fuel operations. However, permitted wall sign area for the principal structure or building may be transferred to the canopy, as long as the canopy signage is only situated on the sides of the canopy facing a right-of-way. This does not apply to required signage pertaining to safety or hazardous situations.
 - 4.6. *Window signage.* Window signage, including temporary window signs, shall not exceed 35 percent of the total glass surface area of any one building elevation.
- D. *Directory Signage:* ~~Directory signage~~ Permanent directory signs designed to assist 911 and emergency response systems, pedestrian circulation and traffic circulation shall comply with the following requirements:
1. Sign area for each sign cannot exceed a maximum size of 24 square feet and not more than two signs per building.
 2. Maximum sign area of 24 square feet applies to both freestanding and wall signs.
 3. If freestanding signs are used, the sign height shall be limited to six feet.
 - 3.4. All ~~directory~~ signs shall be consistent with building aesthetics.
- E. *Under-canopy sign.* Each tenant within a multitenant development shall be allowed one under-canopy sign. The under-canopy sign area shall not be counted toward the maximum wall sign area allowed. ~~The sign shall display the name of the business only.~~
1. The sign shall be no larger than six square feet.
 2. The sign shall be rigidly supported by a decorative chain or bracket and the bottom of the sign shall have minimum clearance of eight feet above the sidewalk.
 3. The sign shall be designed aesthetically compatible with the principal structure.
- F. *Directional signage for Emergency Services Purposes.* In addition to the other types of signs allowed on a site, directional signs designed to assist 911 and emergency response systems and traffic circulation are allowed subject to the following requirements:

1. Directional signs to assist onsite vehicular traffic flow shall be low-profile signs not to exceed three feet in height above grade and four-square feet of surface area, ~~with the legend to be affixed thereon to include arrows and the words "enter" or "exit" as appropriate.~~
 2. All directional signs shall be of consistent size, font, and color.
- G. ~~Flagpoles.~~ Refer to Subsection 12.04.08.
- H. Signs facing drive-through lanes. ~~Drive-through menu board and speakers.~~ Drive-through restaurants are allowed to display ~~menu boards~~ drive-through lane signs subject to the following provisions:
1. Each restaurant may display up to two freestanding ~~menu~~ compatible signs per drive-through, which shall be adjacent to and oriented toward the drive-through area.
 2. ~~The sign area~~ Menu boards may be a maximum of 30 square feet in total, with a maximum height of six feet.
 3. If two signs are located side by side, the total sign area may be shared and increased to 45 square feet if the Land Use Administrator determines it to be preferable from a safety perspective.
 4. Supporting ancillary equipment is allowed, such as speakers and order confirmation devices. These devices, when combined with a cabinet, must not exceed the maximum height requirements of the signs.
- I. ~~Wayfinding sign. May only be installed by the City.~~
- I. Signage program.
1. At master site plan application, developments shall include a conceptual signage program showing consistency between architectural elements, designs, and themes for freestanding, wall, and all other signs throughout the planned development. The conceptual signage program shall contain sufficient detail to address sign pattern, style, color, and locations(s). To encourage flexibility in the overall design of the master site plan project, up to 20 percent of total wall sign allowance on the street front facade can be transferred to the freestanding sign provided the request is depicted in a signage program, the total size of the freestanding sign does not exceed 115 square feet, and is included in the development order. All other signs shall be in compliance with Chapter 12 of the LDC.
 2. At site plan application, multitenant developments shall include a signage program for all freestanding, wall, and other signs throughout the development that identifies sign style and locations consistent with the architectural theme and architectural integrity of the proposed building(s). The signage program shall be compatible with other sites within a master site plan development. The signage program shall be

part of the site plan development order with approved elevation plans and site plan showing the sign locations to include visual details of sign patterns, style, and landscaping. Signs shall be in compliance with Chapter 12 of the LDC.

- a. Wall signs. Wall signs with similar style sign casings and/or framings or architectural designated locations and illuminations are encouraged. Wall signs may have minor adjustments in location and size due to unit resizing or unit combining, but the overall architectural integrity of the building(s) and theme of the sign plan shall be maintained.
- b. Freestanding signs. Freestanding signs are to be compatible with the proposed architectural design and landscaping.

Sec. 12.06. - Temporary Signs.¹

12.06.01 Temporary Sign Standards.

<u>A. NON-RESIDENTIALLY ZONED PROPERTIES' TEMPORARY SIGN STANDARDS</u>				
<u>Sign type</u>	<u>Number of signs</u>	<u>Maximum sign area and height (The sign areas provided are cumulative for the number of signs allowed)</u>	<u>Time</u>	<u>Additional standards</u>
<u>Commercial signs</u>	<u>One banner sign per business</u>	<u>Area: Lots less than 1 acre – 16 square feet 1 acre to 10 acres – 32 square feet More than 10 acres – 48 square feet Limited to height of building.</u>	<u>Remove after 30 consecutive days</u>	<u>No more than three times per year.</u>
<u>Non-commercial signs</u>	<u>Four per property</u>	<u>Area: Lots less than 1 acre – 16 square feet 1 acre to 10 acres – 32 square feet More than 10 acres – 48 square feet Limit 7' in height</u>	<u>If associated with an event, remove 15 calendar days after the event.</u>	<u>Setback: 1. 2 ft. from public right-of-way. 2. 15 ft. from side property lines.</u>

<u>Signs for parcels with active Site/building permits</u>	<u>Two visible from rights-of-way adjacent to lot.</u>	<u>Area:</u> <u>Lots less than 1 acre – 16 square feet</u> <u>1 acre to 10 acres – 32 square feet</u> <u>More than 10 acres – 48 square feet</u> <u>Height: 7 ft max height</u>	<u>Remove within 3 calendar days after issuance of a final inspection or certificate of occupancy.</u>	<u>Setback:</u> <u>1. 2 ft. from public right-of-way.</u> <u>2. 15 ft. from side property lines.</u> <u>Can divide sign allowance between 2 different signs.</u>
<u>Signs on property being actively marketed for sale, rent or lease</u>	<u>Two visible from rights-of-way adjacent to lot.</u>	<u>Area:</u> <u>Lots less than 1 acre – 16 square feet</u> <u>1 acre to 10 acres – 32 square feet</u> <u>More than 10 acres – 48 square feet</u> <u>Height: 7 ft.</u>	<u>Remove within 3 calendar days after sale or lease.</u>	<u>Setback:</u> <u>1. 2 ft. from public right-of-way.</u> <u>2. 15 ft. from side property lines.</u>

B. RESIDENTIALLY ZONED PROPERTIES’ TEMPORARY SIGN STANDARDS

<u>Sign Type</u>	<u>Number of Signs</u>	<u>Maximum Sign Area and Height (The sign areas provided are cumulative for the number of signs allowed)</u>	<u>Time</u>	<u>Permit Requirements and Additional standards</u>
<u>Non-commercial signs</u>	<u>Six</u>	<u>Area: 6 sf</u> <u>Height: 6 ft</u>	<u>If associated with an event, remove 15 calendar days after the event.</u>	<u>Setback:</u> <u>1. 2 ft. from public right-of-way.</u> <u>2. 15 ft. from side property lines.</u>
<u>Signs for parcels with active site/building permits</u>	<u>One per lot</u>	<u>Area:</u> <u>Lots less than 1 acre – 6 sf</u> <u>1 acre to 10 acres – 12 sf</u> <u>More than 10 acres – 32 sf</u> <u>Height: 7 ft max</u>	<u>Remove within 3 calendar days after issuance of a final inspection or certificate of completion.</u>	

<u>Signs on property being actively marketed for sale, rent or lease, single family zoning.</u>	<u>Two visible from rights-of-way adjacent to lot; one additional sign (per property) only when the premises are available for inspection by the prospective buyer or tenant; said additional sign shall not be larger than 9 sf and may only be posted on private property with the permission of the property owner</u>	<u>Area: 6 sf per street frontage</u> <u>Height: 6 ft.</u>	<u>Remove within 3 calendar days of sale or lease.</u>	<u>Setback:</u> <u>1. 2 ft. from public right-of-way.</u> <u>2. 15 ft. from side property lines.</u>
<u>Signs on property being actively marketed for sale, rent or lease, multi-family zoning</u>		<u>Area: 24 sf</u> <u>Height: 7 ft</u>		
<u>Signs on properties with a sale on the property</u> <u>(not defined above)</u>	<u>One per street frontage</u>	<u>Area: 6 sf</u> <u>Height: 6 ft</u>	<u>Max. 2 times per year.</u> <u>Remove within 3 calendar days after the event.</u>	<u>Setback:</u> <u>1. 2 ft. from public right-of-way.</u> <u>2. 15 ft. from side property lines.</u>

Footnote 1: However, see ULDR Sections 4.01.01 and 12.04.07.A.2 prohibiting signs in City easements.

~~12.06.01. Construction site signs. Construction site signs, which may include temporary subdivision signs, are permitted for each project as follows:~~

~~A. — Number. One general sign per site.~~

~~B. — Sign area. The maximum sign square footage for single family and duplex residential lots shall not exceed six square feet. The maximum sign area allowed for other uses is based on parcel size as follows:~~

Table 12-2: Permitted Construction Sign Area

Parcel Size	Maximum Area
Less than 1 acre	12 sq. ft.
1.1 acres to 10 acres	32 sq. ft.
More than 10 acres	48 sq. ft.

C. — Sign height. Seven feet maximum.

D. — Setback.

1. — A minimum of five feet from property line abutting any street.

2. — A minimum of 25 feet from side property lines or equidistant between side property lines.

E. — Duration. Construction site signs shall not be erected prior to the issuance of a building permit and shall be removed within three calendar days after issuance of a certificate of occupancy. Such signs shall be removed immediately if construction has not begun after 60 calendar days from issuance of a building permit or if construction is halted thereafter for a period of more than 60 calendar days.

12.06.02. Garage sale signs. Residentially zoned properties may display up to one garage sale sign per street frontage. The sign(s) shall not exceed four square feet each and shall be displayed on the premises of which the sale is to be held. The sign shall not be located within the rights-of-way.

12.06.03. Political signs. Political campaign signs or posters are permitted in all zoning districts and shall comply with the following:

A. — Posting of political signs.

1. — Placement of political signs on private property may occur only with the expressed consent of the property owner.

2. — It is prohibited and unlawful to place a political sign on or within public rights-of-way or public property.

3. — Setback shall be two feet from public rights-of-way and 15 feet from side property lines and shall not be located within any sight triangle.

4. — Political signs placed in residential districts shall not exceed six square feet in size and shall not exceed five feet in height.

5. — Political signs placed in nonresidential districts shall not exceed 16 square feet in size and shall not exceed ten feet in height.

B. — Removal of political signs.

1. — Signs shall be removed within 15 calendar days after the election or referendum to which it pertains.

2. — The removal of all political signs shall be the joint and severally responsibility of the owner of the property upon which the sign is placed and the candidate for whom such sign was placed.

~~12.06.04. Real estate signs.~~

~~A. — Number of signs. A maximum of one sign shall be allowed per site frontage, except that large parcels with a site frontage of 500 feet or more are allowed a maximum of two signs per frontage, at least 250 feet apart. Properties represented by more than one real estate office must utilize the same sign. The total sign area, height, and location shall not exceed that permitted under Table 12-3.~~

~~B. — Sign area. An on-site sale or rental sign that is not illuminated is allowed for each street frontage. The sale or rental sign shall comply with the following:~~

Table 12-3: Permitted Maximum Real Estate Sign Area

Type of Zoning District	Maximum Sign Area Per Sign
Single family and duplex residential areas	Six sq. ft. per street frontage
Residential areas for buildings with three or more units	16 sq. ft. per street frontage
Nonresidential areas	24 sq. ft. per street frontage

~~C. — Sign height. A maximum height of five feet in residential districts and seven feet in nonresidential districts is allowed.~~

~~D. — Setback. Two feet from public rights-of-way and 15 feet from side property lines.~~

~~12.06.05~~12.06.02. Model home and sales offices.

A. A model home is permitted to have one on-site, ground mounted, nonilluminated, freestanding sign in accordance with the following dimensional limitations:

A1. Maximum sign area of 24 square feet.

B2. Maximum height of four feet.

C3. Setback a minimum of two feet from the right-of-way and located outside of the sight triangle as defined in Chapter 5.

~~DB. Model homes that front a second right-of-way are permitted to display are allowed to have one commercial or non-commercial "open" flag, with a maximum sign area of 24 square feet, set back of minimum of two feet from the right-of-way and located outside the sight triangle as defined in Chapter 5. that must be located within two feet of the freestanding sign, provided, however, that the sign may only be displayed during the model home's hours of operation.~~

~~EC. Model homes are not permitted to have additional permanent or temporary outdoor signage. Signage not permitted includes, but is not limited to, temporary signs advertising an open house or model home, banners, pennants, streamers, and "A-frame" signs. During hours of operation, one "A-Frame" sign may be located on the model home site if in compliance with Section 12.06.03.~~

~~12.06.06. Banners/miscellaneous temporary signs. Banners or other miscellaneous temporary signs are allowed under the following conditions:~~

~~A.—— Number of signs. No more than one banner/sign that is not illuminated shall be allowed per business frontage and no more than three signs per multitenant center at one time.~~

~~B.—— Duration.~~

~~1.—— In conjunction with a grand opening for a new business or use in a nonresidential zoning district, the banner/sign may be allowed to remain for a period not to exceed 30 consecutive days and must be utilized within the first three months of the new business or use.~~

~~2.—— In conjunction with seasonal promotions, the sign may be displayed for the duration of the sale, as authorized in Subsection 4.19.04.~~

~~3.—— In conjunction with a special event, the sign may be displayed for the duration of the event as authorized by Subsection 4.19.05. The temporary sign or banner may be installed up to 30 calendar days prior to the event and shall be removed no later than 48 hours following the closing of the event.~~

~~4.—— No more than three permits may be issued for each site per calendar year.~~

~~C.—— Sign area. The maximum sign area shall be 32 square feet per sign, unless as otherwise specified in this Code.~~

~~D.—— Banners. Temporary banners may be allowed upon issuance of a banner permit based on guidelines provided by resolution or other action by the City Council.~~

~~E.—— Temporary municipal and government signs. Temporary signs relating to municipal public purposes on City-owned property when installed to assist the public in locating City-sponsored programs or events shall be allowed.~~

12.06.073. *A-frame signs.*A. *Permissible zoning districts.*

1. A-frame signs are permitted in ~~the following~~ all nonresidential zoning districts:
 - ~~Neighborhood Commercial (COM-1)~~
 - ~~General Commercial (COM-2)~~
 - ~~High Intensity Commercial (COM-3)~~
 - ~~Limited Office (OFC-1)~~
 - ~~General Office (OFC-2)~~
2. A-frame signs may be proposed as part of a nonresidential component of a Master Planned Development (MPD) District.

B. *Criteria for A-frame signs.*

1. *Maximum number allowed.* A business with its own separate building entrance is allowed no more than one A-frame sign.
2. *Location.*
 - a. No sign may block a business entrance and/or pedestrian or vehicular traffic. Sign placement shall not interfere with the American with Disabilities Act (ADA) requirements.
 - b. The sign(s) shall not be placed in landscaped areas.
 - c. The sign(s) shall be located within ten feet of the business entrance which it serves but in no event shall the sign be located beyond the width of the business frontage.
 - d. No A-frame sign shall be secured, tethered, or installed on traffic devices, utility equipment, trees, furniture, poles, or any other fixture.
 - e. Sign(s) shall be located on the ground/sidewalk.
 - f. Sign(s) shall not be located within sight triangles or in a manner that obstructs visibility to vehicular traffic.
 - g. Sign(s) shall be displayed outside only during business hours.
3. *Construction and maintenance.*
 - a. When the adjacent sidewalk is less than six feet in width, the overall dimensions shall not exceed two feet wide by three feet in height; when the adjacent sidewalk is six feet or greater in width, the overall dimensions shall not exceed three feet wide by four feet in height.
 - b. No sign shall have moving parts, illumination, or attachments.

- c. The sign shall have no more than two sides and shall be constructed of finished all-weather materials.
- d. Sign(s) must be properly anchored (temporarily) or weighted against the wind to prevent safety hazards.

Sec. 12.07. - Variances.

12.07.01. *Review criteria.* The Planning and Land Development Regulation Board may grant variances from the regulations contained in this Code, in accordance with Chapter 2, and based only upon the following criteria:

- A. To permit a setback for a sign that is less than the required setback, or
- B. To permit the area or height of a sign to be increased by up to 25 percent of the maximum height or area allowed.

12.07.02. *Review findings.* The Planning and Land Development Regulation Board may grant one of the above two types of variances authorized by this section only if it finds there are special physical conditions that:

- A. Are due to the exceptional narrowness, shallowness, shape, or topography of the premises on which an activity is located, and
- B. Prevent the activity from earning a reasonable return as compared with other activities in the area.

12.07.03. *Scheduling of public hearing.* An application for said variance shall be scheduled for public hearing within 30 working days of the date the application is deemed complete by the City.

Sec. 12.08. - Appeals to Planning and Land Development Regulation Board.

12.08.01. *Procedure.*

- A. Whenever it is alleged that there has been an error in an order, action, decision, determination, or requirement by the Land Use Administrator in the enforcement and application of any provision contained within this section or any other provision of this Code pertaining to sign permits (including any allegation that the Land Use Administrator has failed to act within applicable time frames), the aggrieved party may file a written appeal with the Planning and Land Development Regulation Board.
- B. The written appeal shall be filed with the Planning and Development Regulation Board within 30 calendar days of the date of the alleged error. The written appeal shall describe the alleged error and the applicable provisions of the Code pertaining to the Land Use Administrator's order, action, decision, determination, requirement, or failure to act.
- C. The Planning and Land Development Regulation Board shall hold a hearing within 45 calendar days following receipt of the written appeal, not counting the day of the receipt and not counting any Saturday, Sunday, or legal holiday which falls upon the first or the 45th day after the date of receipt.

- D. The Planning and Land Development Regulation Board shall render a written decision within ten working days following the hearing.
- E. If the Planning and Land Development Regulation Board does not render a decision within ten working days following the hearing, the sign permit shall be deemed denied.
- F. Failure to appeal the decision regarding a sign application by the Land Use Administrator to the Planning and Land Development Regulation Board shall not be deemed a failure to exhaust administrative remedies. The applicant may choose to proceed directly to a judicial action once the sign application has been denied by the Land Use Administrator.
- G. If an administrative appeal is filed by the applicant, and the Planning and Land Development Regulation Board fails to meet within the prescribed time, the appeal will be deemed denied, and the decision of the Land Use Administrator regarding the sign application will be deemed a final decision subject to immediate appeal to a court of competent jurisdiction.
- H. Once a decision is appealed to the Planning and Land Development Regulation Board, the Land Use Administrator shall take no further action on the matter pending the Board's decision, except for unsafe signs that present an immediate and serious danger to the public, in which case the City may pursue any proper legal remedy available to it.
- I. The Planning and Land Development Regulation Board shall comply with all applicable rules of conduct and procedures that pertain to zoning and that are not inconsistent with the provisions in this chapter.

12.08.02. *Appellate decisions deemed final, subject to review.* The appellate decisions, pursuant to Subsection 12.08.01 above, shall be deemed final, subject to judicial review by the Circuit Court of the Seventh Judicial Circuit in and for Flagler County, Florida, filed in accordance with the requirements of law, seeking such appropriate remedy as may be available.

Sec. 12.09. - Substitution of Noncommercial Speech for Commercial Speech.

Notwithstanding anything contained in this chapter or Code to the contrary, any sign erected pursuant to the provisions of this chapter or Code may, at the option of the owner, contain a noncommercial message in lieu of a commercial message and the noncommercial copy may be substituted at any time in place of the commercial copy. The noncommercial message (copy) may occupy the entire sign face or any portion thereof. The sign face may be changed from commercial to noncommercial messages, or from one noncommercial message to another noncommercial message, as frequently as desired by the owner of the sign, provided that the size, height, setback, and other dimensional criteria contained in this chapter and Code have been satisfied.

Sec. 12.10. - Content Neutrality as to Sign Message (Viewpoint).

Notwithstanding anything in this chapter or Code to the contrary, no sign or sign structure shall be subject to any limitation based upon the content (viewpoint) of the message contained on such sign or displayed on such sign structure.

Sec. 12.11. - Severability.

12.11.01. *Generally.* If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter and Code.

12.11.02. *Severability where less speech results.* Without diminishing or limiting in any way the declaration of severability set forth above in Section 12.11, or elsewhere in this chapter, this Code, or any adopting ordinance, if any part, section subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter or Code, even if such severability would result in a situation where there would be less speech, whether by subjecting previously exempt signs to permitting or otherwise.

12.11.03. *Severability of provisions pertaining to prohibited signs.* Without diminishing or limiting in any way the declaration of severability set forth above in Subsection 12.11.01, or elsewhere in this chapter, this Code, or any adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter or any other law is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter that pertains to prohibited signs, including specifically those signs and sign-types prohibited and not allowed under Subsection 12.03.02 of this chapter. Furthermore, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter and Code.

12.11.04. *Severability of prohibition on off-site signs.* If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter and/or any other Code provisions and/or laws as declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect the prohibition on off-site signs as contained in this chapter and Code.

SECTION 4. It is hereby ordained by the City of Palm Coast, Florida: that Section 14.02. – Glossary, Chapter 14 – Glossary, of the Unified Land Development Code, City of Palm Coast, Florida, is hereby amended to read as follows:

Sec. 14.02. - Glossary.

* * *

Commercial message: Any wording, logo, emblem, character, pictograph, trademark, or symbol used to represent a firm, organization, entity, product, or service, or other representation that, directly or indirectly, names, advertises, or calls attention to a product or service. For purposes of Chapter 12, terms such as sale, special, clearance, or other words which relate to commercial activity shall be deemed to be commercial messages.

* * *

Flag means a temporary sign consisting of a piece of cloth, fabric or other non-rigid material containing non-commercial speech.

* * *

Mid-Scale Retailers: A large store, such as a department store or supermarket, that is prominently located in a commercial shopping center to attract customers who are then expected to patronize the other shops in the center. The anchor or large store unit shall contain a minimum of 30,000 square feet up to 60,000 square feet.

* * *

Sign: Any letters, numbers, symbols, graphics, pictures, or figures, or combination thereof that are erected, constructed, placed, or attached on a structure, ground, or body which identify, advertise, or direct attention to a product, business, institution, place, person, or event, or any other communication and that can be seen from the public right-of-way or public waterway. When not modified by the terms "structure" or "face", the term "sign" shall include all parts of the sign and its supporting structure. Any device, fixture, placard or structure, including its component parts, which draws attention to an object, product, place, activity, opinion, person, institution, organization, or place of business, or which identifies or promotes the interests of any person, and which is to be viewed from any public street, road, highway, right-of-way or parking area (collectively referred to as a "public area"). For the purposes of these regulations, the term "sign" includes all structural members. A sign shall be construed to also include a display surface or device containing organized and related elements composed to form a single unit. In cases where matter is displayed in a random or unconnected manner without an organized relationship between the components, each such component shall be considered to be a single sign. The term "sign" for regulatory purposes shall not include signs not visible from any street, property, or water body. The definition of sign does not include:

- (1) Signs required or installed by a government agency on private property;
- (2) Notices required to be posted by law or ordinance on private property.

Sign, A-Frame: A temporary sign that is supported by its own frame forming the cross-sectional shape of an A. A type of sign composed of two boards set up in a triangle shape hinged along the top.

Sign, abandoned:

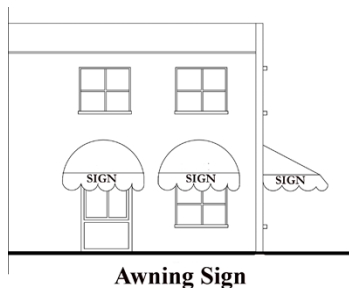
- (1) Any sign face which advertises a business no longer conducted or product no longer sold. In making the determination that a sign advertises a business no longer being conducted, the Land Use Administrator shall consider the existence or absence of a current occupational license, utility service deposit or account, use of the premises, and relocation of the business.
- (2) Any sign structure that not used for business purposes for over six months and that is nonconforming according to existing codes regarding height, setback, or sign area.

Signage program: A graphic representation showing a comprehensive detailed presentation of all signage proposed for a particular development to include style, color, location, size, and material.

Sign, animated: Any sign of which all or any part thereof revolves or moves in any fashion whatsoever; and any sign which contains or uses for illumination any light, lights or lighting device or devices which change color, flash or alternate, show movement or motion, or change the appearance of said sign or any part thereof automatically. Animated signs also include electronic, LCD and LED signs if they are using movement and change of light to depict action or to create special effects or scenes. Also, known as Automatic Electric Changing Signs (ACS). Does not include manually changeable copy sign.

Sign area: The area of a sign face (which is also the sign area of a wall or other sign with only one face) shall be computed by means of the smallest square, circular, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display. This includes 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. The sign area does not include any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets the LDC and is clearly incidental to the display itself.

Sign area, aggregate: The architectural area around the copy of the sign. The maximum aggregated sign area is determined by calculating sign area times two and is exclusive of the sign area.



Sign, awning: Any sign consisting of information painted on, sewn on, imprinted on, or attached to the surface of an awning or canopy.

Sign, banner: A sign either enclosed or not enclosed in a ridged frame and secured or mounted to allow movement caused by atmosphere. Banners are temporary signs. Flags are not banners.

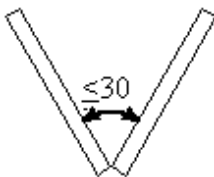
Sign, Changeable copy: A sign or portion thereof designed to accommodate frequent message changes composed of characters, letters, or illustrations and that can be changed or rearranged manually without altering the face or surface of such sign.

Sign, directional: Any non-commercial sign intended to provide direction for emergency services and, including signs that direct traffic onto or within a site, identify restrooms, parking areas or spaces, freight entrances, or other facilities for the convenience safety of the public and traffic circulation. Includes an informational, wayfinding, or directional sign similar to:

(a)A noncommercial sign located on and relating to an activity on the premises upon which the sign is located, that is providing information to or is related or reasonably necessary to the movement of pedestrian and vehicular traffic on the premises, and not displaying a commercial message, e.g., "entrance," "exit," "caution" and "no trespassing", "no parking", "one-way only", and the like;

(b)A noncommercial sign within a development, or at the entrances thereto, showing the name(s) and directions to the businesses or tenants within the development or the locations of the subdivisions comprising the development, etc.

Sign, directory: A non-commercial sign that provides a listing of the occupants of a multitenant center and their suite/building numbers for emergency services purposes and to give direction to customers already within the site for the safety of the public, and for pedestrian and traffic circulation. Directory signs are not intended to be visible from the public right-of-way.



Sign, double faced: A sign with two faces that are no more than three feet apart at their closest point, or placed at an angle of 30 degrees or less. Double-faced signs shall be considered one sign.

Sign, Drive-through Lane sign: Drive-through Lane sign shall mean a sign oriented to vehicles utilizing a drive-through lane at an establishment.

Sign, electronic display type: A sign for presentation of information for visual reception, acquired, stored, or transmitted in various forms, where the input information is supplied

as an electric signal, and uses a light source, LED (light emitting diodes), bare electric bulbs, luminous tubes, fiber optic, or other combination of light source to create the message. In addition, signs that appear protected, or are intermittently or intensely illuminated, or of a traveling, scrolling, or sequential light type, or contain, or are illuminated, or flashing light.

~~Sign, free expression: A sign, not in excess of four square feet in size (area) where the top of the sign is not more than three feet off the ground, if freestanding, and communicating information or views of concern to the owner of the sign, or containing any other noncommercial message that is otherwise lawful.~~



Sign, freestanding: A monument sign supported by a sign structure in the ground and that is wholly independent of any building, fence, vehicle, or object other than the sign structure for support.

Sign, Government. Government sign shall mean any temporary or permanent non-commercial sign erected by or on the order of a public official or quasi-public entity at the federal, state or local government level.

Sign height: The vertical distance as measured from the finished grade to the highest point of the sign structure. Finished grade is the newly established grade at the base of the sign after construction of the sign, exclusive of any filling, berming, madding, or excavating solely for the purpose of locating the sign.

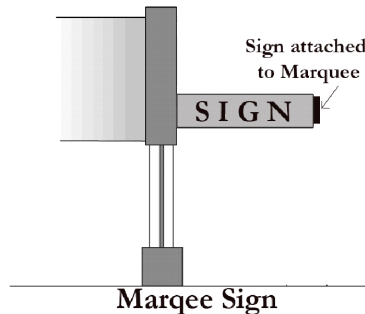
~~Sign, identification: A sign that indicates the name and type of business or service, residents, or the name of the development located on the site where the sign is located including street address, phone number, and graphic of business logo.~~

Sign, illuminated: A sign that uses artificial light, either internal or external to the sign faces, to draw attention to the sign or otherwise increase its visibility.

Sign, Ingress and egress: Ingress and egress sign shall mean a non-commercial sign at the

entrance to or exit from a parcel or a building necessary to provide directions for vehicular and pedestrian traffic and provide a warning for pedestrian and vehicular traffic safety.

Sign, machinery and equipment: Graphics and trademarks on vending machines, gas pumps, and machinery customarily used outside of buildings. Also, includes signs on public works and/or construction equipment (bulldozers and such) that have the brand/make of the machinery or equipment.



Sign, marquee: A sign attached to or hung from a marquee that is a permanent projecting structure protruding from the entrance of a building wall to provide shelter and display advertising.

Sign, manually changeable copy sign: The message on the sign is changed manually (without the use of an electric signal) using individual letters, numbers, phrases, or symbols. Examples include reader boards with manually changeable letters or changeable pictorial panels.

Sign, monument: See ***Sign, freestanding.*** ***Sign, off-site advertising or “outdoor advertising”:*** A nonaccessory (third party) sign identifying, advertising or directing the public to a business, merchandise, service, institution, residential area, entertainment or activity which is located, sold, rented, based, produced, manufactured, or taking place at a location other than on the site on which the sign is located.

Sign, On-site: Any commercial sign which directs attention to a commercial or industrial occupancy, establishment, commodity, good, product, service or other commercial or industrial activity conducted, sold or offered upon the site where the sign is maintained. The on-site/off-site distinction applies only to commercial message signs. For purposes of Chapter 12, all signs with noncommercial speech messages shall be deemed to be "on-site," regardless of location.

Sign, parasite: Any sign not exempted by this Code, for which no permit has been issued, and which is attached to another sign.

Sign, Permanent: Any sign which is intended to be and is so constructed as to be of lasting and enduring condition, remaining unchanged in character, condition (beyond normal wear and tear) and position and in a permanent manner affixed to the ground, wall or building.

Sign, pole: A freestanding sign, greater than 3 feet in height, supported by a pole, a column, or other fabricated support member without any type of secondary support. Pole/pylon signs typically provide clear view between the sign and the ground.

~~Sign, political: Any sign used solely to present information suggesting a candidate's suitability for elected public office or presenting an issue to be voted upon in the upcoming legally recognized election at the Federal, State, County, or City level or for special districts.~~

Sign, portable: A sign that has no permanent attachment to a building or to the ground by means of a footing including, but not limited to, an A-frame or sandwich board sign; a sign with wheels designed to be pulled or towed on a trailer or similar device, pull attachments, hot air or gas filled balloons; umbrellas used for advertising; signs mounted for advertising purposes on a vehicle that is parked and visible from the public right-of-way, sidewalk, or curb.

Sign, projecting: A sign that is wholly or partly dependent upon a building for support and that projects horizontally more than 12 inches from such building.

Sign, roof: A sign painted on or affixed to the roof of a building and primarily supported by that roof structure, except fascia signs.

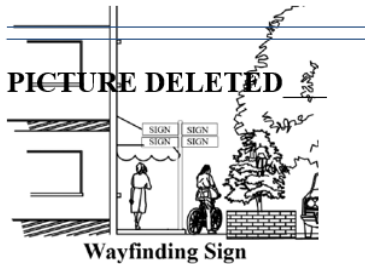
Sign, snipe: A sign made of any material which is tacked, nailed, posted, pasted, glued or otherwise attached to or placed on public property such as but not limited to a public utility pole, a public street sign, a public utility box, a public fire hydrant, a public right-of way, public street furniture, or other public property; except for A-frame and T-frame signs that are temporarily placed on public property under such limitations and constraints as may be set forth in the Land Development Code. Any sign or any material when such sign is attached in any way to trees, utility poles, motor vehicles, trailers, waterborne craft, or other objects

Sign, temporary: A sign intended for a use not permanent in nature. Unless otherwise provided for in this Code, a sign with an intended use for a period of time related to an event shall be deemed a temporary sign. A banner and flag shall be deemed temporary signs. A sign erected for two weeks or less to advertise or identify transitory events unless specifically permitted for a longer period by this LDC.

* * *

Sign, Temporary Window. Any temporary sign attached to, printed on or made of paper, cloth, fabric or similar material and located behind the window.

Sign, wall: A sign attached to a wall of a building or structure so that the wall forms the supporting structure or becomes the background of the sign. For the purpose of Chapter 12, wall signs include awning and projecting signs.



Sign, wayfinding: A directional sign placed in the public right-of-way to advertise the location of one or more business or facilities in the immediate area.

Sign, window: A sign posted, painted, placed, or affixed in or on the interior or exterior of a window/glass door, or placed within three feet of a window/glass door pane, or displayed to be visible from the exterior of the building.

* * *

SECTION 5. NON-CONFORMING SIGNS. Signs lawfully existing prior to the Effective Date of this Ordinance may be continued although their size, location, or other physical attributes do not conform to this Ordinance. These signs will be subject to the City’s non-conforming structure provisions.

SECTION 6. SEVERABILITY. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 7. CODIFICATION. It is the intention of the City Council of the City of Palm Coast, Florida, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Unified Land Development Code of the City of Palm Coast, Florida; that the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; that the word, “Ordinance” may be changed to Section,” “Article,” or other appropriate word.

SECTION 8. CONFLICTS. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

This space left intentionally blank.

SECTION 9. EFFECTIVE DATE. This Ordinance shall become effective immediately upon its passage and adoption.

Approved on first reading this 19th day of March 2024.

Adopted on second reading after due public notice and hearing this ____ day of _____, 2024.

ATTEST:

CITY OF PALM COAST

KALEY COOK, CITY CLERK

DAVID ALFIN, MAYOR

APPROVED AS TO FORM AND LEGALITY

ANTHONY GARGANESE, CITY ATTORNEY

MEMORANDUM

TO: City Council

COPY TO: Denise Bevan, City Manager
Ray Tyner, Deputy Chief Development Officer

FROM: Catherine D. Reischmann, Assistant City Attorney

RE: Sign Code Revisions

DATE: November 30, 2023

The Council asked for research on potential liability for allowing unlimited signs in the rights of way along the City's major streets. First I will provide some cases discussing sign safety rationale, and then provide some studies discussing the safety issues involved in sign placement.

1. *Lewis v. Searles*, 2002 WL 31947782 (D. Ct. Vt. 2002).

The State of Vermont bans signs within the public row for safety and aesthetics; this ban was upheld by the Court. The Court acknowledged that the only way to deal with visual clutter along roads is to ban signs in the ROW. Plaintiff may accomplish the goals of expressing his political views and promoting his candidacy by posting signs on the land of willing private property owners, placing them on public land that has not been restricted, or by mailings, picketing, distribution of bumper stickers, door-to-door canvassing, car signs and handing out leaflets. The right-of-way statute does nothing to jeopardize this fair and equal access by discriminating, or providing room for discrimination, against any particular party or candidate. It only serves to balance the state's economic and public safety interests with its political ones. The Court has found no reason under the Constitution to affect that balance.

2. *Constr. & Gen. Laborers' Union No. 330 v. Town of Grand Chute*, 915 F.3d 1120 (7th Cir. 2019)

Town's concern about safety and aesthetics, given the town's sporadic and arbitrary enforcement of its prohibition against signs in public rights-of-way, rings hollow.

3. *Selah All. for Equal. v. City of Selah*, 1:20-CV-3228-RMP (E.D. Wash. Sep. 8, 2022).

The town prohibits freestanding signs from public property, but historically had allowed what Selah considers "true political signs" in public rights-of-way pursuant to an admittedly unconstitutional provision of the Code which has yet to be repealed.

Selah's previous allowance of some freestanding signs in public rights-of-way, but not others, conflicts with its stated interest in "eliminating visual blight" and traffic safety: "Once political signs are allowed on a temporary basis, 'it is difficult to imagine how prohibiting political signs at

other times significantly promotes highway safety.’ ” (quoting *Van v. Travel Info. Council*, 52 Or. App. 399, 412, 628 P.2d 1217 (Or. Ct. App. 1981)). Allowing signs some of the time makes it difficult to understand how prohibiting them at other times promotes road safety. On public property, the Town may go a long way toward entirely forbidding the posting of signs, so long as it does so in an evenhanded, content-neutral manner.

The reason the Court accepted for prohibiting signs in the ROW include blight, litter, interference with mowing, water and other maintenance, interfering with traffic, and potentially frustrating the success of businesses, particularly those located adjacent to parking strips covered in these temporary signs.

4. *Stauber v. City of Elwood*, 3 Kan. App. 2d 341 (1979).

Permitting private parties to erect advertising signs on public property for private profit was not a proper exercise of police power by city, where fact that signs gave directions to city’s business district and might aid public in locating businesses did not overcome their primary purpose, which was to benefit private advertisers and not public who used roadway in vicinity of signs.

Streets are public ways for use by public, and streets are to be free of obstructions or unreasonable encroachments to permit safe travel, subject, of course, to reasonable police regulations.

Primary use of right-of-way must be to benefit public and any private use must be incidental to public purpose.

As to signs in particular, the City generally may not allow private individuals to post advertisements on city streets.

5. *McClanahan v. City of Tumwater*, 2012 WL 4113383 (W.D. Wa. 2012).

Although the City’s ban on signs in the ROW as a safety hazard may not have allowed McClanahan’s political signs “optimum exposure,” the limitation is not substantially broader than necessary to reduce the safety hazard that signs in the right-of-way pose. The City has met its burden of establishing that the code banning signs in the ROW is narrowly tailored to advance a significant government interest, and McClanahan has failed to undermine that conclusion.

6. *Frumer v. Cheltenham Township*, 545 F. Supp. 1292 (E.D. Pa. 1982).

The Town’s prohibition of signs in the ROW is designed to promote traffic safety and community aesthetics. Specifically, the Town contends that sign-lined streets detract from the appearance of the community, divert the attentions of drivers, and obstruct the driver’s view of traffic and pedestrians at intersections. Because common sense dictates that the government interests are causally related to the prohibitions of the ordinance, the Court rejected plaintiffs’ challenge. Traffic safety and community aesthetics have been held to be significant government interests which can justify reasonable time, place, and manner regulations of speech protected by the First Amendment. The Court stated:

It is suggested, however, that drivers can avoid visual distractions by merely turning away... It cannot be disputed that signs are distracting. Their whole purpose is to call

attention to themselves and to the extent that they are successful, a motorist's powers of observation are diverted from those things which he may injure or which may bring injury to him. A sign that is large enough to be seen at one glance may also be large enough to conceal a hazard. A small sign may get more than a glance just because it needs more attention to be understood. Usually, temporary signs rely on the impact of multiple exposures to convey their message, proliferating without seeming limit in the process. To suggest that one may simply turn away from the impact of temporary signs is to suggest that one may do that which the sign-placer has resolved one shall not do. Neither pedestrians nor drivers can turn away if there are three or four signs on every pole on both sides of the street. To argue that one need not look is to contend one should walk or drive carelessly. Furthermore, it cannot be disputed that temporary signs posted on traffic signs which either detract attention from them, or worse, conceal them, are hazardous both to drivers and pedestrians. Therefore, I find the ordinance promotes significant government interests which are causally related to achievement of stated goals.

(The Town) also asserts that temporary signs usually remain posted long after the expiration of their usefulness. The temporary signs decay while posted, eventually fall to the ground creating a litter problem and, therefore, further detract from the appearance of the community.

The dicta.. that empirical data is necessary to show the relationship between the restriction and state interest, is distinguishable from this case. Donnelly involved a restriction on posting billboards within six hundred sixty feet of interstate highways. The court concluded that the prohibition would have little effect on highway safety. This case is different because we are concerned with traffic safety on local streets. There are many more off and on street distractions to a driver on local streets than on a highway.

7. *Cincinnati Insurance Company v. Keneco Distributors, Inc.*, 1997 WL 71060 (Oh.10th Cir. 1997).

The DOT was sued, along with Keneco, for a sign Keneco placed in the ROW creating a view obstruction as the proximate cause of an accident.

8. *Johnson v. City and County of Philadelphia*, 665 F.3d 486 (3d Cir. 2011).

The Court held the ban on signs in the ROW promoted public safety and reduced blight.

9. *Sandhills Ass'n of Realtors, Inc., v. Village of Pinehurst*, 1999 WL 1129624 (M.D.N.C. 1999).

Real estate signs were banned from public rights-of-way. The burden was on the Village to show that its ordinance serves a substantial interest and that it does so in a reasonable manner. As for the interest asserted by the Village, the purpose statement of the "Signs" section of defendant's ordinance explains that the ordinance is aimed at "protecting property values, promoting tourism, protecting the public health and safety, and preserving the character and integrity of the community and yet not be garish, distasteful or offensive and be compatible with the architectural characteristics of the Village." The Village also argues that the ordinance restricting real estate

signs has a public safety purpose in prohibiting signs from the right-of-way. However, it may not be ignored that defendant does not ban all signs from the right-of-way as was found permissible in *Members of City Council of City of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789, 104 S.Ct. 2118, 80 L.Ed.2d 772 (1984). The differential treatment given signs in the right-of-way makes it difficult to give credence to the stated goal. Without any reason being given, real estate signs on the right-of-way are disallowed, but other signs are permitted. Thus, the Court finds that public safety is a stated but unfounded goal and does not support the differential treatment given real estate signs.

Sign regulations which address such a small part of a problem or contain exceptions become invalid. *Discovery Network* at 418, 113 S.Ct. at 1511 (ordinance that addresses too little of a problem cannot be justified); *Revere National Corporation, Inc. v. Prince George's County*, 819 F.Supp. 1336, 1343 (D.Md.1993) (too many exceptions). As mentioned earlier, if any further evidence of a lack of careful calculation were needed, one has only to look at the public right-of-way provisions of the ordinance. Some signs, such as real estate signs, are explicitly prohibited from being placed on public rights-of-way. The justification given is public safety. Yet, other signs, such as 16 square foot, multicolored nonresidential construction signs, and 32 square foot, multicolored church banners, are not explicitly restricted from these areas.

10. *Chang v. City of New York*, 142 A.D.3d 401, (NY: App. Div., 1st Dept. 2016).

It is axiomatic that “[a] municipality has the nondelegable duty of maintaining its roads and highways in a reasonably safe condition” ...and that liability will flow for injuries that result from a breach of that duty. This duty extends to an obligation to “trim growth within the highway’s right-of-way to assure visibility of stop signs and other traffic”. Inadequate sight distance caused by obstructing foliage will result in municipal liability for negligent roadway maintenance. This municipal duty is not excused because the dangerous condition is attributable to the acts and/or omissions of the municipality’s contractors.

Here are some safety studies/articles that discuss the basis of sign placement:

1. FHWA study: <https://www.fhwa.dot.gov/publications/research/safety/15027/008.cfm>

Under this study, there is an increase in “search time” (the amount of time spent looking at a sign to determine what information it contains) as the number of signs along the roadside increases. This study measured the difference between one, two, and three signs in this context. The study indicates that although it is not clear that the increase in search time represents a distraction, the increase in search times should raise concerns regarding driver safety. Federal Highway Administration Research and Technology, *Information as a Source of Distraction*, <https://www.fhwa.dot.gov/publications/research/safety/15027/008.cfm> (last visited Nov. 27, 2023).

The variables of sign location/frequency adequacy (1.128), facility safety management (1.234), and integrated installation of road facilities (1.116) were observed to be statistically significant. These variables share a common feature—the excessive installation of signs (including traffic

safety signs) and sporadic construction of other road facilities (traffic lights, street lights, CCTV, etc.) degrade the legibility of guide information and road esthetics and even threaten the safety of facilities during abnormal weather conditions, such as typhoons. Addressing such problems is challenging because road facilities are managed by different institutions. Nevertheless, different types of facilities should be linked and integrated based on policy proposals from higher-level institutions and close consultation between management institutions.

2. The Impact of Driver Inattention on Near-Crash/Crash Risk: An Analysis Using the 100-Car Naturalistic Driving Study Data

April 2006, National Highway Traffic Safety Administration, U.S. Department of Transportation, was a major study of driver inattention, primarily involving distractions inside the car, but finding that any distraction of over two seconds is a potential cause of crashes and near-crashes. The study concludes that total eyes-off-road durations of greater than 2 seconds significantly increase a driver's crash or near crash risk. Eyeglance durations of less than 2 seconds did not significantly increase risk relative to normal, baseline driving. Presumably, this means that where it takes longer than 2 seconds to read a sign, reading the sign increases the driver's probability of crashing their vehicle or having a near-crash experience.

3. The NHTSA conducted a nationwide survey of crashes involving light passenger vehicles from 2005 to 2007 and found that in 4% of crashes the crash was caused by an external distraction such as looking at a street sign. Kelly Leone, *Taking on Distracted Driving*, <https://highways.dot.gov/public-roads/septemberoctober-2010/taking-distracted-driving> (last visited Nov. 27, 2023).

4. In <https://nap.nationalacademies.org/read/26550/chapter/12>, a professor of civil engineering in Australia who proposes that “things such as advertising billboards along highways draw the driver's attention to whatever is being promoted in the ad. But at the same time, they are a source of distraction and may instead draw the driver's attention away from things that are critical for safe driving – such as being focused on the road ahead.” The professor also states that “If you take your eyes off the road for two seconds, it's been shown that you double your risk of a collision. Any longer than two seconds, and the risk of a crash increases exponentially,” Cecilia Duong, *Human-centered Design is Key to Reducing Distraction on Roads*, <https://newsroom.unsw.edu.au/news/science-tech/human-centred-design-key-reducing-distraction-roads> (last visited Nov. 27, 2023).

5. In https://www.dot.state.oh.us/Divisions/Planning/LocalPrograms/LTAP/Documents/Heights%20and%20Lateral%20Locations%20of%20Traffic%20Signs.pdf?Mobile=1&Source=%2FDivisions%2FPlanning%2FLocalPrograms%2FLTAP%2F_layouts%2Fmobile%2Fview.aspx%3FList%3Df40020e4-44bd-4b04-b3ca-5cf4c4511c29%26View%3D95eb6d87-770d-4d22-af4e-d3317390cde8%26CurrentPage%3D1, it provides that in Ohio, signs should be set at least 6ft from the edge of a road shoulder. Ohio Local Technical Assistance Program, *Heights and Lateral Locations of Traffic Signs*, chrome-extension://efaidnbnmnnibpcajpcgiclfndmkaj/<https://www.dot.state.oh.us/Divisions/Planning/L>

ocalPrograms/LTAP/Documents/Heights%20and%20Lateral%20Locations%20of%20Traffic%20Signs.pdf?Mobile=1&Source=%2FDivisions%2FPlanning%2FLocalPrograms%2FLTAP%2F_layouts%2Fmobile%2Fview.aspx%3FList%3Df40020e4-44bd-4b04-b3ca-5cf4c4511c29%26View%3D95eb6d87-770d-4d22-af4e-d3317390cde8%26CurrentPage%3D1 (last visited Nov. 27, 2023).

6. In <https://citeseerx.ist.psu.edu/document?repid=rep1&type=pdf&doi=2ef32940558f8b0803e5ae738053256464d8f550> it provides that “the MUTCD states that traffic signs placed along a roadway should have a minimum lateral clearance of 6 feet from the edge of the shoulder.” Manual on Uniform Traffic Control Devices (MUTCD) (FHWA). However in urban areas where lateral offset is often limited, offsets are as small as 1 to 2 feet (FHWA 2009).



RECEIVED
JUL 28 2023

**Open House Sign ordinance for City of Palm Coast
Recommended by the Flagler County Association of REALTORS®**

BY: *[Signature]*

1. One (1) free standing "Open House" sign per street frontage shall be allowed per property. Sign area shall not exceed three (3) square feet and shall be placed only upon the property to be sold or leased. Sign shall be displayed only when the premises are available for inspection by the prospective buyer or tenant.
2. Directional Open House signs, which are exhibited by real estate licensees, shall conform to the quantity, size, shape and color restrictions set forth in this Ordinance. Open house signs used by real estate licensees must exhibit the name of the brokerage (FREC guidelines). All open house signs must be done in a professional manner.

Off-Premises directional signs may be permitted subject to the regulations below:

- A. Directional sign size shall not exceed eighteen (18) inches x twenty-four (24) inches.
- B. The signs shall be made of plastic, steel, or aluminum. The signs' support posts shall also be made of aluminum or steel. No wooden posts will be permitted.
- C. Signs shall not be placed more than two (2) feet in height above the abutting road elevation.
- D. The Sign shall exhibit the name of the brokerage; the words "OPEN HOUSE" are permitted. Signs must exhibit the Disclosure Notification Sticker/Rider* along with QR Code. Signs will abide by FREC guidelines in regard to contact information.
- E. No more than one (1) directional sign per real estate office shall be placed in each permitted right-a-way (FDOT and State locations not permitted). Signs shall not be placed in any median.
- F. Signs shall not be attached to any existing signs, trees, utility poles or any other structures.
- G. Signs placed in any right-a-way abutting an existing structure(s) shall require the permission of the property owner.
- H. The brokerage of the aforementioned sign of the directional signs shall be held responsible for the removal of such signs no later than 8:00pm on the evening of the Open House. Any signs in violation will be subjected to removal along with the sign being removed and discarded.
- I. Real estate licensees who violate this ordinance shall be levied a fine by FCAR with the proceeds benefiting the Flagler Realtors Foundation.

*Disclosure Notification Sticker/Rider must be placed on each sign along with QR Code with a required verbiage to be determined by FCAR. The verbiage will notify the community of the allotted times whereas the sign can be posted, and a direct link to FCAR to report this in violation of sign ordinance or past allotted timeframe.

P.O. Box 1216 • Bunnell, FL 32110 • Phone: (386) 437-0095 • Fax: (386) 437-6070
www.FlaglerCountyRealtors.com • Email: GAD@FlaglerCountyRealtors.com

[Red Stamp: GAD]



fo) '1 RECEIVED
lffi JUL 28 2023

BY: *xh'*

**Open House Sign ordinance for City of Palm Coast
Recommended by the Flagler County Association of REALTORS**

FCAR recommendations in Black Ink

City's proposed code amendment/responses in Red Ink (Provided at the September 26, 2023 Stakeholder Mtg.)

Summary of request and response - Highlighted

1. One (1) free standing "Open House" sign per street frontage shall be allowed per property. Sign area shall not exceed three (3) square feet and shall be placed only upon the property to be sold or leased. Sign shall be displayed only when the premises are available for inspection by the prospective buyer or tenant.

Amendment proposes for Property being actively marketed for sale or lease:
(Land Development Code (LDC) Subsection (SS) 12.06.01 Temporary Sign Standards)

- 2 (real estate) signs visible from ROW adjacent to lot
(Non-Res = 16 SF to 48 SF pending lot size – 7ft high)
(SFR = 6 SF area – 6 ft high)
(MFR = 24 SF – 7 ft high)
- 1 additional (open house sign) – per property - only when premises are available for inspection by buyers/tenants - 9 SF max - posted on private property w. permission of property owner
- Location: Setback: (for all above)
- 2 ft. from public right-of-way.
- 15 ft. from side property lines.

Request is for one (1) sign per frontage with a 3 SF sign area.

Proposed amendment allows two (2) per street frontage on the subject property and 1 additional - per property - on other lots with owner's permission.

Proposed amendment also allows larger sign areas.

2. Directional Open House signs, which are exhibited by real estate licensees, shall conform to the quantity, size, shape and color restrictions set forth in this Ordinance. Open house signs used by real estate licensees must exhibit the name of the brokerage (FREC guidelines). All open house signs must be done in a professional manner.

- City does not regulate the content of the sign.
- LDC SS 12.03.02 Prohibits certain materials (ie. Paper, cardboard, etc.)

Proposed amendment does not regulate the content of the signs, just size and location of the sign(s) as provided in number 1 above.

Off-Premises directional signs may be permitted subject to the regulations below:

- A. Directional sign size shall not exceed eighteen (18) inches x twenty-four (24) inches.
(Proposing to allow a greater size for the additional sign – 9 SF)
Request is to limit to 18" (1.5') X 24" (2') = 3 SF. Proposed amendment allows the additional sign(s) to be 9 sf.
- B. The signs shall be made of plastic, steel, or aluminum. The signs' support posts shall also be made of aluminum or steel. No wooden posts will be permitted.
 - Proposed amendment does not regulate the construction material of the signs. The code currently prohibits certain materials as stated above. ie. Paper, cardboard, etc. (LDC SS 12.03.02). This is not proposed to change.

Proposed amendment does not regulate this.

- C. Signs shall not be placed more than two (2) feet in height above the abutting road elevation.
- See no 1 above. (Proposing to allow taller – 6 or 7 ft.
Request is to allow maximum height of two (2) feet. Proposed amendment allows 6 ft (SFR zoning), 7 ft (Non-Residential or MFR zoning)
- D. The Sign shall exhibit the name of the brokerage; the words "OPEN HOUSE" are permitted. Signs must exhibit the Disclosure Notification Sticker/Rider* along with QR Code. Signs will abide by FREC guidelines in regard to contact information.
- City does not regulate the content of signs.
This is not regulated by the City
- E. No more than one (1) directional sign per real estate office shall be placed in each permitted right-of-way (FOOT and State locations not permitted). Signs shall not be placed in any median.
- See no 1 above for location criteria.
 - Signs are Prohibited in Right of Way LDC SS 12.03.02. EE. (Prohibited Signs)
 - Per the attorney's presentation at the stakeholder meeting on August 22, 2023, municipalities cannot distinguish between types/purpose (content) of signs and are challenged with this issue. Therefor all signs are prohibited in the right of way.
Signs are not permitted in the right-of-way. (See attorney's legal perspective above, and as provided in the Agenda Item Executive Summary. City is working on an educational tool to educate Realtors (and City staff) on the location of the right-of-way.
- F. Signs shall not be attached to any existing signs, trees, utility poles or any other structures.
- Yes – Covered in LDC Subsection 12.03.02.
City agrees with this. This is not proposed to change.
- G. Signs placed in any right-of-way abutting an existing structure(s) shall require the permission of the property owner.
- Signs are prohibited in any right of way. (See E above.)
Signs are not permitted in the right-of-way. City is working on an educational tool to assist in determining the location of the right of way.
- H. The brokerage of the aforementioned sign of the directional signs shall be held responsible for the removal of such signs no later than 8:00pm on the evening of the Open House. Any signs in violation will be subjected to removal along with the sign being removed and discarded.
- Amendment proposes "...only when the premises are available for inspection by the prospective buyer or tenant".
The amendment allows the signs to be posted only when the premises are available for inspection by the buyer or tenant.
- I. Real estate licensees who violate this ordinance shall be levied a fine by FCAR with the proceeds benefiting the Flagler Realtors Foundation.
- City staff are obligated to follow the Land Development Code and State Statutes.
City is obligated to follow city codes and state statutes.

*Disclosure Notification Sticker/Rider must be placed on each sign along with QR Code with a required verbiage to be determined by FCAR. The verbiage will notify the community of the allotted times whereas the sign can be posted, and a direct link to FCAR to report this in violation of sign ordinance or past allotted timeframe.

P.O. Box 1216 • Bunnell, FL 32110 • Phone: (386) 437-0095 • Fax: (386) 437-6070 :
www.FlaglerCountyRealtors.com • Email: GAD@FlaglerCountyRealtor.s.co1!

Sec. 12.06. - Temporary Signs.¹

12.06.01 Temporary Sign Standards.

A. NON RESIDENTIALLY ZONED PROPERTIES' TEMPORARY SIGN STANDARDS

<u>Sign type</u>	<u>Number of signs</u>	<u>Maximum sign area and height</u>	<u>Time</u>	<u>Additional standards</u>
Commercial signs <u>(Banners- Grand Opening/Going out of business)</u>	One banner sign per property.	Area: <u>Lots less than 1 acre – 16 sf</u> <u>1 acre to 10 acres – 32 sf</u> <u>More than 10 acres – 48 sf</u> <u>Limited to height of building.</u>	<u>Remove after 30 consecutive days</u>	<u>No more than three times per year.</u>
Non-commercial signs <u>(Politica – Non-Commercial Special Events)</u>	Four per property	Area: <u>Lots less than 1 acre – 16 sf</u> <u>1 acre to 10 acres – 32 sf</u> <u>More than 10 acres – 48 sf</u> <u>Limit 7’ in height</u>	<u>If associated with an event, remove 15 calendar days after the event.</u>	<u>Setback:</u> <u>1. 2 ft. from public right-of-way.</u> <u>2. 15 ft. from side property lines.</u>
Signs for parcels with active Site/building permits <u>(Constructions Signs)</u>	Two visible from rights-of-way adjacent to lot.	Area: <u>Lots less than 1 acre – 16 sf</u> <u>1 acre to 10 acres – 32 sf</u> <u>More than 10 acres – 48 sf</u> <u>Height: 7 ft max height</u>	<u>Remove within 3 calendar days after issuance of a final inspection or certificate of occupancy.</u>	<u>Setback:</u> <u>1. 2 ft. from public right-of-way.</u> <u>2. 15 ft. from side property lines.</u> <u>Can divide sign allowance between 2 different signs.</u>
Signs on property being actively marketed for sale, rent or lease <u>(Real Estate)</u>	Two visible from rights-of-way adjacent to lot.	Area: <u>Lots less than 1 acre – 16 sf</u> <u>1 acre to 10 acres – 32 sf</u> <u>More than 10 acres – 48 sf</u> <u>Height: 7 ft.</u>	<u>Remove within 3 calendar days after sale or lease.</u>	<u>Setback:</u> <u>1. 2 ft. from public right-of-way.</u> <u>2. 15 ft. from side property lines.</u>

B. RESIDENTIALLY ZONED PROPERTIES' TEMPORARY SIGN STANDARDS

<u>Sign Type</u>	<u>Number of Signs</u>	<u>Maximum Sign Area and Height</u>	<u>Time</u>	<u>Permit Requirements and Additional standards</u>
<u>Non-commercial signs</u> <u>(Political)</u>	<u>Six</u>	<u>Area: 6 sf</u> <u>Height: 6 ft</u>	<u>If associated with an event, remove 15 calendar days after the event.</u>	<u>Setback:</u> <u>1. 2 ft. from public right-of-way.</u> <u>2. 15 ft. from side property lines.</u>
<u>Signs for parcels with active site/building permits</u> <u>(Constructions Signs)</u>	<u>One per lot</u>	<u>Area: Lots less than 1 acre – 6 sf</u> <u>1.1 acres to 10 acres – 12 sf</u> <u>More than 10 acres – 32 sf</u> <u>Height: 7 ft max</u>	<u>Remove within 3 calendar days after issuance of a final inspection or certificate of completion.</u>	
<u>Signs on property being actively marketed for sale, rent or lease, single family zoning.</u> <u>(Real Estate Signs including Open House Signs and Model Homes)</u>	<u>Two visible from rights-of-way adjacent to lot; one additional sign only when the premises are available for inspection by the prospective buyer or tenant; said additional sign shall not be larger than 9 sf and may only be posted on private property with the permission of the property owner</u>	<u>Area: 6 sf per street frontage</u> <u>Height: 6 ft.</u>	<u>Remove within 3 calendar days of sale or lease.</u>	<u>Setback:</u> <u>1. 2 ft. from public right-of-way.</u> <u>2. 15 ft. from side property lines.</u>
<u>Signs on property being actively marketed for sale, rent or lease, multi-family zoning</u> <u>(Real Estate Signs)</u>		<u>Area: 24 sf</u> <u>Height: 7 ft</u>		
<u>Signs on properties with a sale on the property (not defined above)</u> <u>(Garage Sales)</u>	<u>One per street frontage</u>	<u>Area: 6 sf</u> <u>Height: 6 ft</u>	<u>Max. 2 times per year.</u> <u>Remove within 3 calendar days after the event.</u>	<u>Setback:</u> <u>1. 2 ft. from public right-of-way.</u> <u>2. 15 ft. from side property lines.</u>

Estelle Lens

From: Denise Bevan
Sent: Thursday, October 5, 2023 10:21 AM
To: Ray Tyner; Estelle Lens
Cc: Irene Schaefer; Theresa Carli Pontieri
Subject: FW: Request to amend temporary sign Ordinance

Good morning Ray and Estelle,

Please note the following input from a member of the public.

Thank you,

Denise Bevan, CFM
City Manager
160 Lake Avenue
Palm Coast, FL 32164
Tel: 386-986-3702
www.palmcoast.gov



From: Theresa Carli Pontieri <TCarliPontieri@palmcoastgov.com>
Sent: Wednesday, October 4, 2023 8:17 PM
To: Dick Hoover <HOODBA@msn.com>
Cc: Denise Bevan <dbevan@palmcoastgov.com>
Subject: RE: Request to amend temporary sign Ordinance

Good Evening Mr. Hoover,

Thank you for your email and your engagement. We are working on the signage ordinance now and hope to have something for consideration very soon. Regarding code enforcement, I know that department works tirelessly with staff to ensure all staff is being used efficiently and in the best interest of our City. I have copied our City Manager herein so that she can consider your below comments as well. Enjoy the rest of your week.

Theresa Carli Pontieri
Council Member - District 2
160 Lake Avenue
Palm Coast, FL 32164
www.palmcoast.gov



From: Dick Hoover <HOODBA@msn.com>
Sent: Wednesday, October 4, 2023 12:20 PM
To: Cathy Heigher <CHeigher@palmcoastgov.com>; Nick Klufas <NKlufas@palmcoastgov.com>; Theresa Carli Pontieri <TCarliPontieri@palmcoastgov.com>; Edward Danko <EDanko@palmcoastgov.com>; David Alfin <DAfin@palmcoastgov.com>
Subject: Request to amend temporary sign Ordinance

Subject: Request to Amend Temporary Signage Ordinance

Dear City Council member,

I hope this message finds you well. A few months ago, I reached out to express my concerns regarding temporary Open House signs along our city streets. Last night, I had the opportunity to attend the City Council meeting on October 3rd, and I must say that I left with a better understanding of the many important issues you face.

I fully appreciate that you are dealing with a myriad of concerns from our community, and it's clear to me that mine should not be a primary focus. However, I would like to highlight a few points for your consideration in a respectful manner, in the hope of finding a more efficient use of our Code enforcement officers' valuable time.

1. Efficient Allocation of Resources:

- I believe we can find a more efficient use of our Code enforcement officers' time. While I understand the importance of adhering to the city's regulations, perhaps their expertise could be better employed addressing more pressing matters, such as inspecting Fire Hydrants, Power poles, potholes, and other deficiencies within our community.

2. Inconsistent Enforcement:

- I've noticed some inconsistencies in the enforcement of temporary sign regulations, with certain signs left untouched while others are removed. It seems as though there may be biases at play, and I believe we can work towards a fairer and more consistent approach.

3. Limited Impact on the Community:

- Allowing temporary signs to be displayed only from Friday through Sunday would likely deter many individuals who do not wish to go through the effort of placing and retrieving their signs. This requirement may predominantly affect realtors like myself, who are committed to their work but find this task quite burdensome.

I kindly request that the City Council consider amending the existing ordinance regarding temporary signage. By doing so, it would not only help me get back to work but also potentially free up valuable resources that can be redirected toward more critical issues within our city.

Thank you for your time and attention to this matter. I understand the challenges you face, and I truly believe that together, we can find a balanced solution that benefits both our community and its hardworking residents.

Sincerely,

Richard Hoover

Sent from [Mail](#) for Windows



**THE CITY OF PALM COAST
160 LAKE AVENUE
PALM COAST, FL 32164**

**BUSINESS IMPACT ESTIMATE
PURSUANT TO F.S. 166.041(4)**

**Meeting Date: April 2, 2024
Ordinance Number: 2024-XX
Posted To Webpage: January 31, 2024**

This Business Impact Estimate is given as it relates to the proposed ordinance titled:

AN ORDINANCE OF THE CITY OF PALM COAST, FLORIDA, AMENDING SECTION 3.01.06, USES NOT PERMITTED IN THE CITY, CHAPTER 3, ZONING USES, AND DIMENSIONAL STANDARDS, OF THE CITY OF PALM COAST LAND DEVELOPMENT CODE, TO PROHIBIT OUTDOOR ADVERTISING; AMENDING CHAPTER 12, SIGNS AND ADVERTISING OF THE CITY OF PALM COAST UNIFIED LAND DEVELOPMENT CODE, TO ENSURE COMPLIANCE WITH CONSTITUTIONAL AND OTHER LEGAL REQUIREMENTS AND TO PROVIDE A PURPOSE, INTENT AND SCOPE; AMENDING SECTION 14.02 GLOSSARY, OF CHAPTER 14 OF THE CITY OF PALM COAST UNIFIED LAND DEVELOPMENT CODE TO ADD, DELETE AND RESTATE VARIOUS DEFINITIONS; AMENDING CRITERIA RELATED TO THE AMENDED DEFINITIONS; PROVIDING THAT EXISTING NON-CONFORMING SIGNS MAY BE CONTINUED; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE

The sections below are not required to be completed if the ordinance involves any one of the following types of regulations. Please check if applicable:

- 1. Ordinances required for compliance with federal or state law or regulation;
- 2. Ordinances relating to the issuance or refinancing of debt;

3. Ordinances relating to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;

4. Ordinances required to implement a contract or an agreement, including, but not limited to, any federal, state, local, or private grant, or other financial assistance accepted by a municipal government;

5. Emergency ordinances;

6. Ordinances relating to procurement; or

7. Ordinances enacted to implement the following:

a. Part II of chapter 163, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements, and development permits;

b. Sections 190.005 and 190.046;

c. Section 553.73, relating to the Florida Building Code; or

d. Section 633.202, relating to the Florida Fire Prevention Code.

Part I. Summary of the proposed ordinance and statement of public purpose:

(Address the public purpose to be served by the proposed ordinance, such as serving the public health, safety, morals, and welfare of the City of Palm Coast.) N/A

Part II. Estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the City of Palm Coast:

(fill out subsections a-c as applicable, if not applicable write "not applicable")

(a) Estimate of direct compliance costs that businesses may reasonably incur if the proposed ordinance is enacted: N/A

(b) Identification of any new charges or fee on businesses subject to the proposed ordinance, or for which businesses will be financially responsible: N/A

(c) An estimate of the City of Palm Coast's regulatory costs, including an estimate of revenues from any new charges or fees that will be imposed on businesses to cover such costs. N/A

Part III. Good faith estimates of the number of businesses likely to be impacted by the ordinance. N/A

Part IV. Additional Information (if any): N/A