

## **ORDINANCE NO. 60-20-21**

**AN ORDINANCE RELATING TO SIGNS; PROVIDING FOR FINDINGS; PROVIDING FOR THE REPEAL OF THE EXISTING ATLANTIC BEACH SIGN CODE CODIFIED AS CHAPTER 17 OF THE ATLANTIC BEACH CODE OF ORDINANCES; PROVIDING FOR THE ADOPTION OF A NEW ATLANTIC BEACH SIGN CODE, ATTACHED HERETO AS EXHIBIT A AND MADE A PART HEREOF, TO REPLACE THE CURRENT CHAPTER 17 OF THE ATLANTIC BEACH CODE OF ORDINANCES; PROVIDING FOR INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR NONCOMMERCIAL SIGNS AND MESSAGES; PROVIDING FOR EXEMPT SIGNS; PROVIDING FOR GENERAL PROVISIONS APPLYING TO ALL PERMITTED SIGNS; PROVIDING FOR SIGNS PERMITTED IN RESIDENTIAL ZONING DISTRICTS; PROVIDING FOR SIGNS PERMITTED IN COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS; PROVIDING FOR SIGNS WITHIN SPECIAL PURPOSE AND SPECIAL PLANNED AREA ZONING DISTRICTS; PROVIDING FOR SIGNS WITHIN CONSERVATION ZONING DISTRICTS; PROVIDING FOR SIGNS PLACED ON PUBLIC BUILDINGS AND STRUCTURES WITHIN PUBLIC PARKS; PROVIDING FOR TEMPORARY SIGNS; PROVIDING FOR REMOVAL OF UNSAFE, DAMAGED OR POORLY MAINTAINED, AND ABANDONED SIGNS; PROVIDING FOR PROHIBITED SIGNS AND DEVICES; PROVIDING FOR NONCONFORMING SIGNS; PROVIDING FOR VARIANCES; PROVIDING FOR PERMITS REQUIRED; PROVIDING FOR APPLICATIONS; PROVIDING FOR CALCULATION OF PERMITTED SIGN SIZE; PROVIDING FOR FEES; PROVIDING FOR CONFLICT; PROVIDING FOR CODIFICATION AND SCRIVENER'S ERRORS; PROVIDING FOR APPLICABILITY; PROVIDING FOR ENFORCEMENT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

### **RECITALS**

**WHEREAS**, the City of Atlantic Beach finds and determines that it is appropriate to update and revise Chapter 17, Signs and Advertising Structures (at times referred to herein as the "Sign Code"), of the City's Code of Ordinances;

**WHEREAS**, the City of Atlantic Beach 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;

**WHEREAS**, the City of Atlantic Beach finds and determines that it is appropriate to ensure that the Sign Code is in compliance with all constitutional and other legal requirements;

**WHEREAS**, the City of Atlantic Beach 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;

**WHEREAS**, the City of Atlantic Beach finds and determines that the limitations on the size, height, number, spacing, and setback of signs, adopted herein, are based upon sign types;

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

**WHEREAS**, the City of Atlantic Beach 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;

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

**WHEREAS**, the City of Atlantic Beach 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 Atlantic Beach [*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); Ordinance No. 20 15-8065 Page 2 *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).];

**WHEREAS**, the City of Atlantic Beach finds and determines that the provisions of Chapter 17 (Sign Code), City of Atlantic Beach Code of Ordinances, that replace the current Chapter 17 are consistent with all applicable policies of the City's adopted 2030 Comprehensive Plan;

**WHEREAS**, the City of Atlantic Beach finds and determines that these amendments are not in conflict with the public interest;

**WHEREAS**, the City of Atlantic Beach finds and determines that these amendments will not result in incompatible land uses;

**WHEREAS**, the City of Atlantic Beach 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;

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

**WHEREAS**, the City of Atlantic Beach recognizes that under established Supreme Court precedent, aesthetics is not a compelling governmental interest but is a substantial governmental interest;

**WHEREAS**, the City of Atlantic Beach 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;

**WHEREAS**, the City of Atlantic Beach recognizes that in *Reed v. Town of Gilbert, Ariz.*, -U .S.-, 135 S. Ct. 2218, (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;

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

**WHEREAS**, the City of Atlantic Beach 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;

**WHEREAS**, the City of Atlantic Beach recognizes that in *Reed*, the Supreme Court held that even a purely directional message, which merely gives the time and location of a specific event, is one that conveys an idea about a specific event, so that a category for directional signs is therefore content-based, and event-based regulations are not content neutral;

**WHEREAS**, the City of Atlantic Beach 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;

**WHEREAS**, the City of Atlantic Beach 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;

**WHEREAS**, the City of Atlantic Beach 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;

**WHEREAS**, the City of Atlantic Beach recognizes that Justice Alito noted that these rules, listed below, were not a comprehensive list of such rules;

**WHEREAS**, the City of Atlantic Beach 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 onetime 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;

**WHEREAS**, the City of Atlantic Beach 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;

**WHEREAS**, the City of Atlantic Beach 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;

**WHEREAS**, the City of Atlantic Beach 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*;

**WHEREAS**, the City of Atlantic Beach 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;



**WHEREAS**, the City of Atlantic Beach finds and determines that under Florida law, whenever a portion of a statute or ordinance is declared unconstitutional, the remainder of the act will be permitted to stand provided: (1) the unconstitutional provisions can be separated from the remaining valid provisions; (2) the legislative purpose expressed in the valid provisions can be accomplished independently of those which are void; (3) the good and the bad features are not so inseparable in substance that it can be said that the legislative body would have passed the one without the other; and (4) an act complete in itself remains after the valid provisions are stricken [*e.g.*, *Waldrup v. Dugger*, 562 So. 2d 687 (Fla. 1990)];

**WHEREAS**, the City of Atlantic Beach finds and determines that there have been several judicial decisions where courts have not given full effect to severability clauses that applied to sign regulations and where the courts have expressed uncertainty over whether the legislative body intended that severability would apply to certain factual situations despite the presumption that would ordinarily flow from the presence of a severability clause;

**WHEREAS**, the City of Atlantic Beach finds and determines that the City has consistently adopted and enacted severability provisions in connection with its ordinance code provisions; and the City wishes to ensure that severability provisions apply to its land development regulations, including its sign standards;

**WHEREAS**, the City of Atlantic Beach finds and determines that there be an ample record of its intention that the presence of a severability clause in connection with the City's sign regulations be applied to the maximum extent possible, even if less speech would result from a determination that any provision is invalid or unconstitutional for any reason whatsoever;

**WHEREAS**, the City of Atlantic Beach finds and determines that objects and devices such as graveyard and cemetery markers visible from a public area, vending machines or express mail drop-off boxes visible from a public area, decorations that do not constitute advertising visible from a public area, artwork that does not constitute advertising; a building's architectural features visible from a public area, or a manufacturer's or seller's markings on machinery or equipment visible from a public area are not within the scope of what is intended to be regulated through "land development" regulations that pertain to signage under Chapter 163 of the Florida Statutes;

**WHEREAS**, the City of Atlantic Beach finds and determines that the aforesaid objects and devices are commonly excluded or exempted from being regulated as signs in land development regulations and sign regulation, and that extending a regulatory regime to such objects or devices would be inconsistent with the free speech clause of the First Amendment;

**WHEREAS**, the City of Atlantic Beach finds and determines that it should continue to prohibit discontinued signs regardless of whether or not there was any intent to abandon the Sign;

**WHEREAS**, the City of Atlantic Beach 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);

**WHEREAS**, the City of Atlantic Beach finds and determines that it is appropriate 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.);

**WHEREAS**, the City of Atlantic Beach finds and determines that the city is a resort community on the east coast of the state with several miles of beaches on the Atlantic Ocean and the City has an economic base which relies heavily on tourism;

**WHEREAS**, the City of Atlantic Beach finds and determines that in order to preserve the city as a desirable community in which to live, vacation and do business, a pleasing, visually-attractive urban environment is of foremost importance;

**WHEREAS**, the City of Atlantic Beach 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 Exhibit A attached to proposed Ordinance 60-20-21 are prepared with the intent of enhancing the urban environment and promoting the continued wellbeing of the city;

**WHEREAS**, the City of Atlantic Beach 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;

**WHEREAS**, the City of Atlantic Beach 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;

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

**WHEREAS**, the City of Atlantic Beach 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)];

**WHEREAS**, the City of Atlantic Beach 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)];

**WHEREAS**, the City of Atlantic Beach finds and determines that the enhancement of the visual environment is critical to a community's image and its continued presence as a tourist destination;

**WHEREAS**, the City of Atlantic Beach 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;

**WHEREAS**, the City of Atlantic Beach finds and determines that the beauty of the City of Atlantic Beach, 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 Atlantic Beach's image as a tourist destination;

**WHEREAS**, the City of Atlantic Beach 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;

**WHEREAS**, the City of Atlantic Beach 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;

**WHEREAS**, the City of Atlantic Beach finds and determines that, from a planning perspective, sign regulations are especially important to cities with a tourist-based economy, and sign control can create a sense of character and ambiance that distinguishes one community from another;

**WHEREAS**, the City of Atlantic Beach finds and determines that two decades ago a growing number of cities had begun prohibiting pole signs, allowing only ground signs (also referred to as monument signs), and monument signs are typically used and preferred by vacation resorts, planned communities, and other cities that seek a distinctive image; the City of Atlantic Beach seeks to maintain that distinctive image for as part of its community character;

**WHEREAS**, the City of Atlantic Beach finds and determines that preserving and reinforcing the uniqueness of a tourist community like Atlantic Beach attracts tourists and, more

importantly, establishes a permanent residential and commercial base to ensure the future viability of the community;

**WHEREAS**, the City of Atlantic Beach finds and determines that the purpose of the regulation of signs as set forth in Exhibit A to proposed Ordinance 60-20-21 is to promote the public health, safety and general welfare through a comprehensive system of reasonable, consistent and nondiscriminatory sign standards and requirements;

**WHEREAS**, the City of Atlantic Beach finds and determines that the sign regulations in Exhibit A to proposed Ordinance 60-20-21 are intended to enable the identification of places of residence and business;

**WHEREAS**, the City of Atlantic Beach finds and determines that the sign regulations in Exhibit A to proposed Ordinance 60-20-21 are intended to allow for the communication of information necessary for the conduct of commerce;

**WHEREAS**, the City of Atlantic Beach finds and determines that the sign regulations in Exhibit A to proposed Ordinance 60-20-21 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;

**WHEREAS**, the City of Atlantic Beach finds and determines that the sign regulations in Exhibit A to proposed Ordinance 60-20-21 are intended to enhance the attractiveness and economic well-being of the city as a place to live, vacation and conduct business;

**WHEREAS**, the City of Atlantic Beach finds and determines that the sign regulations in Exhibit A to proposed Ordinance 60-20-21 are intended to protect the public from the dangers of unsafe signs;

**WHEREAS**, the City of Atlantic Beach finds and determines that the sign regulations in Exhibit A to proposed Ordinance 60-20-21 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;

**WHEREAS**, the City of Atlantic Beach finds and determines that the sign regulations in Exhibit A to proposed Ordinance 60-20-21 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;

**WHEREAS**, the City of Atlantic Beach finds and determines that the sign regulations in Exhibit A to proposed Ordinance 60-20-21 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;

**WHEREAS**, the City of Atlantic Beach finds and determines that the sign regulations in Exhibit A to proposed Ordinance 60-20-21 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 Atlantic Beach finds and determines that the sign regulations in Exhibit A to proposed Ordinance 60-20-21 are intended to preclude signs from conflicting with the principal permitted use of the site or adjoining sites;

**WHEREAS**, the City of Atlantic Beach finds and determines that the sign regulations in Exhibit A to proposed Ordinance 60-20-21 are intended to regulate signs in a manner so as to not interfere with, obstruct the vision of or distract motorists, bicyclists or pedestrians;

**WHEREAS**, the City of Atlantic Beach finds and determines that the sign regulations in Exhibit A to proposed Ordinance 60-20-21 are intended to require signs to be constructed, installed and maintained in a safe and satisfactory manner;

**WHEREAS**, the City of Atlantic Beach finds and determines that the sign regulations in Exhibit A to proposed Ordinance 60-20-21 are intended to preserve and enhance the natural and scenic characteristics of this coastal resort community;

**WHEREAS**, the City of Atlantic Beach 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 Atlantic Beach through Section 163.3202(2)(f), Florida Statutes;

**WHEREAS**, the City of Atlantic Beach finds and determines that it has adopted a Code of Ordinances 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;

**WHEREAS**, the City of Atlantic Beach finds and determines that the Sign Code is the manner by which the City has chosen to regulate signage;

**WHEREAS**, the City of Atlantic Beach finds and determines that the Sign Code and its signage regulations were and are intended to maintain and improve the quality of life for all citizens of the City;

**WHEREAS**, the City of Atlantic Beach finds and determines that in meeting the purposes and goals established in these preambles, it is appropriate to prohibit and/or to continue to prohibit certain sign types;

**WHEREAS**, the City of Atlantic Beach finds and determines that consistent with the foregoing preambles, it is appropriate to prohibit and/or to continue to generally prohibit the sign types listed in Sec. 17-42 Prohibited Signs and Devices within Exhibit A to proposed Ordinance 60-20-21;

**WHEREAS**, the City of Atlantic Beach finds and determines that billboards detract from the natural and manmade beauty of the City;

**WHEREAS**, the City of Atlantic Beach 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;

**WHEREAS**, the City of Atlantic Beach 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;

**WHEREAS**, the City of Atlantic Beach 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;

**WHEREAS**, the City of Atlantic Beach 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)];

**WHEREAS**, the City of Atlantic Beach 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)];

**WHEREAS**, the City of Atlantic Beach 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;

**WHEREAS**, the City of Atlantic Beach 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)];

**WHEREAS**, the City of Atlantic Beach 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 405, 409 (10th Cir. 1990), and *Outdoor Systems, Inc. v. City of Lenexa*, 67 F. Supp. 2d 1231, 1239 (D. Kan. 1999)];

**WHEREAS**, the City of Atlantic Beach 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)];

**WHEREAS**, the City of Atlantic Beach finds and determines that a prohibition on the erection of off-site outdoor advertising signs 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. 8058 (1970)];

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

**WHEREAS**, the City of Atlantic Beach 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)];

**WHEREAS**, the City of Atlantic Beach 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];

**WHEREAS**, the City of Atlantic Beach 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;

**WHEREAS**, the City of Atlantic Beach 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;

**WHEREAS**, the City of Atlantic Beach 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;

**WHEREAS**, the City of Atlantic Beach wishes to assure that new billboards are effectively prohibited as a sign-type within the City;

**WHEREAS**, the City of Atlantic Beach 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)];

**WHEREAS**, the City of Atlantic Beach 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. Krochali*, 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 Jeweler, Inc. v. City of Concord, NH*, 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);



**WHEREAS**, the City of Atlantic Beach 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;

**WHEREAS**, the City of Atlantic Beach 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;

**WHEREAS**, the City of Atlantic Beach finds and determines that it is appropriate to prohibit discontinued signs and/or sign structures because the same visually degrade the community character and are inconsistent with the general principles and purposes of the Sign Code as set forth in Exhibit A to proposed Ordinance No. 60-20-21;

**WHEREAS**, the City of Atlantic Beach finds and determines that under state law, which may be more permissive than local law, a nonconforming sign is deemed "discontinued" when it is not operated and maintained for a set period of time, and the following conditions under Chapter 14-10, Florida Administrative Code, shall be considered failure to operate and maintain the sign so as to render it a discontinued sign: (1) signs displaying only an "available for lease" or similar message; (2) signs displaying advertising for a product or service which is no longer available; or (3) signs which are blank or do not identify a particular product, service, or facility;

**WHEREAS**, the City of Atlantic Beach finds and determines that it is appropriate to specify that in addition to the Sign Code regulations identified in Exhibit A to proposed Ordinance 60-20-21, signs shall comply with all applicable building and electrical code requirements;

**WHEREAS**, the City of Atlantic Beach finds and determines that the City has allowed noncommercial speech to appear wherever commercial speech appears; and the City desires to continue that practice by including a specific substitution clause that expressly allows non-commercial messages to be substituted for commercial messages;

**WHEREAS**, the City of Atlantic Beach 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)];

**WHEREAS**, the City of Atlantic Beach finds and determines that the district court in *Granite State Outdoor Advertising, Inc. v. City of Clearwater, Fla. (Granite Clearwater)*, 213 F.Supp.2d 1312 (M.D. Fla. 2002), *aff'd in part and rev'd in part on other grounds*, 351 F.3d 1112 (11th Cir. 2003), *cert. denied*, 543 U.S. 813 (2004), cited the severability provisions of both Section 1-107 of the Code and the Development Code, Ord. No. 6348-99, § 4 (January 21, 1999), as a basis for severing isolated portions of Article 3 of the Land Development Code [*see Granite Clearwater* at 1326, n.22];

**WHEREAS**, the City of Atlantic Beach finds and determines that the Land Development Code's severability clause was adopted with the intent of upholding and sustaining as much of the City's regulations, including its sign regulations, as possible in the event that any portion thereof (including any section, sentence, clause or phrase) be held invalid or unconstitutional by any court of competent jurisdiction;

**WHEREAS**, the City of Atlantic Beach finds and determines that the failure of some courts to uphold severability clauses has led to an increase in litigation seeking to strike down sign ordinances in their *entirety* so as to argue that the developers' applications to erect prohibited sign types, such as billboards, must be granted;

**WHEREAS**, the City of Atlantic Beach finds and determines that there be an ample record of its intention that the presence of a severability clause in connection with the City's sign regulations be applied to the maximum extent possible, even if less speech would result from a determination that any exceptions, limitations, variances or other provisions are invalid or unconstitutional for any reason whatsoever;

**WHEREAS**, the City of Atlantic Beach 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;

**WHEREAS**, the City of Atlantic Beach finds and determines that there be an ample record that it intends that the height and size limitations on free-standing and other signs 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;

**WHEREAS**, the City of Atlantic Beach finds and determines that there be an ample record that it intends that each prohibited sign-type 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;

**WHEREAS**, the City of Atlantic Beach 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;

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

**WHEREAS**, the City of Atlantic Beach 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 unless otherwise expressly prohibited;

**WHEREAS**, the City of Atlantic Beach finds and determines that when an application for a permanent sign is deemed denied that the applicant shall have an avenue to immediately request in writing via certified mail to the City a written explanation as to why the application was not approved and the City shall promptly respond in writing and provide the reason(s) the application was not approved [*see Covenant Media of South Carolina, LLC v. City of North Charleston*, 493 F.3d 421, 435-437 (4th Cir. 2007)];

**WHEREAS**, the City of Atlantic Beach finds and determines that local governments are vulnerable to schemes whereby false assertions are made as to the delivery or submission of sign permit applications when in fact such applications were never submitted or left with city officials and claims of unconstitutional failures to timely act upon the applications are then made so as to obtain permits that could otherwise not be granted;

**WHEREAS**, the City of Atlantic Beach finds and determines that the "deemed denial" of applications after the passage of a set amount of time after their purported submission dates protects local governments from schemes to obtain ineligible permits , and is a fair resolution when balanced by a right of the applicant to submit a request to the local government, via certified mail, for an explanation for lack of action on a purported application and for the reason(s) for the lack of approval so as to ensure that the local government has the opportunity to act on an application, if no application had initially been submitted or had been misplaced or lost;

**WHEREAS**, the City of Atlantic Beach finds and determines that this opportunity for an applicant to make such request, via certified mail, provides an additional chance to secure an explanation of the reason(s) for no approval within a defined and short period of time and also aids in the protection of the applicant's rights, especially when combined with access by the applicant to a judicial remedy for no response to such a request;

**WHEREAS**, the City of Atlantic Beach finds and determines that it is appropriate that there shall be no criminal penalties for a violation of Chapter 17, Signs and Advertising Structures, City of Atlantic Beach Code of Ordinances, and that any penalty for a violation of Chapter 17 shall be limited to civil penalties only.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION ON BEHALF OF THE PEOPLE OF THE CITY OF ATLANTIC BEACH, FLORIDA:**

**SECTION 1. Findings.** The City Commission hereby finds and determines that:

(a) The findings set forth in the Recitals to this Ordinance are true and correct.

(b) The Community Development Board, acting in its capacity as the local planning agency for the City, held a public hearing on February 18, 2020 to consider the proposed update and revisions to Chapter 17, Signs and Advertising Structures, of the City's Code of Ordinances and recommended that the City Commission adopt said revisions to Chapter 17, Signs and Advertising Structures.

**SECTION 2. Repeal of Chapter 17, Signs and Advertising Structures.**

Chapter 17, Signs and Advertising Structures, of the City of Atlantic Beach Code of Ordinances, is hereby repealed in its entirety.

**SECTION 3. Adoption of New Chapter 17, Signs and Advertising Structures.**

Chapter 17, Signs and Advertising Structures, attached to this Ordinance and incorporated herein by reference as Exhibit A is hereby adopted as a fully revised Chapter 17 to the City's Code of Ordinances with inserted text indicated by underline and deleted text by ~~striketrough~~.

**SECTION 4. Conflict.** All ordinances, resolutions, official determinations, or parts thereof previously adopted or entered by the City for any of its officials and in conflict with this Ordinance are repealed to the extent inconsistent herewith, including without limitation, the force and effect of Resolution 16-04, adopted August 8, 2016 temporarily suspending enforcement of certain provisions of Chapter 17.

**SECTION 5. Codification and Scrivener's Errors.** The publisher of the City of Atlantic Beach's Code of Ordinances, the Municipal Code Organization, is hereby directed to incorporate the newly adopted Sign Code as Chapter 17 attached hereto as Exhibit A into the City's Code of Ordinances. Sections of said Exhibit A may be renumbered or relettered and scrivener's errors, formatting and typographical errors and other minor, inadvertent graphical errors in said Exhibit A which do not affect the intent may be authorized by the City Manager and City Attorney without the need of public hearing by filing a corrected or recodified copy of same with the City Clerk.

**SECTION 6. Applicability.** The provisions of Chapter 17, Signs and Advertising Structures, set forth in Exhibit A hereto shall apply to all applications, decisions or controversies pending before the City of Atlantic Beach upon the effective date hereof, or filed or initiated thereafter, provided that certain signage, if qualified, may have vested rights to continue or be completed under the terms of the repealed ordinances or provisions therein.

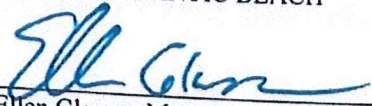
**SECTION 7. Severability.** If any section, sentence, clause or other provision of this Chapter 17 shall be held to be invalid, unlawful or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding of unlawfulness, invalidity or unconstitutionality shall not be construed so as to render unlawful, invalid or unconstitutional the remaining sections, sentences, clauses or other provisions of this Chapter 17.

**SECTION 8. Effective Date.** This Ordinance shall take effect upon final review and approval.

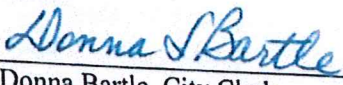
PASSED by the City Commission on first reading this 27 day of April, 2020.

PASSED by the City Commission on second and final reading this 11 day of May, 2020.

CITY OF ATLANTIC BEACH

  
Ellen Glasser, Mayor

Attest:

  
Donna Bartle, City Clerk

Approved as to form and correctness:

  
Brenna Durden, City Attorney

**EXHIBIT A**  
**TO**  
**ORDINANCE NO. 60-20-21**



## Chapter 17 - SIGNS AND ADVERTISING STRUCTURES<sup>(1)</sup>

### Footnotes:

--- (1) ---

**Editor's note**— Section 1 of Ord. No. 60-97-10, adopted July 14, 1997, amended Ch. 17 in its entirety to read as set forth herein. Formerly, Ch. 17 consisted of §§ 17-1—17-18 and 17-31—17-35, which contained similar provisions and derived from §§ 20-1—20-8, 20-10—20-22, 20-24 of the 1970 Code; Ord. No. 60-81-4, § 1, adopted July 13, 1981; Ord. No. 60-88-5, § 1, adopted Jan. 11, 1989; Ord. No. 60-94-8, § 1, adopted July 25, 1994; and Ord. No. 60-97-9, § 1, adopted Feb. 24, 1997.

Subsequently, Ord. No. 60-02-12, §§ 2 and 3, adopted September 9, 2002, repealed and replaced Ch. 17, §§ 17-1—17-35, with a new Ch. 17, intended for use as Art. I, § 17-1, Art. II, § 17-2, Art. III, §§ 17-3—17-10, Art. IV, §§ 17-11—17-13, Art. V, §§ 17-14—17-30, and Art. VI, §§ 17-31—17-34. To preserve the style of the Code, these new provisions have been included as set forth herein at the discretion of the editor. Former Ch. 17 pertained to similar subject matter, and derived from Ord. No. 60-79-9, § 1, adopted February 24, 1997, Ord. No. 60-97-10, § 1, adopted July 14, 1997, and Ord. No. 60-01-11, § 1, adopted December 10, 2001.

**Cross reference**— Buildings and building regulations, Ch. 6; planning/zoning/appeals, Ch. 14; occupational license for advertising, § 20-59; zoning and subdivision regulations, Ch. 24.

**State Law reference**— Authority to establish sign ordinances, F.S. § 166.0425; outdoor advertisers, F.S. Ch. 479.

### ARTICLE I. - IN GENERAL

#### Sec. 17-1. - Intent.

The city commission recognizes that there are various persons and entities that have an interest in communicating with the public through the use of signs that serve to identify businesses and services, residences and neighborhoods, and also to provide for expression of opinions. The commission is also responsible for furthering the city's obligation to its residents and visitors to maintain a safe and aesthetically pleasing environment where signs do not create excessive visual clutter and distraction or hazards for pedestrians and vehicles; where signs do not adversely impact the predominantly residential character of the city and where signs do not conflict with the natural and scenic qualities of the city. It is the intent of the commission that the regulations contained in this chapter shall provide uniform sign criteria, which regulate the size, height, number and placement of signs in a manner that is compatible to the residential scale and character of the city, and which shall place the fewest possible restrictions on personal liberties, property rights, free commerce, and the free exercise of Constitutional rights, while achieving the city's goal of creating a safe, healthy, attractive and aesthetically pleasing environment that does not contain excessive clutter or visual distraction from rights-of-way and adjacent properties; the surrounding natural coastal environment and residential neighborhoods.

It is the purpose of this section to promote the public health, safety, and general welfare through a comprehensive system of reasonable, consistent, and nondiscriminatory sign standards and requirements. These sign regulations are intended to:

1. Maximize the value of commercial signage as a means of locating and identifying commercial establishments providing goods and services; while, at the same time, discouraging the use of commercial signage to sell goods and services;

2. Encourage the construction of commercial signs of high-quality materials that are aesthetically pleasing and are compatible with their natural surroundings and with the buildings they identify;

3. Avoid the creation of a distracting atmosphere that can result when businesses compete for attention through the use of commercial advertising signs;

4. Protect, preserve, and enhance the unique aesthetic character, beauty, and charm of the City, and thereby encourage the continued economic development within the City; and

5. Improve pedestrian and traffic safety and eliminate physical and visual clutter caused by signs that compete for the attention of pedestrian and vehicular traffic.

(Ord. No. 60-02-12, § 2, 9-9-02)

Sec. 17-2. - Definitions and references to other chapters within this Code.

For purposes of this chapter, the following terms shall have the meanings as set forth within this section. Where appropriate, definitions contained within other chapters of this Code, including chapter 6, building and building regulations, and chapter 24, zoning, subdivision and land development regulations, shall also apply to this chapter.

Abandoned sign: See Discontinued sign

*Advertising message:* The letters and graphics on a sign intended to directly or indirectly promote the sale of a product, service, commodity, entertainment or real or personal property. ~~This definition shall also be deemed to include political copy intended to directly or indirectly promote a candidate or issue. "Advertising message" shall not include signs or portions of signs that are defined as a public sign.~~

*Animated sign:* Any sign or part of a sign, including the advertising message, which changes physical position by any means of movement including, but not limited to, light projections, scrolling displays, and light emitting diode (LED) screens.

Art, public: Any originally produced artistic medium which is outdoors and accessible to the general public and does not contain advertising or logos. Public art commonly takes the form of murals and sculptures that can withstand exposure to atmospheric elements.

*Automatic changeable message device:* Any sign, which through a mechanical, electrical, solar, or other power source is capable of delivering messages, which rotate or appear to rotate, change or move at any time and in any way, including tri-vision or any multi-prism sign faces.

*Awning sign:* (See also *Marquee sign.* ) A sign painted onto or adhered to a marquee or awning type structure constructed of an open frame covered by fabric, vinyl, plastic, metal, or similar material. Awning sign shall include canopy sign.

~~*Banner sign:* A temporary sign made of lightweight fabric or similar material intended to promote special seasonal, civic or community events, hang either with or without frames or in some other manner, of weather resistant cloth or other lightweight material, intended to hang either with or without frames or in some other manner, and possessing characters, letters, illustrations, or ornamentations applied to paper, plastic or fabric of any kind. "Feather" shaped signs (typically tall narrow and not attached to any structure) are considered banners for the purpose of this definition. Flags shall not be considered banners for the purpose of this definition.~~

Billboard: See Off-site sign.

*Bracket sign:* Any single or double-faced sign mounted on brackets, poles or beams projecting at angles from the front or side of any building and supported solely by such brackets, poles or beams.

*Building sign:* Any sign that provides the name or address of a building, ~~as opposed to~~ and does not include the name of the occupants or services located within that building.

*Canopy sign:* See *Awning sign.*

*Development parcel:* For the purposes of this chapter, a development parcel shall be a parcel of land, a lot or a combination of lots upon which uses regulated by these sign provisions are located. This



definition may include a single use or business, or a collection of uses or businesses developed in a unified manner.

~~*Directional sign:* Any sign that solely serves to designate the location of, or provides direction to, any place or area. Signs, which contain logos, or graphics commonly associated with a service or business shall be included in the signs allowed for that site or business.~~

~~*Discontinued sign:* Any sign located on a property or building that is: (1) vacated; (2) no longer has a valid certificate of occupancy or business tax receipt; (3) no longer has an active utility service account; or (4) displays a blank sign for a period of one hundred and eighty (180) days or longer shall be considered a discontinued sign.~~

*Double-faced sign:* A sign with two (2) sides that are usually but not necessarily parallel.

*Exempt signs:* Signs as set forth within section 17-26 of this chapter, which are exempt from certain requirements of this chapter.

*Fascia sign:* Any sign attached to or installed against a wall of a building. "Fascia sign" includes wall signs, and cabinet and panel type signs, and signs located on the fascia of a roof, or affixed to a roof plane, provided such sign does not extend above the height of the roof.

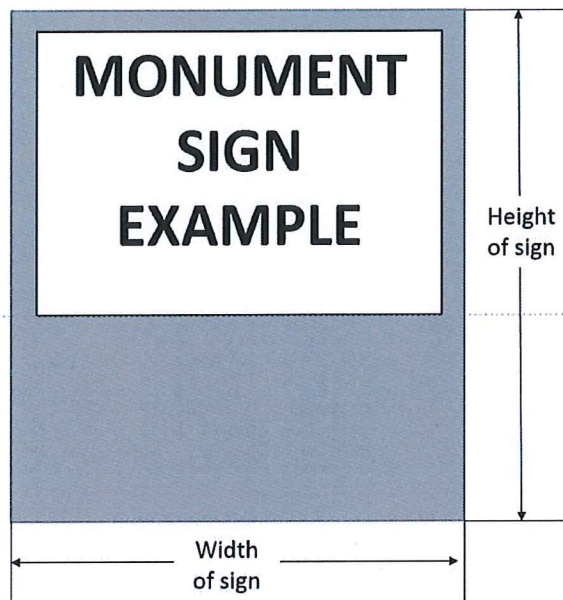
~~*Flag:* A piece of cloth or similar material having a distinct size, color, and design used as a symbol, standard, signal and other similar items of recognition and may include insignias of governmental, religious, charitable, fraternal or other organizations. Any flag and pole or attachment that frequently holds a flag shall be deemed a permanent flag, attachable on one edge to a pole or rope subject to movement caused by wind activation. Flags shall not be considered banners for the purpose of this definition.~~

*Flashing sign:* Any sign which uses an external or internal intermittent light source, which results in changing light intensity (including on-off-on), brightness or color, or which is constructed and operated so as to create an appearance of illusion of motion or creates movement by any means.

*Freestanding sign:* Any sign, which is incorporated into or supported by structures or supports in or upon the ground, independent of support from any building. Freestanding sign includes pole sign, pylon sign, ground sign or monument sign.

*Ground sign:* See *Freestanding sign*.

*Height of sign:* The vertical distance measured from the lowest grade adjacent to the sign extending to the topmost portion of the sign structure, including any frame, embellishment or other type of upward extension from the sign. Any filling, berming, mounding, or excavation solely for the purpose of increasing the height of the sign is prohibited.



***Illumination:** A source of any artificial or reflected light, either directly from a source of light incorporated in or indirectly from an artificial source, so shielded that no direct illumination from it is visible elsewhere than on and in the immediate vicinity of the street graphic.*

***Illumination, internal:** A light source that is concealed or contained within a sign and becomes visible in darkness through a translucent surface.*

***Illumination, external:** Illumination of a sign that is affected by an artificial source of light not contained within the sign itself.*

***Marquee sign:** Any sign adhered or attached to a permanent roof-like structure, including awnings and canopies projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building wall and generally designed and constructed to provide protection against the weather. Marquee signs shall include all signs placed upon any type of marquee, canopy, awning, or similar structure.*

***Monument sign:** A type of freestanding sign placed upon the ground independent of support from the face of a building that generally has greater width than height and typically constructed of a solid material such as wood, masonry or high-density urethane.*

***Non-conforming sign:** Any sign, which was lawfully erected with properly issued sign permits, but which ~~does not comply~~ no longer complies with the land use, setback, height, size, spacing, and lighting or other provisions of ~~these regulations~~ this chapter or other laws, ~~as may be amended~~.*

***Obscene sign:** Any sign containing statements, words, pictures or symbols of an obscene nature. The word obscene shall be as defined in F.S. 847.001, as may be amended from time to time.*

***Off-site sign:** Any sign which serves a property or business other than the property or business on which the sign is located and/or displayed.*

***Parcel or parcel of land:** Any quantity of land capable of being described with such definiteness that its locations and boundaries may be established, which is designated by its owner or developer as land to*



be used, or developed as, a unit or which has been used or developed as a unit. It may be described by metes and bounds or by recorded plat. The terms "lot," "parcel," "land," "site," "development parcel" may be used interchangeably within this Code as appropriate to the context.

Permanent sign: Any sign permanently embedded in the ground or affixed to a building or sign structure that is permanently embedded in the ground, unless otherwise classified in this Chapter.

Pennants: Any small, single flag-like piece of cloth, plastic or paper attached to any staff, cord, building, or other structure at only one (1) or two (2) edges, the remaining hanging loosely; lacking the insignia of a flag. any lightweight plastic, fabric or other material whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in a series, which will flutter or swing in the wind.

Personal expression sign: Any sign containing a message of non-commercial opinion or endorsement and not containing a commercial advertising message.

*Pole sign: See Freestanding sign.*

Political campaign sign: Any temporary sign, as may be authorized under this chapter, erected or displayed for the purpose of advertising a qualified candidate on any primary, general, or special election ballot within the City of Atlantic Beach.

*Portable sign: A sign that may be mobile and has no permanent attachment to a building or to the ground by means of a footing, including signs with wheels designed to be pulled or towed on a trailer or similar towing device.*

*Projecting sign: See Bracket sign.*

*Public sign: Any sign placed and maintained by the City of Atlantic Beach, Duval County, the State of Florida, the United States Government, a public utility, school district, or other duly authorized public agency. Public signs may be placed in locations as determined necessary and appropriate by the public agency and shall include may include signs such as public information signs, public identification signs, public directional signs, banner signs, flags, and street name signs installed by a public agency, traffic control signs, warning signs and similar signs.*

*Pylon sign: See Freestanding sign.*

*Roof sign: Any sign attached to a building or the roof structure of a building by any means, which extends above the height of the roof or roof plane.*

*Sign: Any identification, description, illustration, or device illuminated or non-illuminated, which is visible from any outdoor place, open to the public and which directs attention to a product, service, place, activity, person, institution, or business thereof, including any permanently installed or situated merchandise; or any emblem, painting, banner, pennant, flag, placard, designed to advertise, identify, or convey information, with the exception of official public notices and court markers required by federal, state or local regulations; also excepting, newspapers, leaflets and books intended for individual distribution to members of the public, attire that is being worn, badges, and similar personal gear.*

Sign display area: The sign display area shall be defined as the area enclosed within any geometric figure, which would enclose all parts of the advertising message of the sign. The structural supports for a sign, whether they are columns, pylons, or a building or part thereof, shall not be included in the sign display area.

Sign face area: The part of the fascia sign, window sign, bracket sign, marquee sign, flag, or banner enclosed within any geometric figure used to identify, announce, direct, or inform including all frame, trim and background, which contains the sign display area, advertising message or informative contents. In the case of painted fascia signs, window signs, bracket signs, marquee signs, flags, or banners composed of letters, shapes, or figures, or skeleton letters mounted without a border, the sign face area shall be the area of the smallest rectangle or other geometric figure that would enclose all of the letters, shapes, and figures.



*Sign permit:* A development permit authorizing erection, placement or installation of a sign as permitted by this chapter in accordance with the requirements of article V of this chapter.

*Sign structure:* Any structure that supports, has supported, or is capable of supporting a sign, including decorative covers and embellishments.

~~*Snipe sign:* Any sign of any material, including paper, plastic, cardboard, wood or metal when tacked, nailed or attached in any way to trees, poles, stakes, fences, the ground, or other objects where such sign may or may not be applicable to the present use of the property upon which such sign is located.~~

~~*Temporary sign:* A sign intended to be displayed for a transitory or temporary period and not intended for use in a permanent nature. Any sign not permanently embedded in the ground or not affixed to a building or sign structure that is permanently embedded in the ground shall be considered a temporary sign, unless otherwise specified in this Chapter. All banners and flags, regardless of how they may be affixed to a building or structure or embedded in the ground, are classified as temporary signs.~~

~~*Variance:* A variance shall mean relief granted from certain terms of this chapter. The relief granted shall be only to the extent as expressly allowed by this chapter and may be either an allowable exemption from certain provision(s) or a relaxation of the strict, literal interpretation of certain provision(s). Any relief granted shall be in accordance with the provisions as set forth in section 17-52 of this chapter, and such relief may be subject to conditions as set forth by the City of Atlantic Beach.~~

~~*Vehicle sign:* Any sign placed within, upon or affixed to a motorized vehicle, other than a registered logo, trademark or service mark that is attached to a motorized vehicle. Vehicle signs shall not include political campaign signs, personal expression signs, bumper stickers, decorative decals and the like, provided these are otherwise in compliance with the provisions of this chapter, which covers more than twenty (20) square feet of the vehicle, which identifies a business, products, or services, and which is attached to, mounted, pasted, painted, or drawn on a motorized or drawn vehicle, and is parked and visible from the public right-of-way; unless said vehicle is used for transporting people or materials in the normal day to day operation of the business.~~

*Wall sign:* See *Fascia sign*.

*Width of sign:* The horizontal distance measured from one (1) edge of the sign structure extending to the opposite edge of the sign structure, including any frame, embellishment or other type of extension from the sign.

*Window sign:* Any sign placed inside a window of a building, facing the outside and which is intended to be seen from the exterior. Window signs shall be included in the signs allowed for that site, activity or business.

(Ord. No. 60-02-12, § 2, 9-9-02; Ord. No. 60-13-18, § 1, 3-25-13)

### Sec. 17-3. – Noncommercial Signs and Messages

~~Any sign authorized to be displayed pursuant to and in accordance with this ordinance may contain a noncommercial message.~~

Secs. 17-~~34~~—17-25. - Reserved.

## ARTICLE II. - SIGNS PERMITTED

Sec. 17-26. - Exempt signs.

- (a) Within all non-residential zoning districts, the following signs shall be considered as permitted signs and shall be exempt from the requirement to obtain a sign permit as set forth within article V of this chapter:



- (1) ~~Decals, limited to those as Signage required by law, which are is affixed to or painted upon store windows, store equipment, fuel pumps or other types of vending equipment used for dispensing retail products, buildings or equipment, not exceeding three (3) inches in height and two (2) square feet.~~
  - (2) ~~Lettering only, for the purpose of providing ownership, licensing and emergency contact information, when placed upon doors and windows of lawfully licensed businesses, with letters not exceeding three (3) inches in height and limited to a maximum area of two (2) square feet.~~
  - (23) Signs within a building that are not visible from the exterior of the building. This shall not include window signs affixed to the interior of windows, which are visible from the exterior.
  - (4) ~~Building signs, historical markers, memorial signs, tablets or plaques, or the name of a building and the date of erection, when the same are cut into any masonry surface or when constructed of bronze or other similar noncombustible material.~~
  - (5) ~~Professional nameplates for physicians, surgeons, dentists, musicians, lawyers, architects, teachers and other like professional persons placed on the premises occupied by the person(s), not exceeding one (1) square foot in sign face area, provided such professional has a valid occupational license as may be required for the particular profession to operate on those premises.~~
  - (6) ~~Signs denoting only the name and profession of an occupant of a building, placed flat against the exterior surface of the building and not exceeding three (3) square feet in sign face area, provided such occupant has a valid occupational license as may be required to operate on those premises.~~
  - (7) ~~Signs depicting only time and temperature.~~
- (b) Within all zoning districts, the following signs shall be considered as permitted signs and shall be exempt from the requirement to obtain a sign permit as set forth within article V of this chapter:
- (1) ~~Not more than one (1) real estate sign advertising the sale, rental or lease of only the premises on which the sign is located. Such signs shall not exceed six (6) square feet in area, and five (5) feet in height. Signs advertising the sale, rental or lease of property exceeding this size and height shall not be considered as exempt signs and shall be subject to the provisions of section 17-29(d).~~
  - (2) ~~Signs noting the architect, engineer or contractor for a development project when placed upon work under construction, provided the sign shall be removed within fifteen (15) days of completion of construction. Such signs shall not exceed six (6) square feet in size or eight (8) feet in height.~~
  - (3) ~~Signs as required by law to display building permits or other similar required public notices.~~
  - (14) ~~Public signs, banner signs, traffic signs, street name signs, legal notices, danger signs and temporary emergency, informational or non-advertising signs, when erected by city, county, state or federal authorities.~~
  - (5) ~~No trespassing and private property signs not exceeding two (2) square feet in area. Such signs shall not be displayed from or attached to trees, utility poles or any type of utility structure or equipment, including lift stations, fire hydrants and the like.~~
  - (6) ~~Vacancy or no vacancy signs not exceeding two (2) square feet in area.~~
  - (7) ~~Temporary political campaign signs announcing the candidacy of a qualified candidate for public office not exceeding four (4) square feet in area may be placed wholly within the boundaries of any~~



property, at the discretion or consent of the legal owner and/or occupant of the property, provided such signs conform with all traffic, electrical, maintenance, fire and safety regulations of the city.

~~The placing of political campaign signs on city property, other public property or on public rights-of-way shall be prohibited. Political campaign signs displayed within motor vehicles conducting routine business activities on city or other public property shall not be prohibited, provided that no such vehicle shall be parked on city property, other public property or on public rights-of-way for the sole purpose of displaying political campaign signs.~~

~~Illegally placed political campaign signs shall be removed by the code enforcement officer without notice to the candidate or abutting property owner or occupant. Political campaign signs shall not be placed on property prior to qualification of the candidate to run for office, and all such signs shall be removed within seventy-two (72) hours after the last election. If such signs are not removed within this period of time, the city may remove such signs and may charge the candidate the actual cost for such removal. Collected funds shall be deposited into the city general revenue. Failure to remove signs is a violation of this Code and is enforceable pursuant to F.S. Chapter 162, Code Enforcement.~~

~~(8) Personal expression signs limited to one (1) per lot or parcel, or in the case of multi-family uses, one (1) per dwelling unit, expressing personal views or opinions not exceeding four (4) square feet in area, providing such signs are otherwise in compliance with applicable local, state and federal laws.~~

~~(9) Religious symbols.~~

~~(10) Garage sale signs or open house signs within residential zoning districts, not exceeding four (4) square feet in size, limited to two (2) per site and located only at the location of such event. Such signs may be displayed one (1) day before the garage sale or open house and shall be removed immediately after conclusion of the event. No garage sale sign or open house sign may be erected upon any public right-of-way.~~

~~(244) Signs placed within interior courtyards, the inside fence line of recreational fields and on golf courses, provided such signs are generally visible only to those persons visiting such place and are otherwise in compliance with this chapter.~~

~~(12) Address and street number signs not exceeding two (2) square feet.~~

~~(13) Holiday and seasonal decorations shall not be construed as signs, providing that these contain no commercial advertising message.~~

~~(14) Not more than two (2) flags per development parcel, but if there are two (2) flags, then one (1) must be the flag of the United States of America. A development parcel with more than one (1) principal structure may have two (2) flags for each principal structure with more than five thousand (5,000) square feet of fully enclosed floor area. Each flag shall not exceed twenty-four (24) square feet in area; however, this size limitation shall not apply to United States of America flags at public buildings and parks.~~

(3) Signs placed within the inside fence line of recreational fields, provided such signs are generally visible only to those persons visiting such place and are otherwise in compliance with this chapter.

(3) Temporary signs subject to the provisions of Section 17-33.

(4) Fascia signs on residential structures up to 10 square feet in aggregate sign face area.

(5) Temporary signs less than one (1) foot in height and one (1) square foot, provided that these signs are located no less than fifteen (15) feet from the front property line.

(6) Flags.

(Ord. No. 60-02-12, § 2, 9-9-02; Ord. No. 60-13-18, § 2, 3-25-13)

Sec. 17-27. - General provisions applying to all permitted signs.

All signs shall be subject to the following general provisions.

- (1) No sign shall be installed, erected or placed prior to issuance of a sign permit as required by article VI of this chapter, except for exempt signs as set forth in section 17-26. Signs shall be located only on property where the sign serves.
- (2) All signs shall be engineered and constructed as required by these regulations and the Florida Building Code. Signs shall be professionally designed, lettered and constructed.
- (3) ~~Permanent Ssigns constructed for the purpose of displaying an advertising message~~ shall be constructed of materials suitable to withstand weather related deterioration and shall not be constructed of plywood, cardboard, paper or other such materials, which deteriorate quickly when exposed to normal weather conditions.
- (4) No sign shall create a traffic or fire hazard, or be dangerous to the general welfare or interfere with the free use of public streets or sidewalks.
- (5) No sign shall be attached to or placed against a building in any manner which impedes or blocks ingress or egress through any door or window of any building, nor shall any sign obstruct or be attached to a fire escape.
- (6) No sign shall be erected near the intersection of any street in such a manner so as to obstruct free and clear vision, or at any location where, by reason of position, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device.
- (7) Where the rear of any sign structure is visible from any street or from any adjoining residential zoning district, all exposed structural and electrical components of any such sign shall be concealed in a manner as approved by the city manager or designee.
- ~~(8) Fascia or wall signs, shall be mounted directly upon the surface of the building, and shall not be mounted upon exposed raceways, or other type of protrusions from the surface of the building.~~

(Ord. No. 60-02-12, § 2, 9-9-02; Ord. No. 60-03-14, 7-14-03)

Sec. 17-28. - Signs permitted within residential zoning districts.

- (a) Except for exempt signs as provided for in section 17-26, signs within residential zoning districts, shall be limited to those as set forth below.
  - (1) For single-family and two-family residential subdivisions and developments containing ten (10) or more residential lots, where individual lots are accessed from a common internal roadway, one (1) sign shall be allowed at each entrance from a collector or arterial street, not to exceed two (2) signs.
    - a. Size permitted: Thirty-two (32) square feet ~~of sign face area per sign~~.
    - b. Maximum height of sign: Eight (8) feet.



- c. Type allowed: Freestanding ground or monument style. Where more than one (1) sign is allowed, each such sign erected shall be constructed and designed in the same manner.
  - d. Illumination: These signs shall be externally illuminated with ground mounted lighting only. Any lighting shall project from the ground onto the sign only, and shall not be directed towards any street or residential lot.
- (2) For multi-family residential ~~uses developments with eleven (11) or more dwelling units~~, one (1) sign ~~identifying the name of the multi-family development~~ shall be allowed at each entrance not to exceed two (2) signs ~~and subject to the requirements below~~. Internal ~~directional~~ signs ~~and signs identifying buildings~~ shall also be allowed ~~limited to three (3) feet in height and eight (8) square feet in sign face area~~; provided they are not visible from any public right of way.
- a. Size permitted: Sixty (60) square feet ~~of sign face area per sign~~.
  - b. Maximum height of sign: Eight (8) feet.
  - c. Type allowed: Freestanding ground or monument style. Where more than one (1) sign is allowed, each such sign erected shall be constructed and designed in the same manner.
  - d. Illumination: These signs shall be externally illuminated with ground mounted lighting only. Any lighting shall project from the ground onto the sign only, and shall not be directed towards any street, vehicular drive or residential unit.
- (3) For development parcels located within residential zoning districts that contain non-residential uses, freestanding signs may be permitted as set forth below:
- a. Number of freestanding signs permitted: One (1) freestanding sign for each one hundred (100) feet of linear street frontage, up to a maximum of two freestanding signs. Development parcels with less than one hundred (100) feet of linear street frontage shall be permitted one (1) freestanding sign.
  - b. Size permitted: One (1) square foot for each linear foot of street frontage of the development parcel on which the sign(s) are placed, provided no such sign shall exceed sixty (60) square feet.
  - c. Maximum height of sign: Eight (8) feet
  - d. Type allowed: Freestanding ground or monument style.
  - e. Illumination: These signs shall be externally illuminated with ground mounted lighting only. Any lighting shall project from the ground onto the sign only, and shall not be directed toward any street, vehicle drive or residential unit.
  - d. Required distance from property lines: No portion of any freestanding sign shall be located closer to any property line than five (5) feet. Additional distance from property lines may be required if determined necessary by the director of public works, to maintain clear vehicular and pedestrian sight distance. Freestanding signs shall not be located so as to interfere with clear vehicular or pedestrian sight distance. Further, signs determined by the director of public safety to interfere with safe sight distance for pedestrians or vehicles shall be immediately removed.
- (b) Signs, as set forth with above paragraph (a), that are proposed to be located within public or dedicated rights-of-way shall be approved by the city commission. Such signs may be approved at the time of final plat approval as set forth by section 24-20~~24~~ of this Code, or alternatively, such signs may be approved upon specific application to the commission. Approval of the city commission shall be required prior to the issuance of a sign permit. Such signs shall complement and conform to the "WELCOME TO ATLANTIC BEACH" signs in features including lettering, color, composition,



structural materials, finished surface, and shall be constructed of wood or similar material giving the finished appearance of carved or sandblasted wood, as described within section 17-32.

(Ord. No. 60-02-12, § 2, 9-9-02)

Sec. 17-29. - Signs permitted within commercial and industrial zoning districts.

Subject to the provisions as set forth within this section, the following signs shall be permitted within traditional marketplace (TM), commercial professional office (CPO), commercial limited (CL), commercial general (CG), central business district (CBD), and industrial, light industrial and warehousing (LIW) zoning districts. Except as specifically exempted in section 17-26, and further subject to issuance of a sign permit, no other signs or advertising device shall be displayed or erected within the city.

(a) *Fascia signs.*

- (1) ~~Fascia signs for buildings with a sing~~ *Size permitted: One (1) square foot of sign face area for each linear foot of the building width that faces the street frontage for a single occupant building or one square foot of sign face area for each linear foot of building frontage for the occupant or tenant space in a multi-tenant development, each as measured on the street toward which the fascia sign is oriented. In no case shall an individual fascia sign exceed one hundred (100) square feet of sign face area nor shall the combined signage for one occupant exceed two hundred (200) square feet of sign face area.*

~~a. Size permitted: One (1) square foot of sign face area for each linear foot of the building width that faces the street frontage, provided that the total signage shall not exceed two hundred (200) square feet of sign face area, including buildings on corner lots. (For example, if the width of the building facing the front of the lot is fifty (50) feet, the maximum total sign face area for all fascia signs is fifty (50) square feet.) If the building is on a corner lot, then the widths of the building facades facing multiple street frontages can be added together to determine the total signage area, but in no cases shall the total fascia signage exceed two hundred (200) square feet, nor shall an individual sign exceed the square footage corresponding to the linear width of the building side on which that sign is posted. In no case, shall any individual sign as described above, exceed one hundred (100) square feet in sign display area except for buildings that face the front lot line, as defined in this Code, by a distance of more than one hundred (100) linear feet, which may have an individual sign display area up to a maximum of two hundred (200) square feet depending on the amount of building frontage.~~

- (2) *Number of fascia signs permitted: Not more than three (3) fascia signs shall be allowed on any one (1) side of the a building with a single business or occupant. For buildings with multiple businesses or occupants, each business shall be allowed three (3) fascia signs for each side of a building with street frontage.* Where fascia signs are placed upon more than one (1) side of the a building, the combined sign face area shall not exceed the amount permitted by subsection (a)(1)a. above.

- ~~(3) Fascia signs for buildings with multiple businesses or occupants.~~

~~a. Size permitted: One (1) square foot of sign face area for each linear foot of the unit(s) occupied by one (1) business or occupant, provided that the total signage shall not exceed two hundred (200) square feet for any one (1) business. If the business or occupant is on the corner, then the widths of the unit(s) occupied by the business or occupant that are facing multiple street frontages can be added together to determine the total signage area, but in no case shall the total signage for particular business or occupant exceed two hundred (200) square feet, nor shall any individual sign exceed the square footage corresponding to the linear building footage. (For example, if the width of a unit or several units, occupied by one (1) business is twenty four (24) feet, then one (1) sign, a maximum of twenty four (24) square feet of sign face area is permitted.) In no case, shall any individual sign as described above, exceed one hundred (100) square feet in sign area~~



~~except for buildings that face the front lot line, as defined in this Code, by a distance of more than one hundred (100) linear feet, which may have an individual sign display area up to a maximum of two hundred (200) square feet depending on the amount of building frontage.~~

~~b. Required spacing between signs on buildings: Fascia signs shall be separated by a minimum distance of seventy-two (72) inches.~~

(3) Required spacing between signs on buildings: Fascia signs shall be separated by a minimum distance of seventy-two (72) inches.

(4) Projections: Fascia signs shall be separated by a minimum distance of seventy-two (72) inches.

(b) *Bracket or marquee signs.* In lieu of the above described fascia signs, a business or permitted use may install a single bracket sign or marquee sign in accordance with the following provisions:

(1) *Size permitted:* The maximum size of a bracket sign or a marquee sign shall be determined in the same manner as a fascia sign, provided that no such sign shall have more than sixty (60) square feet of projected sign face area.

a. There shall be no more than twelve (12) inches of clear space adjacent to the building wall, and such signs shall not extend or project from the face of the building more than ten (10) feet.

b. No portion of such sign shall extend above the height of the roof.

c. No portion of such sign shall be closer than eight (8) feet to any sidewalk or pedestrian walkway, and no closer than five (5) feet from any street side property line. All such signs shall be securely anchored to a wall and shall in no manner be connected to or suspended from the roof of any building.

(2) *Within the traditional marketplace and central business district only.* In addition to other permitted signs, ~~uses limited only to retail establishments, restaurants, cafes and coffee shops, may install~~ a single bracket sign extending above a public sidewalk or pedestrian walkway may be permitted. The purpose of this provision is to provide appropriate and consistent signage for the unique pedestrian environment of the ~~town center area, central business district and traditional marketplace districts.~~ Such signs shall be located only in accordance with the following provisions and upon issuance of a sign permit:

a. ~~May be located only above first floor entryways or first floor windows with a~~ No portion of the sign ~~display area exceeding~~ shall exceed ten (10) feet above the established grade of the adjoining sidewalk or walkway;

b. Shall provide minimum vertical clearance of eight (8) feet above the sidewalk or walkway;

c. Shall provide minimum clearance of six (6) inches from the building facade;

d. Shall be separated from any other such sign by a minimum of twenty (20) feet;

e. Shall not exceed three (3) feet in horizontal width and two (2) feet in vertical depth;

f. Shall give the appearance of traditional wood routed or sandblasted signs. Materials such as high density urethane (HDU) and recycled high density polyethylene (HDPE) plastics, which give a similar appearance, shall be acceptable substitutes;

g. Shall be externally illuminated only and shall contain no electrical components; and

h. Shall create no safety hazard or obstruction to the public's use of the sidewalk or walkway as determined by the director of public safety.

(c) *Freestanding signs.* In addition to the above signs, freestanding signs may be permitted as set forth below:



- (1) Size and number of freestanding signs permitted: One (1) square foot of sign display area for each linear foot of frontages of the development parcel on which the sign(s) are placed, provided no such sign shall exceed ninety-six (96) square feet of sign display area, or eight (8) feet in height and twelve (12) feet in width, except as provided in subsection (c)(2)b. below.

a. One (1) square foot for each linear foot of street frontages of the development parcel on which the sign(s) are placed, provided no such sign shall exceed ninety-six (96) square feet, or eight (8) feet in height and twelve (12) feet in width.

b. Development parcels with street frontage shall be permitted one (1) freestanding sign for each one hundred (100) feet of linear street frontage, up to a maximum of two (2) freestanding signs. Businesses with approved drive-through lanes are allowed one additional freestanding sign per drive-through lane, provided these signs do not exceed forty (40) square feet and eight (8) feet in height.

c. Development parcels with less than one hundred (100) feet of linear street frontage shall be permitted one (1) freestanding sign.

- ~~(2) Number of freestanding signs permitted:~~

~~— a. Development parcels with street frontage shall be permitted one (1) freestanding sign for each one hundred (100) feet of linear street frontage, up to a maximum of three (3) freestanding signs.~~

~~— b. Development parcels with street frontage upon more than one (1) street, shall be permitted one (1) additional freestanding sign on each street side of the development parcel.~~

~~— c. Required distance from property lines: No portion of any freestanding sign shall be located closer to the property line than five (5) feet. Additional distance from property lines may be required if determined necessary by the director of public works, to maintain clear vehicular and pedestrian sight distance. Freestanding signs shall not be located so as to interfere with clear vehicular or pedestrian sight distance. Further, signs determined by the director of public safety to interfere with safe sight distance for pedestrians or vehicles shall be immediately removed.~~

- ~~(2) Required distance from property lines: No portion of any freestanding sign shall be located closer to any property line than five (5) feet. Additional distance from property lines may be required if determined necessary by the director of public works, to maintain clear vehicular and pedestrian sight distance. Freestanding signs shall not be located so as to interfere with clear vehicular or pedestrian sight distance. Further, signs determined by the director of public safety to interfere with safe sight distance for pedestrians or vehicles shall be immediately removed.~~

- ~~(3) Within commercial general (CG) and commercial limited (CL) zoning districts only: Alternatively, on development parcels with street frontage of three hundred (300) linear feet or more shall be permitted one (1) freestanding sign not to exceed ten (10) feet in height and one hundred twenty (120) feet in sign display area. The required distance from any property lines for such freestanding sign shall be a minimum of ten (10) feet. Additional distance from property lines may be required if determined necessary by the director of public safety, to maintain clear vehicular and pedestrian sight distance.~~

- ~~(3) Design, construction, and maintenance:~~

~~a. Materials, colors, and shapes of proposed freestanding signs shall be complementary to the related. Sign colors shall be noon-reflective and shall not contain fluorescent colors.~~

~~b. Signs shall be maintained in good condition at all times and shall be kept free of cracked or peeling paint, missing or damaged sign panels or supports, and weeds, grass or vegetation that obscures the view of the sign message.~~



(4) Illumination:

- a. Freestanding signs shall be externally illuminated with a steady stationary light source, shielded and directed solely at the sign. Light fixtures shall be restricted to not more than one shielded light fixture per side for signs up to 40 square feet and not more than two shielded light fixtures per side for signs over 40 square feet.
  - b. Light sources to illuminate signs shall neither be visible from any street right-of-way nor cause glare hazardous to pedestrians or vehicle drivers or so as to create a nuisance to adjacent properties.
  - c. Internal illumination for drive-through signs for establishments with a drive-through shall not cause glare hazardous to pedestrians or vehicle drivers or so as to create a nuisance to adjacent properties. Such signs shall be placed and angled so that, to the greatest extent possible, they are not visible from public or private streets.
  - d. Lamps shall only produce a white light.
- (d) *Requirement for a unified sign plan.* After the initial effective date of these regulations, all new nonresidential development, which shall contain space or units for more than one (1) business or occupant, shall provide a unified sign plan with the application for building permits. All subsequent applications for sign permits shall comply with the approved unified sign plan. The unified sign plan shall comply with respect to the following:
- (1) Manner and type of construction, including materials to be used, installation method and mounting details.
  - (2) Means of illumination, if any, and hours of illumination.
  - (3) Size, color, lettering, and graphics style.
- ~~(e) *Pre-development signs.* Signs for the purpose of announcing a coming development project may be placed within commercial and industrial zoning districts subject to the following provisions:~~
- ~~— (1) Issuance of a sign permit shall be required, and no such sign shall remain on any development parcel for a period of time exceeding one (1) year from the issuance date of the sign permit.~~
  - ~~— (2) Complete and proper applications for building permits for the related development project must be submitted within sixty (60) days of the placement of any such sign, or the sign shall be removed. In the case that the sign is not removed, the sign shall be considered an abandoned sign, subject to the provisions of subsection 17-41(c).~~
  - ~~— (3) Such sign shall be removed within thirty (30) days of the issuance of any certificate of occupancy, or at any time when construction ceases for a period of time longer than thirty (30) days. In the case that the sign is not removed within these periods of time, the sign shall be considered as abandoned, subject to the provisions of subsection 17-41(c).~~
  - ~~— (4) Only one (1) such sign shall be placed upon the development parcel and shall not exceed the height or size permitted by preceding paragraph (a).~~
- (e) *Window signs.* Window signs are permitted provided that the window sign may not cover more than twenty percent (20%) of the area of any window. Window signs may be internally illuminated.
- ~~(f) *Requirement to display street number.* All business and activities regulated by the requirements of section 17-29 shall display the street number in a manner that is prominent and clearly readable to vehicular and pedestrian traffic, as appropriate. Street numbers shall be displayed on all freestanding signs and over front doors or primary entryways.~~

(f) Door signs. Door signs are permitted provided that the door sign may not cover more than twenty percent (20%) of the area of any door. Door signs may be internally illuminated.

(Ord. No. 60-02-12, § 2, 9-9-02; Ord. No. 60-03-14, 7-14-03; Ord. No. 60-04-15, § 2, 1-10-05; Ord. No. 60-12-17, § 1(Exh. A), 1-9-12)

Sec. 17-30. - Signs within special purpose (SP) and planned unit development (PUD) zoning districts.

The size, height, width and number of signs permitted within special purpose districts and planned unit development districts shall be established within the ordinance creating such district as determined by the city commission to be appropriate for the nature and character of the use within these districts.

(Ord. No. 60-02-12, § 2, 9-9-02)

Sec. 17-31. - Signs within conservation (CON) zoning districts.

As set forth by section 24-103(b) of this Code, all uses in the conservation districts shall require approval as a use-by-exception. The size, height, width and number of signs permitted within conservation districts shall be established during the use-by-exception process in accordance with the provisions of section 24-63. Signs within conservation districts shall not adversely impact the environmentally sensitive qualities of these areas, shall be non-illuminated, shall contain no electrical components and shall be constructed of wood, brick, masonry, high-density urethane or similar material, which is consistent with the natural surroundings of these districts.

(Ord. No. 60-02-12, § 2, 9-9-02)

Sec. 17-32. - Signs placed on public buildings and structures and within public parks.

All signs displayed within City of Atlantic Beach parks and upon the exterior of any public building or structure shall conform with design of the "WELCOME TO ATLANTIC BEACH" signs displayed on such properties as of the effective date of this chapter, or as such design may be later modified by city commission. Such signs shall display the City of Atlantic Beach logo, as depicted in Figure 1, and shall be similar in appearance with respect to color, lettering, composition, and materials used for construction. Materials used shall be wood, high-density urethane, or similar material, which may be given a sandblasted-type finished surface. Public signs, public notice signs, parking signs and traffic signs shall be exempt from this provision.

*Figure 1—City of Atlantic Beach Logo*





(Ord. No. 60-02-12, § 2, 9-9-02)

~~Sec. 17-33. — Banner signs.~~

- ~~(a) — The purpose of banner signs shall be to promote special seasonal, civic or community events that occur on a temporary basis. A sign permit shall not be required for banner signs; however, all banner signs shall be registered with City of Atlantic Beach. No banner sign shall be hung, placed or erected prior to registration on a form as provided by the planning and zoning department, and payment of fees as may be established by the city commission.~~
- ~~(b) — Banner signs may be displayed subject to registration verifying compliance with the following provisions:~~
  - ~~(1) — Display of banner signs for any event shall be limited to thirty (30) consecutive or cumulative days within one (1) calendar year.~~
  - ~~(2) — Banner signs shall be limited in size to a maximum of sixty (60) square feet in size.~~
  - ~~(3) — Banner signs shall not contain an advertising message.~~
  - ~~(4) — Banner signs shall not hang over or extend into rights-of-way.~~
  - ~~(5) — Banner signs shall be securely anchored to buildings, poles or suitable structural supports and shall not be attached to trees, public buildings or structures, utility poles or any type of utility structure or equipment, including lift stations, fire hydrants and the like.~~
  - ~~(6) — Property owner's authorization to install and display such banner sign.~~

~~(Ord. No. 60-02-12, § 2, 9-9-02)~~

Sec. 17-33. - Temporary Signs.

Temporary signs in accordance with this section do not require a sign permit. Temporary signs shall not be illuminated nor shall any temporary signs be placed on public property without permission from the city.

- (a) Within all residential zoning districts, the following signs shall be considered as temporary signs and must meet the following standards:
  - (1) Temporary signs, other than banners and flags.
    - a. Maximum number allowed per parcel: eight (8) four (4) (six 6)
    - b. Maximum square footage allowed per sign: four (4) square feet
    - c. Maximum height allowed: four (4) feet
    - d. Duration allowed for each sign: sixty (60) days or seven (7) days after the event, if applicable; provided, however, one temporary sign may be displayed at all times.
  - (2) Banner signs: not permitted in residential districts
    - a. Maximum number allowed per parcel: one (1)
    - b. Maximum square footage allowed: thirty (30) square feet
    - c. Duration: seven (7) days
    - d. Banner signs shall not hang over or extend into public right-of-ways

- e. Banner signs shall be securely anchored to buildings, poles, or suitable structural supports and shall not be attached to the roof of a building or exceed the height of such building or structure.
- f. Banner signs shall not be attached to trees, public buildings or structures, utility poles or any type of utility structure or equipment, including lift stations, fire hydrants, and the like.

(b) Within all non-residential zoning districts, the following signs shall be considered as temporary signs and must meet the following standards:

(1) Temporary signs, other than banners and flags.

- a. Maximum number allowed per parcel: two (2)
- b. Maximum square footage allowed per sign: sixteen (16) square feet
- c. Maximum height allowed: six (6) feet
- d. Duration allowed for each sign: sixty (60) days or seven (7) days after the event, if applicable; provided, however, one temporary sign may be displayed at all times.

(2) Banner signs

- a. Maximum number allowed per parcel: two (2)
- b. Maximum square footage allowed per sign: sixty (60) square feet
- c. Duration allowed for each sign: sixty (60) days or seven (7) days after the event, if applicable
- d. Banner signs shall not hang over or extend into public right-of-ways
- e. Banner signs shall be securely anchored to buildings, poles, or suitable structural supports and shall not be attached to the roof of a building or exceed the height of such building or structure.
- f. Banner signs shall not be attached to trees, public buildings or structures, utility poles or any type of utility structure or equipment, including lift stations, fire hydrants, and the like.

Sec. 17-34. — Flags.

(a) Flags may be permitted in any zoning district in addition to other signs in accordance with the following provisions:

(1) Maximum number allowed per parcel: three (3) flags.

(2) Maximum sign face area allowed per flag: twenty four (24) — forty (40) square feet with the total combined sign face areas for all flags displayed at any one point in time not to exceed 80 square feet.

(Ord. No. 60-02-12, § 2, 9-9-02)

Secs. 17-34~~5~~—17-40. - Reserved.

ARTICLE III. - CAUSE FOR REMOVAL OF SIGNS, ABANDONED SIGNS AND PROHIBITED SIGNS

Sec. 17-41. - Removal of unsafe, damaged or poorly maintained, and abandoned signs.



- (a) *Unsafe signs.* In the event that any sign, including without limitation an exempt sign, is determined by the building official to be unsafe, such sign shall be immediately removed upon written notice from the building official ordering removal. Such notice shall be sent by certified mail to the property owner of record. If not removed within ten (10) days, the sign shall be considered a hazard to public safety and shall be removed at the property owner's expense.
- (b) *Damaged signs and poorly maintained signs.* All signs, including exempt signs, shall be kept in a structurally sound condition, with a neat appearance and in a generally good state of repair. Further, signs shall be maintained in accordance with Section 3108.1.7, Florida Building Code, which requires that all signs for which a permit is required, together with supports, braces, guys, and anchors shall be kept in repair and, unless of galvanized or non-corroding metal, shall be painted at least once every two (2) years. Any sign destroyed or damaged beyond reasonable repair in the determination of the building official, shall be immediately repaired or removed at the property owner or occupant's expense. A new sign permit shall be required for any replacement sign. If not repaired or replaced within thirty (30) days after written notice from the building official, the sign shall constitute a public nuisance and shall be removed at the property owner's expense.
- (c) *Abandoned signs.* Signs shall be removed by the owner or occupant within (30) thirty days of cessation of the business or activity conducted on the property where the sign is located. A business or activity shall be considered to have ceased when the premises are vacated, or in the absence of a valid occupational license or active utility service account. Signs not removed in accordance with these provisions shall be considered as abandoned and shall be removed at the property owner's expense.

(Ord. No. 60-02-12, § 2, 9-9-02)

Sec. 17-42. - Prohibited signs and devices.

The following signs and devices shall be prohibited within the City of Atlantic Beach. In the case of any conflict with other provisions of this Code, the prohibitions set forth below shall supersede such other conflicting provisions.

- (1) Animated signs.
- (2) Automatic changeable message device signs, except for signs depicting time and temperature.
- (3) Flashing signs.
- (4) Signs containing beacon or tracker lights or similar lighting components.
- (5) Signs containing fluorescent colors or materials designed to be mirror-like or reflective.
- (6) Obscene signs.
- (7) Roof signs.
- ~~(8) Snipe signs.~~
- ~~(89)~~ Portable and mobile signs.
- ~~(940)~~ Temporary signs, except as otherwise authorized herein.
- ~~(104)~~ Pennants, ribbons, balloons, streamers, wind-operated devices and similar elements that are intended to draw attention to a business or activity, either when used alone or incorporated into a sign.
- ~~(112)~~ Vehicle sign or signs ~~(Bumper stickers, decorative decals and the like, customary and registered logos, trademarks or service marks that are attached to a motorized vehicle shall not be considered as vehicle signs; however, such vehicles shall not be parked off of the property from where a business is located or in the required front yard of any property for the sole purpose of advertising.)~~ with a total sign face area in excess of twenty (20) square feet on any vehicle, and



- a. The vehicle is not "regularly used in the conduct of the business," and
- b. The vehicle is visible from a street right-of-way within fifty (50) feet of the vehicle, and
- c. The vehicle is parked for more than two (2) consecutive hours in any twenty-four (24) hour period within fifty (50) feet of any street right-of-way, and
- d. A vehicle shall not be considered "regularly used in the conduct of the business" if the vehicle is used primarily for advertising, and
- e. This provision is not construed as prohibiting the identification of a firm or its principal products on a vehicle operating during the normal hours of business; and which is currently licensed, insured, and operable; provided, however, that no such vehicle shall be parked on public or private property with signs attached or placed on such vehicle primarily for the purpose of advertising a business establishment or firm or calling attention to the location of a business establishment or firm

(123) Private signs on any public property or right of way, other than as specifically approved by the city commission.

(134) All signs prohibited by Chapter 479.11, Florida Statutes.

(145) Signs not in compliance with all applicable provisions of this chapter and this Code.

(15) Off-site signs and billboards.

(16) Discontinued and abandoned signs.

(17) Temporary signs less than one (1) foot in height and one (1) square foot.

(Ord. No. 60-02-12, § 2, 9-9-02)

Secs. 17-43—17-50. - Reserved.

#### ARTICLE IV. - NONCONFORMING SIGNS AND ~~VARIANCES WAIVER TO CERTAIN PROVISIONS~~

Sec. 17-51. - Nonconforming signs.

All signs, which were lawfully in existence and constructed or installed with properly issued sign permits as of the effective date of these amended regulations, and which are made nonconforming by the provisions herein shall be allowed to remain in accordance with the following conditions:

- ~~(1) Freestanding signs, permitted pursuant to section 17-29, made nonconforming upon the initial effective date of these amended regulations, which are not in compliance only with respect to the minimum required distance of five (5) feet from any property lines shall be allowed to remain in the existing location provided that no portion of the sign is located within any publicly owned right-of-way or utility easement and that no interference with clear sight distance exists, and further provided that such signs are otherwise in compliance with the terms of this chapter.~~
- ~~(2) Freestanding signs, permitted pursuant to section 17-29, made nonconforming upon the initial effective date of these amended regulations, which are not in compliance with respect only to maximum width, height or size shall be allowed to remain, provided that such signs are otherwise in compliance with the terms of this chapter.~~
- (13) Nonconforming signs, ~~including those as described in preceding paragraphs (1) and (2)~~ shall be made conforming with all provisions of this chapter when any of the following changes are made or circumstances exist:
  - a. Any change to the structural supports or structural materials, including temporary relocation associated with routine maintenance of a property.
  - b. Any change which increases the illumination.

- c. Any change which increases the height of a sign.
- d. Any change, which alters the material used for the display area or face area by more than twenty-five (25) percent.
- e. Any replacement required as the result of an accidental act or a weather-related act.
- f. Any replacement of an abandoned sign or discontinued sign.
- g. Any change necessary for compliance with Florida Building Code requirements.
- h. When the total cost of alteration, expansion or renovation of a structure or building at a location where any non-conforming signs are located within the boundaries of the development parcel is equal to or exceeds twenty-five (25) percent of the current assessed value of the parcel improvements, or when the total square footage of a structure is expanded by more than twenty-five (25) percent within a two year time frame or when any cumulative expansions total more than twenty-five (25) percent within a two year time frame. Construction costs shall be determined in accordance with the building evaluation data sheet as established by the International Code Council.

(24) The provisions of this section shall not be construed to apply to signs that are abandoned, discontinued, deteriorated, dilapidated, or in a general state of disrepair, or which are determined to create a hazard to public safety. Such signs shall be subject to the provisions of section 17-~~4133~~.

(Ord. No. 60-02-12, § 2, 9-9-02; Ord. No. 60-03-13, § 2, 3-24-03; Ord. No. 60-11-16, § 1, 10-10-11; Ord. No. 60-14-19, § 1, 11-24-14; Ord. No. 60-15-20, § 1, 6-8-15)

Sec. 17-52. –~~Requests to waive certain terms of this chapter.~~ Variances.

~~Requests to waive terms of this chapter may be made upon specific application to the city commission, with proper public notice required, provided that no waiver shall be requested that would allow a prohibited sign, or any otherwise unlawful sign. The applicant requesting such waiver shall have the burden of demonstrating the need for the requested waiver, and that the waiver is not in conflict with the intent of this chapter. The terms of any waiver to the provisions of this chapter shall be established by order of the city commission.~~

The Community Development Board is authorized to grant relief from the strict application of this Chapter where, due to an exceptional situation, adherence to this Chapter results in "exceptional practical difficulties or undue hardship" to a property owner.

In most cases, exceptional practical difficulties or undue hardship results from physical characteristics that make the property unique or difficult to use. The applicant has the burden of proof. The Community Development Board must determine that granting the request would not cause substantial detriment to the public good and would not be inconsistent with the general intent and purpose of this Chapter.

A variance may be sought in accordance with this section. Applications for a variance may be obtained from the Community Development Department.

(a) Application. A request for a variance shall be submitted on an application form as provided by the city and shall contain each of the following:

- (1) A legal description of the property for which the variance is requested.
- (2) A reasonable statement describing the reasons and justification for the variance.



(3) A survey depicting the location of the requested sign(s) and the location of all structures and access points on the property. An elevation drawing, with dimensions, depicting the size, height, location and relation to other existing signs. Plans shall be drawn at a legible scale, depicting materials to be used, method of construction, attachment or installation as appropriate and type of illumination, if any.

(4) The signature of the owner, or the signature of the owner's authorized agent. Written and notarized authorization by the owner for the agent to act on the behalf of the property owner shall be provided with the application.

(b) Public hearing. Upon receipt of a complete and proper application, the Community Development Director shall within a reasonable period of time schedule the application for a public hearing before the Community Development Board following required public notice as set forth in Section 24-51. At the public hearing, the applicant may appear in person and/or may be represented by an authorized agent.

(1) Applications for a variance shall be considered on a case-by-case basis and shall be approved only upon findings of fact that the application is consistent with the definition of a variance and consistent with the provisions of this section.

(2) The nonconforming use of adjacent or neighboring lands, structures or buildings shall not be considered as justification for the approval of a variance.

(3) Variances shall not be granted solely for the personal comfort or convenience, for relief from financial circumstances, or for relief from situations created by the property owner.

(c) Grounds for approval of a variance The Community Development Board shall find that one or more of the following factors exist to support an application for a variance:

(1) Exceptional topographic conditions of or near the property.

(2) Surrounding conditions or circumstances impacting the property disparately from nearby properties.

(3) Exceptional circumstances preventing the reasonable use of the property as compared to other properties in the area.

(4) Onerous effect of regulations enacted after platting or after development of the property or after construction of improvements upon the property.

(5) Irregular shape of the property warranting special consideration.

(6) Substandard size of a lot of record warranting a variance to provide for the reasonable use of the property.

In the event the Community Development Board finds that none of the above exist, then the Community Development Board shall deny the variance.

(d) Approval of a variance. To approve an application for a variance, the Community Development Board shall find that the request is in accordance with the preceding terms and provisions of this section and that the granting of the variance will be in harmony with the purpose and intent of this chapter. In granting a variance, the Community Development Board may prescribe appropriate conditions in conformance with and to maintain consistency with City Code. Violation of such conditions, when made a part of the



terms under which the variance is granted, shall be deemed a violation of this chapter, and shall be subject to established code enforcement procedures.

(e) Approval of lesser variances. The Community Development Board shall have the authority to approve a lesser variance than requested if a lesser variance shall be more appropriately in accord with the terms and provisions of this section and with the purpose and intent of this chapter.

(f) Nearby nonconformity. Nonconforming characteristics of nearby lands, structures or buildings shall not be grounds for approval of a variance.

(g) Waiting period for re-submittal. If an application for a variance is denied by the Community Development Board, no further action on another application for substantially the same request on the same property shall be accepted for three hundred sixty-five (365) days from the date of denial.

(h) Time period to implement variance. Unless otherwise stipulated by the Community Development Board, the work to be performed pursuant to a variance shall begin within twelve (12) months from the date of approval of the variance. The Community Development Director, upon finding of good cause, may authorize a one-time extension not to exceed an additional twelve (12) months, beyond which time the variance shall become null and void.

(i) Transferability. A variance, which involves the development of land, shall be transferable and shall run with the title to the property unless otherwise stipulated by the Community Development Board.

(Ord. No. 60-02-12, § 2, 9-9-02)

Secs. 17-53—17-60. - Reserved.

#### ARTICLE V. - SIGN PERMITS, ENFORCEMENT AND SEVERABILITY

Sec. 17-61. - Permit required.

~~It shall be unlawful for any person to install, erect, place, alter or relocate any sign without first obtaining a sign permit with payment of the required fee to the city. Sign permits shall be required for any sign requiring a permit under the provisions of Section 3108.1.3, Florida Building Code. No sign shall be installed, erected or placed prior to issuance of a sign permit as required by this chapter, except for exempt signs as set forth in Section 17-26..~~ A sign permit shall not be issued prior to issuance of the appropriate occupational license as required for the activity on the property for which the sign permit is sought, ~~except as set forth in section 17-29(c) of this chapter.~~

(Ord. No. 60-02-12, § 2, 9-9-02)

Sec. 17-62. - Application.

Before a sign permit shall be issued, a design and stress diagram containing necessary information to enable the ~~city building official~~ to determine compliance with this chapter and the provisions of Section 3108 of the Florida Building Code shall be submitted. Such information shall be included as part of the sign permit application and shall be submitted to the City of Atlantic Beach Building Department using a sign permit application as provided by the city. In the event an application is not approved, an applicant may request the City to provide a written explanation for the reason(s) for the denial. The application for sign permit shall contain or have attached thereto the following information:

- (1) The name, mailing address and telephone number of the applicant.

- (2) If applicable, a copy of a valid and current occupational license for the property where the sign shall be placed.
- (3) In the case that the applicant is not the property owner, an owner's authorization to apply for a sign permit.
- (4) A survey depicting the location of the requested sign(s) and the location of all structures and access points on the property. An elevation drawing, with dimensions, depicting the size, height, location and relation to other existing signs. Plans shall be drawn at a legible scale, depicting materials to be used, method of construction, attachment or installation as appropriate and type of illumination, if any.
- (5) The name and contractor information of the person erecting or installing the sign.
- (6) An electrical permit, if required.
- (7) Registered engineer's drawings as may be required by Section 3108, Florida Building Code.
- (8) Such additional information as may be required by the ~~building official-city~~ to determine compliance with this chapter, any other applicable laws and ordinances of the City of Atlantic Beach and the requirements of Section 3108, Florida Building Code.

(Ord. No. 60-02-12, § 2, 9-9-02)

#### Sec. 17-63. - Calculation of permitted sign size.

Sign face area, ~~sign display area~~, width of sign and height of sign shall be calculated as defined within article I of this chapter. In the case of ~~non-~~ freestanding, ~~fascia and projecting~~ signs, the sign face area shall be used in calculating the permitted size of sign. In the case of ~~marquee, canopy or awning signs, the sign display area~~ freestanding signs, width and height of sign shall be used in calculating the permitted size of the sign. The height of the sign shall be the vertical distance measured from the lowest grade adjacent to the sign extending to the topmost portion of the sign structure, including any frame, embellishment or other type of upward extension from the sign.

When computing sign face area, only one (1) side of a sign containing two (2) sides shall be included in the calculation of the permitted sign size.

(Ord. No. 60-02-12, § 2, 9-9-02)

#### Sec. 17-64. - Fees.

Fees for the issuance of a sign permit shall be determined as follows. (Electrical permits and required fees shall also be required for signs with electrical components.)

- ~~(1) Thirty-two (32) square feet or less of sign display area or sign face area, as appropriate: Thirty dollars (\$30.00).~~
- ~~(2) Larger than thirty-two (32) square feet: An additional ten dollars (\$10.00) for each square foot exceeding thirty-two (32) square feet of sign display area or sign face area, as appropriate.~~
- ~~(3) Freestanding signs constructed in accordance with the provisions of section 24-171(d), commercial corridor development standards: Freestanding signs constructed of a solid material such as wood, masonry or high-density urethane, and externally illuminated in a manner that washes the sign in indirect light from a fluorescent ground source shall be entitled to a fifty (50) percent reduction in sign permit fees.~~
- (1) Thirty dollars (\$30) for all non-freestanding signs.
- (2) Fifty dollars (\$50) for freestanding signs.



(Ord. No. 60-02-12, § 2, 9-9-02; Ord. No. 60-03-14, 7-14-03)

Sec. 17-65. – Enforcement and Severability.

a. Enforcement. Violations of this Chapter shall result in code enforcement action pursuant to Chapter 2, Article V, Division 2 of the City's Code of Ordinances.

b. Severability. If any section or portion of this Chapter proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section of part of this Chapter. If any section, sentence, clause or other provision of this Chapter 17 shall be held to be invalid, unlawful or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding of unlawfulness, invalidity or unconstitutionality shall not be construed so as to render unlawful, invalid or unconstitutional the remaining sections, sentences, clauses or other provisions of this Chapter 17.