

ORDINANCE 194

**AN ORDINANCE OF THE COMMON CITY OF ELKINS, WEST VIRGINIA,
AMENDING CITY CODE, CHAPTER 5 BUILDINGS ARTICLE V, SIGNS AND
BILLBOARDS**

WHEREAS, the Common Council of Elkins, West Virginia, has deemed it just and necessary to amend the portion of the City Code, Chapter 5 Buildings, Article V, regarding Signs and Billboards; and

WHEREAS, the Common Council believes that by amending Chapter 5 Building, Article V Signs and Billboards, it will better serve the citizens of the City of Elkins,

NOW THEREFORE, BE IT ORDAINED and ENACTED by the Common Council of the City of Elkins that City Code Chapter 5, Buildings, Article V, Signs and Billboards be revised to read as follows:

Article V. Signs and Similar Structures

- § 5 - 1 Scope.
- § 5 - 2 Definitions.
- § 5 - 3 Procedures and permits.
- § 5 - 4 Permit exemptions.
- § 5 - 5 Measurement of individual sign area.
- § 5 - 6 Prohibited Signs.
- § 5 - 7 General sign regulations.
- § 5 - 8 On-premise signs.
- § 5 - 9 Nonconforming signs.
- § 5 - 10 Maintenance; abandonment.
- § 5 - 11 Permit fees.
- § 5 - 12 Revocation of registration or permit.
- § 5 - 13 Inspections and enforcement.
- § 5 - 14 Continuing violations.
- § 5 - 15 Appeals.
- § 5 - 16 Penalty.

Sec. 5 - 1. SCOPE.

The purpose of this article is to create the legal framework for a comprehensive and balanced system of signs that will preserve the right of free speech and expression, provide an easy and pleasant communication between people and their environment, and

avoid the visual clutter that is potentially harmful to traffic and pedestrian safety, property values, business opportunities, and community appearance. With these purposes in mind, it is the intent of this article to authorize the use of signs that are:

- (a) Compatible with their surroundings;
 - (b) Appropriate to the activity that displays them;
 - (c) Expressive of the identity of individual activities and the community as a whole;
- and
- (d) Legible in the circumstances in which they are seen.

Sec. 5 – 2. DEFINITIONS.

Unless a contrary meaning is indicated from the context of a specific provision of this article for the purpose of this article, certain terms and words are defined as follows:

- (1) “Awning”.

An architectural feature or projection that provides weather protection, identity, or decoration and is wholly supported by the building to which it is attached. An awning is comprised of a light weight rigid skeleton structure over which a rigid covering is attached.

- (2) “Banner Sign”.

Any sign intended to be hung, with or without frames, possessing characters, letters, illustrations or ornamentations applied to paper, plastic or fabric of any kind.

- (3) “Barber Pole”.

A sign which is specifically painted or striped to advertise a barbershop.

- (4) “Canopy”.

An architectural projection that provides weather protection, identity, or decoration and is supported by the building to which it is attached and at the outer end by not less than two stanchions. A canopy is comprised of a rigid structure over which a rigid covering is attached.

- (5) “Changeable Letter Freestanding Sign”.

A sign designed to be temporary and portable in nature which may or may not be illuminated with electrical lights and which has letters which may be changed to advertise events, business openings, and sales, among other things;

(6) “Changeable Copy Sign “.

A permanent sign which may or may not be illuminated with electrical lights and which has letters which may change to advertise events, business openings, and sales, among other things.

(7) “Clear-Vision Area”.

The triangular area formed at the intersection of any street right-of-way lines by a straight drawn between the right-of-way lines at a distance along each line of ten (10) feet from their point of intersection.

(8) “Commercial Sign”.

Any sign advertising a business or a good being offered by another party.

(9) “Community Facilities”.

Any public building or service focused upon serving particular neighborhoods or areas.

(10) “Construction Sign “.

Any sign erected or affixed to a building used to announce the names of the architect, engineer, contractors, or financiers of a building under construction, alteration, or repair to a building where such construction is occurring.

(11) “Door Sign”.

Any sign painted or lettered directly on the surface of any window or door of a building or other structure.

(12) “Dynamic Sign”.

Any sign designed for outdoor use that is capable of displaying a video signal, including, but not limited to, cathode-ray tubes (CRT), light-emitting diode (LED) displays, plasma displays, liquid-crystal displays (LCD), or other technologies used in commercially available televisions or computer monitors.

(13) “Electronic Changing Message Sign”.

An electronically activated sign whose message content, either in whole or in part, may be changed by means of electronics or digital programming.

(14) “Emergency Non-Advertising Sign”.

Any emergency non-advertising sign which is approved by the Operations Manager or the City Building Inspector.

(15) “Ground Sign”.

Any sign supported by structures or supports in or upon the ground and independent of support from any building.

(16) “Hours of Operation Sign”.

A sign which contains no moving parts and which exclusively advertises, indicates or states the business hours of an establishment or entity.

(17) “Illuminated Sign”.

Any sign lit in any manner by an artificial light source.

(18) “Interior Sign”.

Any sign placed in the inside of a building and not visible from outside the building.

(19) “Imbedded Building Sign”.

Any sign which is imbedded or set into a building and which is so constructed and erected as to become an integral and permanent part of the building.

(20) “Kiosks”.

A small standalone sign used to advertise events or other onsite activities.

(21) “Marquee”.

A permanent roofed structure including attached objects or decorations, attached to and supported by the building.

(22) “Marquee Sign”.

Any sign attached to and made part of any marquee, canopy, awning or port-cochere which is defined as a permanent roof-like structure projecting beyond a building wall and designed to provide protection against the weather;

(23) “Monument Sign”.

Any sign which is supported by a base of at least 75% of the sign width and is independent from any building.

(24) “Multi-Tenant Sign”.

Any sign which designates a multi-tenant development whether designated as a business park, business center, strip mall, shopping center, whether professional, retail, industrial or otherwise, which consists of one large sign that advertises or designates the business park, center, or mall and incorporates or provides a location for the individual signs of the members or individual establishments within said business park, center or mall.

(25) “Noncommercial Sign”.

Any sign expressing opinions or commentary related to ideas and values and refrains from conveying any message soliciting goods or services.

(26) “Off-Site Advertising Sign or Billboard”.

Any sign the subject matter of which relates to products, accommodations, goods, services, or activities which are sold or offered from a site, parcel of real estate, location or premises other than that upon which the sign is located.

(27) “Off-Site Directional Sign”.

Any sign which identifies or advertises the existence or location of any entity or establishment and which sign is located on a site, parcel of real estate, location, or premises other than that upon which the entity or establishment is located.

(28) “On-Site Directional Sign”.

Any sign which identifies the entrance or exit to an entity, establishment, business, or other site or which may be necessary for the convenience and safety of vehicles and pedestrians utilizing the site.

(29) “Pole Sign”.

Any sign erected on a single or multi-post or column placed in the ground.

(30) “Political Sign”.

Any sign which identifies or is indicative of any candidate seeking nomination or election to any national, state, or local office.

(31) “Political Subdivision”.

Local governments created by the state to help fulfill their obligations

(32) “Portable Sign”.

Any sign that is capable of being moved by one person without machinery from one location to another for the purpose of advertisement or announcement for business or other purposes.

(33) “Projecting Sign”.

Any on-premise sign that is wholly or partly dependent upon a building for support and projects in whole or in part a determined distance beyond the surface of the building to which the sign is attached.

(34) “Public Bulletin Board”.

Any sign which identifies a governmental, charitable, non-profit or religious institution and which is located on the premises of such institution.

(35) “Real Estate Sign”.

Any sign which advertises the sale, rental or leasing of existing commercial or residential buildings or structures or any portion thereof and which is located on the premises being offered for sale, lease or rent.

(36) “Roof Sign”.

Any sign erected or constructed upon the top portion of a roof and supported solely by the roof structure.

(37) “Sandwich Board Sign”.

A two-part sign which is hinged at the top and connected at the sides and is designed to be free standing portable and temporary in nature.

(38) “Scrolling Message Sign”.

A sign using a mode of message transition on an electronic message sign where the message appears to move vertically or horizontally across the display surface.

(39) “Seasonal Sign”.

Any sign that is temporarily displayed in correlation with a current season or occasion.

(40) “Tablet”.

Any sign constructed of bronze, brass, stone, or other incombustible, permanent material which shall be permanently affixed or attached to the walls of a building or other structure and which bears the name of the owner, the name of the building, the date of erection of the building or contains reading matter commemorating a person or an event.

(41) “Temporary Nonprofit Event Sign”.

Any sign that advertises a one time non-profit, charitable, religious, or government sponsored event.

(42) “Temporary Sign”.

Any sign that has plastic film, paper, cloth or similar material and its associated message area that is designed to be fastened to a building or displayed behind a window and visible from outside a business building for a limited period of time.

(43) “Traffic Sign”.

Any sign which has been designated, established, and or erected by the federal, state or local government which directs, controls, or regulates the flow of vehicular or pedestrian traffic or identifies or locates, highways, streets, alleys, or any other public rights of way.

(44) “Vehicle Sign”.

Any sign that is attached to a vehicle.

(45) “Wall Sign”.

Any sign painted or attached parallel to the face of the building wall and confined therein and supported by such wall and displaying only one advertising surface.

(46) “Warning Sign”.

Any sign which warns of or indicates a dangerous, perilous or hazardous condition.

(47) “Window Sign”.

Any sign placed inside or upon a window facing the outside.

(48) “Yard Sale Sign”.

Any sign advertising the temporary sales of household items. Also known as garage or moving sales.

Sec. 5 – 3. PROCEDURES AND PERMITS.

(a) It shall be unlawful for any person to erect, structurally alter, or relocate any sign or sign structure without first obtaining a permit from the Building Inspector, except as provided in Section 5-4 Permit Exemptions.

(b) The application for the permit for a sign shall be made upon forms provided by the Building Inspector. All applications shall at a minimum be accompanied by accurate

sketches and scaled drawings showing the proposed sign or sign structure, its content, and the location of the proposed sign upon the premises. All applications shall be accompanied by the requisite application fee which shall be established by the Building Inspector. All applications shall be accompanied by the written consent of the owner or his designated agent of the premises upon which the sign is to be erected or his designated agent.

No application shall be accepted for review unless it is complete, accompanied by the appropriate fee and signed by the applicant. The Building Inspector may require that the location of a proposed sign be based on a survey by a registered land surveyor or engineer, at the expense of the applicant. The Building Inspector shall endeavor to complete a review of the completed application within ten (10) working/business days.

(c) At any time and at his sole discretion, the Building Inspector may inspect existing signs to determine if they are detrimental to the public health, safety and welfare. If they are detrimental to the public health, safety and welfare, they shall be removed or repaired within five (5) working/business days following the determination by the Building Inspector. At the determination of the Building Inspector, more time may be granted to repair or replace the sign if the property owner can demonstrate a good faith effort of working toward compliance with this article. If a nonconforming sign is determined by the Building Inspector or owner to require repair, it must be brought into compliance with these regulations within a period of time determined by the Building Inspector.

Sec. 5 – 4. PERMIT EXEMPTIONS.

A permit shall not be required for the following signs and activities. Except where noted otherwise, the types of signs listed below are allowed in addition to the maximum number and square footage of regulated signs as permitted in other sections of this article:

(a) Servicing, repainting, or cleaning an existing sign, except where such activity requires structural alterations either of the sign pole or the structure supporting the sign face.

(b) House number or nameplate identifying the occupant or address of a structure and not exceeding two square feet in area.

(c) Real Estate Sign which is six (6) square feet or less in surface area and is five (5) feet or less in height, provided that there shall be no more than one such sign for any street frontage and such sign shall not project beyond the property line. The sign shall advertise the building or property on which the sign is located, and must be located so as not to obstruct or interfere with view of drivers on public roads or those accessing the property.

(d) The name of the building and date of erection, when cut into any masonry surface or tablet sign.

(e) One banner advertising a particular event for a business shall be allowed provided that:

(1) Such sign shall be placed no more than seven (7) days prior to the event and removed no later than seven (7) days after the event.

(f) Any non-commercial flag bearing the official seal of the United States, other recognized country, or State of West Virginia.

(g) Traffic or other official government sign, such as legal notice, railroad crossing, danger or other emergency sign.

(h) Yard, garage, or moving sale signs that are placed no more than seven (7) days prior to the sale and removed within two (2) days after the conclusion of the sale.

(i) Traffic control signs on private residential property which contain no commercial message of any sort.

(j) Public warning signs for trespassing or danger area.

(k) Temporary nonprofit event sign which does not exceed sixteen (16) square feet, and is only permitted when used to advertise a specific event. These signs shall only be permitted for the period of not more than fourteen (14) days prior to the event and five (5) days after the specific event has ended.

(l) Non-commercial seasonal signs.

(m) Drive-through menu signs.

(n) One banner advertising the opening of new businesses shall be allowed as an alternative to a permitted permanent wall sign provided that:

(1) Such signs for new businesses shall be limited to a duration of thirty (30) days within the first sixty (60) days after issuance of the first business license for that business in that location or from the issuance of a Certificate of Occupancy for that location, whichever is later.

(2) Such signs shall be attached to and parallel with a wall of the building on which wall signs are permitted and shall not exceed thirty-two (32) square feet in surface area.

(o) Temporary commercial signs placed by businesses or the West Virginia Division of Highways during the construction of any road improvement project. To be exempted from the permitting process, a business may either:

(1) Relocate its permanent sign out of the construction zone to a temporary location on-site, or

(2) Replace the permanent sign with a temporary new sign no larger than the maximum height and size limits permitted in the zoning district.

In any case, once the road improvements are completed in front of the business, any sign placed temporarily during the construction period must be removed within seven (7) days.

(p) The changing of an approved copy or message of a sign specifically designed for the use of replaceable or changeable copy.

(q) Construction signs which are thirty-two (32) square feet and non- illuminated placed on the building site only.

(r) Sandwich Board. Such sandwich board signs shall be permitted for the purpose of announcing activities and specials with a total area, inclusive of all structural support, not greater than six (6) square feet per side and located on the property or on the sidewalk adjacent to where the business is located, and must be taken inside daily at the end of business hours. Sandwich board signs are not permitted in residential districts.

(s) Temporary and banner signs.

Sec. 5 – 5. MEASUREMENT OF INDIVIDUAL SIGN AREA.

This section of the article explains how a sign is to be measured in order to determine its size.

(a) The permitted maximum size of a sign shall apply to the entire area enclosing the extreme limits of writing, representation, emblem or figure, together with any frame or other material or color forming an integral part of the display or used to differentiate a sign from the background against which it is placed. Necessary supports or uprights on which a sign is placed are excluded from the measurement of sign area.

(b) The permitted actual size of a sign shall apply to each facing of a sign structure; however, where signs are double-faced, placed back-to-back, or in a V-type construction, only one side of the sign shall be counted when the V is at a 45 degree angle or less. Back-to-back signs must be enclosed within the same cabinet or affixed to the same pole and not separated by more than eighteen (18) inches to qualify under this section.

(c) If a sign is painted on a wall, and includes background colors and/or graphics, and if the sign is an integral part of the overall graphic scheme, the entire wall shall be considered a sign and its measurement computed as such. If a sign is painted on a wall, and the sign can be logically separated and measured separately from the background graphics, the background graphic scheme shall not be computed in the sign size.

(d) The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. No filling, berming, mounding or excavating for the purpose of locating the sign is permitted.

Sec. 5 – 6. PROHIBITED PERMANENT AND TEMPORARY SIGNS

The following signs are prohibited in the City, except as otherwise noted herein:

(a) A flashing sign or an animated sign which incorporates in any manner flashing or moving lights or any other visible moving or revolving part.

(b) Signs which resemble any traffic sign or traffic control device on a public street or road, by reason of size, shape, location, color, or illumination and/or which make use of such words as "STOP", "LOOK", "DANGER", or other similar words, phrases, symbols, or characters, in such a manner as to imply the need or requirement of stopping or the existence of danger.

(c) Signs which obstruct free ingress or egress from a door, window, fire escape, or other exitway.

(d) Vehicle signs which are displayed for the purpose of exhibiting commercial advertising, identifying an on-site business, or supplying directional information to an off-site business, by means of any of the following:

(1) The absence of a current, lawful license plate affixed to the vehicle on which the sign is displayed; or

(2) The vehicle being inoperable; or

(3) The vehicle on which the sign is displayed is not parked in a lawful or authorized location, or is parked in a manner that is distinct or different from the pre-determined parking area; or

(4) A vehicle that utilizes a sign that is not an integral piece of an automobile is not permitted. No additional materials can be added to a vehicle for the purpose of using it as a sign; or

(e) Off-site directional sign, except as permitted by this article.

(f) Changeable letter freestanding signs or portable signs.

(g) Signs determined by the Building Inspector to contain subject matter defined within this article related to "Specified Sexual Activities" or "Specified Anatomical Areas".

(h) Signs now or hereafter existing which no longer advertise a bona fide business, activity, campaign, service or product.

(i) Any sign located in a public right-of-way, except as permitted by the West Virginia Department of Transportation or the City of Elkins and in compliance with all local regulations. Any sign placed in the public right-of-way in violation of this code shall be prohibited and may be seized by the enforcement official or other representative of the City, and the person owning or placing the sign may be charged both with a violation of this article and with the cost of removing and disposing of the sign.

(j) Signs attached to utility poles and West Virginia Division of Highways or City sign poles.

(k) All off-site advertising sign or billboard except as permitted by this article.

(l) Signs or banners placed on fabric not intended to be used for such purpose.

(m) Dynamic signs as defined in this article

Sec. 5 – 7. GENERAL SIGN REGULATIONS.

(a) Regulations by Type of Sign:

(1) Electronic changing message sign. Political subdivisions may be permitted these types of signs upon approval by the Board of Zoning Appeals.

(2) Kiosks. Kiosks shall be permitted for the purpose of announcing activities, and the like, scheduled to occur in such buildings. One (1) square foot per one (1) lineal foot of street frontage shall be permitted with the total aggregate sign area not exceeding forty (40) square feet. Such kiosks shall not be closer than ten (10) feet to the curb nor more than ten (10) feet in overall height above grade

(3) Monument signs. All monument signs shall stand in a bed of cultivated landscaping. This area shall contain low-growing materials such as vegetative ground cover, perennials, and shrubs and shall be bordered by acceptable curbing such as wood or concrete. Such curbing shall be located in such a manner so as to prevent automobiles from contacting the sign when maneuvering. The perimeter of the landscaped area shall extend outward from the monument sign by at least four (4) feet.

(4) Projecting signs. Shall be governed by the following regulations.

A. A projecting sign shall not extend over more than one-half of a public sidewalk nor be lower than nine feet above ground level.

B. They shall be attached at least six inches away from the wall, and angular projection at the corner of a building is prohibited.

C. Shall project from the wall at an angle of ninety (90) degrees.

D. Shall not extend vertically beyond the window sill of the second story.

(5) Imbedded building signs. Shall be no more than twenty (20) square feet in size and shall only bear the name of the owner, the name of the building, or the date of erection of the building.

(6) Permanent window signs. Shall be regulated by the following stipulations:

A. All window signs shall consist of high quality durable materials. Floating neon, applied vinyl, etched glass, and painted images with appropriate design features shall be considered.

B. Borders around or adjacent to and backgrounds behind window sign lettering shall count toward the total sign area. All window signs shall be included in the total allowable sign area.

C. All window lettering/window signs shall require issuance of an appropriate sign permit.

(b) General Regulations Applicable to All Signs:

(1) No sign shall be permitted within the Clear-Vision Area as defined.

(2) The back of any permitted sign structure must be shielded from public view by a building, other structure, high planting, or another sign of the same size (where permitted), unless such back is painted a neutral color or is enclosed in a solid metal backing that is treated or painted against corrosion.

(3) All signs shall be maintained in good and safe structural condition.

(4) The general area in the vicinity of a sign must be kept clear of weeds, debris, trash, and other refuse by the property owner.

(5) In no case shall any sign cast light directly upon any part of an adjacent residential property at any time of the day or night.

(6) Lots fronting two or more streets are allowed the permitted sign size for each street frontage. The square footage permitted for each street frontage cannot be combined and used on one frontage. In no case shall the maximum aggregate sign area for the respective zoning district be exceeded unless expressly permitted by this article.

(7) All signs, except where noted, must be placed on the property containing the business which is being advertised. In no case shall any part of the sign be placed within five feet of a private or public right-of-way. Unless otherwise restricted in this article, a sign shall comply with the height regulations for structures in the zoning district where the sign is located or unless otherwise specifically regulated in this article.

(8) Signs must be placed on the frontage side which was used to calculate the size of the sign. An exception to this requirement may be made by the Building Inspector in accordance with the provisions set forth herein:

A. Such additional sign location shall be necessitated by the exceptional physical conditions of the applicant's parcel of real estate, which may include the fact that the parcel is exceptionally narrow, shallow or steep;

B. The location of the sign shall not cause or permit an increase in the applicable maximum permitted aggregate signage;

C. If the proposed conditional location is adjacent to any property classified, used or occupied as residential, whether single family or multi-tenant, such sign shall not be illuminated by any artificial means;

D. No such sign shall be of such a nature as to be detrimental or injurious to any adjacent property; the neighborhood or the public welfare;

E. Any such sign must be placed in a location that is in harmony with the general purpose and intent of this article.

(9) No sign or sign structure shall be erected or placed at any location where, by reason of the position, shape, size or color of the sign it may interfere with, obstruct or prevent the free ingress, egress and regress to or upon any sidewalk, street, or alley of the City.

(10) Any sign not specifically mentioned is prohibited.

Sec. 5 – 8. ON-PREMISE SIGNS.

(a) Residential Districts: Mobile Home Park, General Residential, and Neighborhood Residential, as follows, except as noted under Section 5-8 (e), Signs for Parking Areas:

(1) One non-illuminated nameplate sign or non-illuminated non-commercial message are permitted, provided the surface area does not exceed two (2) square feet and the sign is set back at least five (5) feet from the front property line. The maximum height of the sign shall be six (6) feet.

(2) One or more wall or monument signs shall be permitted for the conditional uses where permitted: church, school, museum, other community facility, other use, or nonresidential principal use. One (1) square foot per one (1) lineal foot of street frontage shall be permitted with the total aggregate sign area not exceeding forty (40) square feet. Such sign shall be solely for the purpose of identifying the use and its services or

activities, or identifying the building, and may be illuminated by means which directs light onto sign face only. No illuminated or flood lights are permitted. Changeable copy signs may also be permitted provided that they do not exceed fifty percent (50%) of the total area of the sign.

(3) One kiosk shall be permitted for the following conditional uses where permitted: church, school, museum, or other community facility, as defined by the City Code.

(4) For major subdivision development: one permanent identification sign not exceeding forty (40) square feet in area. The Building Inspector may approve additional subdivision entrance signs where he finds affirmatively to at least one of the following criteria:

- A. The subdivision has principal entrances from two or more major streets.
- B. The subdivision is physically divided by an existing major street.
- C. Major entrances from the same street are separated by at least 330 feet.

(5) Multifamily residential complexes may be permitted one sign identifying a rental office which shall not exceed four (4) square feet if the sign is visible from a public right-of-way.

(b) Commercial: On-premise permanent signs shall be permitted as follows:

(1) Area limit: The aggregate area for all permanent signs shall be limited to one (1) square foot per one (1) lineal foot of street frontage with a maximum aggregate area of one hundred (100) square feet per frontage per place of business unless otherwise expressly permitted in this article.

(2) Height limit: The overall height limit of the entire sign structure shall be ten (10) feet from normal grade.

(3) Permitted signs: The following signs are permitted and shall be regulated as follows in regard to number, size and type of on-premise signs:

A. Monument Signs: Monument signs shall be limited to a total of one per street frontage.

B. To provide an incentive for business to erect monument signs in Business Districts, the maximum size for monument signs may be increased to one-and-one-quarter (1 1/4) square feet per one (1) linear foot of street frontage or a maximum of 125

square feet. In no case shall a business be permitted both a pole sign and a monument sign. The following example is provided to illustrate the incentive:

Example:

A business has 100 linear feet of frontage may elect to have a 50 square foot wall sign, and a monument sign as large as 62.5 square feet including the 25% bonus allowed for monument signs.

C. Marquee Signs: No more than one marquee sign shall be permitted per place of business. No part of the sign shall extend beyond the outer edge of the marquee. The roofs of all marquees shall be properly guttered and connected by downspouts so that the water therefrom will not drip or flow onto public property.

D. Wall Signs: An identification sign on an awning or canopy shall be considered a wall sign. Under no circumstances shall a permitted wall signs cover more than 33% of a side of a building. A wall sign shall not extend further than 12 inches above or from the building to which the sign is attached.

E. Kiosks: No more than one kiosk shall be permitted for the following uses where permitted: church, school, museum, or other community facility, as defined by this City Code.

F. Pole signs: No more than one pole sign shall be permitted per place of business, unless total lineal frontage exceeds 200 feet.

G. Changeable Copy Signs: Signs with changeable copy are permitted provided that the changeable copy area does not exceed fifty percent (50%) of the total permitted area of the sign. Changeable copy area is calculated in relation to the maximum aggregate sign area permitted in the zoning district.

H. Projecting signs: A maximum sign size of 20 square feet and a height of 15 feet is permitted.

(c) Industrial: On-premise permanent signs shall be permitted as follows:

(1) Area limit. The maximum aggregate area for all permanent signs is three hundred (300) square feet per place of business unless expressly permitted otherwise by this article. One (1) square foot per one (1) lineal foot of street frontage shall be permitted.

(2) Height limit. The overall height limit of the entire sign structure shall be twenty (20) feet from grade.

(3) Permitted signs. The following signs are permitted and shall be regulated as follows in regard to number, size and type of on-premise signs:

A. Monument Signs: Monument signs shall be limited to a total of one per street frontage. To provide an incentive for businesses to erect monument signs in Industrial zoning districts, the maximum size for monument signs shall be increased to one-and-one-quarter (1 ¼) square feet per one (1) linear foot of street frontage. In no case shall a business be permitted both a pole sign and a monument sign.

B. Marquee Signs: No more than one marquee sign shall be permitted per place of business. No part of the sign shall extend beyond the outer edge of the marquee. The roofs of all marquees shall be properly guttered and connected by downspouts so that the water therefrom will not drip or flow onto public property.

C. Wall Signs: An identification sign on an awning or canopy shall be considered a wall sign. Permitted wall signs shall not cover more than 33% of a side of a building. A wall sign shall not extend further than 12 inches above or from the building to which the sign is attached.

D. Kiosks: No more than one kiosk shall be permitted for the following uses where permitted: church, school, museum, or other community facility, as defined by this article.

E. Roof Signs: One roof sign shall be permitted per place of business. The height of a roof sign shall not exceed three (3) feet above the average height of the roof parapet. The size of a roof sign shall not exceed seventy-five percent (75%) of the lot frontage (i.e., 0.75 square feet for every one linear foot). No roof sign shall project over a public right-of-way. In no case shall it exceed the applicable district height limit for primary structures.

The supporting members of roof-mount signs shall appear to be free of any extra bracing, angle irons, guy wires or cables. Supports shall appear to be an architectural and integral part of the building. Supporting columns of round, square or shaped steel members may be erected if the required bracing which is visible to the public is minimized or covered.

F. Pole signs: No more than one pole sign shall be permitted per place of business, unless total lineal frontage exceeds 200 feet.

G. Changeable Copy Signs: Signs with changeable copy are permitted provided that the changeable copy area does not exceed fifty percent (50%) of the total area of the sign. The changeable copy sign area is calculated in the maximum aggregate sign area permitted in the zoning district.

H. Projecting signs: A maximum sign size of 20 square feet and a height of 15 feet is permitted.

(e) Parking Areas. On-premise signs for parking areas shall be regulated as follows in all districts:

(1) Directional signs and pavement markings may be used to control vehicular movement in a parking area. Signs shall be limited to six (6) square feet each with an overall height limit of four (4) feet.

(2) Parking or driveway area signs are permitted for the purpose of indicating entrances, exits, name of establishment to which such parking area is accessory, or conditions of use. The actual business occupying the site. No additional advertising on such signs may be permitted.

(f) Unique Land Uses.

(1) Hospitals. Hospitals shall be permitted one (1) monument sign at each entrance which shall not exceed one-hundred twenty (120) square feet in area or ten (10) feet in height. Hospitals also shall be permitted one (1) building-mounted sign for each building entrance for the purpose of identifying a hospital function. No such sign shall exceed fifty (50) square feet in area.

(2) Gasoline Stations/Convenience Stores. In addition to other sign regulations contained in this article, these establishments which sell gasoline may have the following signs:

A. Signs identifying only gasoline prices and/or the location of full-service and self-service areas may be located at and secured to each pump island and shall not be calculated in the maximum aggregate sign area. Temporary signs, attached to the pumps

and no larger than one (1) square foot each, shall not be computed in the maximum aggregate sign area permitted for the business by this article.

B. Where the establishment provides inspection services, a State of West Virginia inspections sign may be erected on the property, provided that the sign does not exceed a surface area of eight (8) square feet per side.

C. Signs informing the general public of employee certifications and the use of special brand name products used in the conduct of general daily business may be erected if placed flush against the building and shall be exempt from this regulation.

D. Signs which may be required by local, state or federal law in the interest of public health and safety shall be exempted from this regulation. These signs may include, but not be limited to, "no smoking" and "turn off engines while fueling" signs.

(3) Multi-Tenant Developments. Multi-Tenant developments shall include shopping centers, multi-tenant complexes and multi-tenant office buildings.

A. The project is allowed one monument sign per street frontage with a maximum of height of ten feet and a maximum size of one square foot per one linear foot of frontage with an overall maximum size of one hundred (100) square feet. The monument sign shall denote the name of the development; major anchor tenants for the project also may be listed on the sign.

B. Additionally, the project is allowed a maximum of one wall sign per tenant. The following scale shall be used in determining which formula shall be used to calculate the permitted sign size for each tenant:

1. Store frontage of <21 feet... ratio of 2 square feet per 1 lineal foot of store frontage.

2. Store frontage of 21-50 feet... ratio of 1.75 square feet per 1 lineal foot of store frontage.

3. Store frontage > 50 feet... ratio of 1.5 square feet per 1 lineal foot of store frontage with a maximum of 100 square feet.

4. End units shall be permitted a maximum of one (1) wall sign for each exterior side for a maximum of two (2) signs. Each sign is not to exceed one (1) square foot per lineal foot width for the wall where the sign is attached.

C. Kiosks shall be permitted for the purpose of announcing activities, and the like, scheduled to occur in such buildings. One (1) square foot per one (1) lineal foot of street frontage shall be permitted with the total aggregate sign area not exceeding forty (40) square feet. Such kiosks shall not be closer than ten (10) feet to the right-of-way nor more than ten (10) feet in overall height above grade.

D. Out parcels are permitted two wall signs, with each sign not to exceed one (1) square foot per lineal foot of width for the wall where the sign is attached.

(4) Theaters. One sign which carries the name of the theater is permitted.

Additionally, one marquee sign not to extend twenty-four (24) square feet per movie screen is permitted. Such sign shall project no more than eight (8) feet from the building face to which it is attached and shall have a minimum clearance of eight (8) feet. The total sign area of the marquee sign shall not be included in the maximum aggregate of three hundred (300) square feet.

Sec. 5 – 9. NONCONFORMING SIGNS.

(a) In the event a nonconforming sign is structurally damaged in any matter, it may be repaired or reconstructed and used as before, if such repair or reconstruction is complete within thirty (30) days of the date of such damage, unless thirty percent (30%) or more of the sign and/or its structure is damaged. If thirty percent (30%) or more of the sign and/or its structure is damaged or the repair or reconstruction is not completed within thirty (30) days, the entire sign and its structure shall be removed and a new sign which conforms to the requirements of this article may be erected, if otherwise permitted by this article, except as provided in Section 5-6.

(b) In the event a nonconforming sign is structurally altered in any manner, the entire sign and sign structure shall be removed and a new sign which conforms to the requirements of this article may be erected, if otherwise permitted by this article.

(c) Any temporary or portable sign erected or displayed prior to the effective date of the amendment of this article, and which is determined to be nonconforming shall be removed.

(d) The burden of establishing a sign to be legally nonconforming rests upon the person, firm or corporation claiming legal status for the sign.

(e) Nonconforming signs or sign structures must be completely removed or replaced with signs which fully comply with the regulations of this article when one or more of the following situations occur:

(1) The name or ownership of a business changes; provided however, that upon application to the Building Inspector, the Building Inspector may authorize the substitution of one name or owner for another so long as no structural alterations to the nonconforming sign are made;

(2) A new sign is desired, whether or not the name of the business or use changes.

Sec. 5 – 10. MAINTENANCE; ABANDONMENT.

(a) Maintenance. Every sign or sign structure, whether or not a permit is required, shall be maintained in a safe, presentable and good structural condition at all times, including the replacement of defective parts, painting, repainting, cleaning and other acts required for the maintenance of such sign. No person shall maintain or permit to be maintained on any premises, owned or controlled by him, any sign or sign structure which is in a dangerous or defective condition. No sign painted or printed on paper or fabric shall be posted or otherwise secured directly to the surface of any awning, canopy, utility service pole, building or structure not intended for signs.

(b) Surrounding Area. The owner of any property on which a sign is located and those responsible for maintenance of the sign shall be equally responsible for the conditions of the area in the vicinity of the sign and shall be required to keep this area clean, sanitary and free from noxious or offensive substances, rubbish and flammable waste materials.

(c) Abandonment. Any sign or sign structure, including temporary signs or sign structures, that is located on property which becomes vacant and is unoccupied for a period of 120 days shall be deemed to have been abandoned.

Abandoned signs and sign structures are prohibited and upon abandonment as defined herein the sign shall be removed within thirty (30) days by the owner or person, firm or

corporation responsible for the sign or owner of the premises or the person, firm or corporation responsible for the premises.

Sec. 5 – 11. PERMIT FEES.

The following fees shall be charged for permits to erect and various types of signs and any other similar type of outdoor display regulated by this article:

<u>TYPE OF SIGN</u>	<u>FEE</u>
All signs or other similar types of outdoor displays regulated by this article	\$25.00 + \$.50 per square foot, \$25.00 reinspection
Exempt signs	No Fee

Sec. 5 – 12. REVOCATION OF REGISTRATION OR PERMIT.

(a) The City Building Inspector or his designate is hereby authorized and empowered to revoke any permit issued by the City under this article upon failure of the holder thereof to comply with any of the provisions of this article or any state applicable, local, or national code. They are also authorized and empowered to revoke a permit for the erection of any sign or similar structure which violates the provisions of this article.

Sec. 5 – 13. INSPECTIONS AND ENFORCEMENT.

The City Building Inspector or his designee shall make an inspection of any sign or structure regulated by this article at the time of sign erection. The Inspector shall cause to be removed any sign that violates any provision of this article or a sign or structure for which no permit has been issued. The owner of the property on which the sign or structure is located or the owner or person, firm or corporation responsible for the sign or structure itself shall be notified in writing of the violation and if not altered or removed to meet the requirements of this article within twenty (20) days for structural deficiencies or thirty (30) for type, size, or location deficiencies, such sign or other structure shall be

removed by the City or designee and the cost of such work shall be charged to the appropriate party and collected in the manner provided by law.

Notwithstanding the above, in cases of emergency, or if the sign or structure is in danger of imminent collapse, is defective, or poses a substantial and present risk to persons or property, the inspector may cause the immediate removal of such sign or structure without notice.

Sec. 5 – 14. CONTINUING VIOLATIONS.

The nonabatement of a violation of the provisions of this article, after due notice, shall be considered to constitute a separate violation for each day that such violation is permitted to exist.

Sec. 5 – 15. APPEALS.

Anyone violating any portion of this Code shall have ten (10) days to appeal to the Board of Zoning Appeals.

Sec. 5 – 16. PENALTY.

Whoever violates any provision of this article shall, upon conviction thereof, be deemed guilty of a misdemeanor, and shall be subject to a fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00).

If any portion of this Ordinance shall, for any reason, be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining provisions hereof and Common Council determines that it would have adopted this Ordinance without the invalid provision.

This Ordinance shall become effective upon passage.

PASSED AND APPROVED ON FIRST READING: June 4, 2015.

PASSED AND APPROVED ON FINAL READING: June 12, 2015.

CITY OF ELKINS, WEST VIRGINIA

/s/Van T. Broughton, Mayor

Attest:

/s/Sutton R. Stokes, City Clerk