

**TITLE 30  
CITY BEAUTIFICATION AND REGULATION OF ADVERTISING**

Chapters:

- 30.01: General Provisions
- 30.02: Off Premise Signs/Billboards
- 30.03: On Premise Signs
- 30.04: Provisions Applicable to On and Off Premise Signs
- 30.05: Appeals

**CHAPTER 30.01  
GENERAL PROVISIONS**

SECTIONS:

- 30.01.01: Scope and Purpose
- 30.01.02: Definitions
- 30.01.03: Penalty

**30.01.01: SCOPE AND PURPOSE**

Signs constitute a separate and distinct use of the land upon which they are placed and affect the use of adjacent streets, sidewalks and other public places and adjacent private places open to the public. The unregulated construction, placement and display of signs constitute a public nuisance detrimental to the health, safety, convenience and welfare of the residents of the City of Sturgis.

The purpose of this ordinance is to establish reasonable and impartial regulations for all exterior signs and: to preserve and promote the public health, safety, and welfare of the citizens of the City of Sturgis; to afford the business community equal and fair opportunity to advertise and promote its products and services; to maintain and enhance the visual environment to preserve the right of the citizens to enjoy the City's scenic beauty; to improve pedestrian and traffic safety; to minimize the possible adverse effect of signs on nearby public and private property; and to enable the fair and consistent enforcement of these sign restrictions.

The regulations contained in this ordinance advance these significant governmental interests and are the minimum amount of regulation necessary to achieve them.

**30.01.02: DEFINITIONS**

**ABANDONED SIGN:** A sign or sign structure that is blank, obliterated or displays obsolete advertising material for a period in excess of one hundred and twenty (120) continuous days or for which no legal owner can be found.

**BANNER:** A sign composed of lightweight material, whether enclosed or not enclosed in a frame that is secured or mounted so as to allow movement of the sign caused by the wind. This shall not include signs made of vinyl that are constructed in such a manner that movement by the wind is not possible.

**BILLBOARD FACE:** The surface(s) of an off premise sign/billboard which displays the advertisement or message.

**BLANK SIGN:** A sign that is void of advertising material, but does not meet the time requirement of an “abandoned sign”.

**COMMUNITY EVENT:** An activity or occasion held for the benefit, enjoyment, or entertainment of the citizens of the City, and not connected with any specific business or for-profit organization.

**FRONTAGE:** The linear distance of property abutting a public street. For purposes of this Title, specifically that linear distance of property abutting a public street from which a defined and functional access is derived.

**GROUND SIGN:** A sign erected on a foundation, free standing frame, mast or pole and not attached to any building.

**LIGHT EMITTING DIODE (LED SIGN):** A type of sign that is capable of displaying words or characters that can be electronically changed by remote or automatic means.

**MARQUEE:** A sign painted on, attached to, or consisting of interchangeable letters on the face of a permanent overhanging shelter which projects from the face of a building.

**NON-CONFORMING SIGN:** A sign that does not conform to this Title as adopted.

**OBLITERATED SIGN:** A sign that is totally or partially illegible.

**OBSOLETE ADVERTISING MATERIAL:** Material advertising a product or service that has not been available for a period of three hundred sixty-five (365) days.  
**(This definition amended effective 5/20/06, Ordinance 2006-09)**

**OFF PREMISE SIGN OR BILLBOARD:** Any sign which does not meet the definition of an “on premise sign” and advertises, calls attention to or directs a person to a business, association, profession, commodity, product, institution, service, entertainment, person, place, thing or activity of any kind whatsoever that is not offered on the same premises of said sign.

**ON PREMISE SIGN:** A sign identifying an establishment’s activities, products or services conducted or available on the property upon which it is located and signs advertising the sale or lease of the property upon which they are located.

**Comment [C1]:** SABA believes that this definition, as applied to LED signs limits a business’ ability to use the sign for other purposes and they do not understand why the City cares if off premise advertising is allowed on LED signs.

**POLITICAL SIGN:** A sign that advertises a candidate or an issue which is to be voted on in a local, state, or federal election.

**PORTABLE READER BOARD:** A sign consisting of a board designed to hold interchangeable letters that is not permanently affixed to the ground or structure that may or may not be on wheels but is at least nine square feet in size. This does not include portable sandwich boards or signs of similar design that are of such a size and weight to be movable by a person.

**PORTABLE SIGN:** A sign not designated or intended to be permanently affixed into the ground or to a structure.

**PROJECTING SIGN:** A sign other than a wall sign which is attached to and projects from a building or other structure.

**PUBLIC RIGHT-OF-WAY:** The entire area between property boundaries which is: owned by a government, dedicated to public use, or impressed with an easement for public use; primarily used for pedestrian or vehicular travel; and publicly maintained, in whole or in part, for such use. "Right-of-way" includes without limitation the public street, shoulder, gutter, curb, sidewalk, sidewalk area, parking or parking strip, and any other public way.

**REAL ESTATE SIGN:** A sign advertising the real estate upon which the sign is located as being for rent, sale, or lease.

**SANDWICH BOARD:** An a-frame shaped portable sign positioned on the ground and supported only by its own sides.

**SIGN:** Any identification, description, illustration or device illuminated or nonilluminated, which directs attention to a product, service, activity, person, institution, business or solicitation and is visible from any right of way. It does not include the flag, pennant or insignia of any nation, state or town, governmental regulatory, directional, information and warning signs, instructional or identification signs less than two (2) square feet, such as parking information.

**TEMPORARY SIGN:** A sign not permanently affixed to a structure.

**WALL MURAL:** Any mural which is purely decorative in nature and content, and does not include advertising by picture or verbal/written message.

**Comment [C2]:** This provision was added by the committee to take murals such as those found on the side of the Harley Davidson building out of the definition of a sign and recognize them as decorative only.

**WALL SIGN:** A sign painted directly on the surface of a building, fence, awning or marquee; or a sign attached to or erected against the wall of a building, fence, awning or marquee, with the face in a parallel plane to the plane of the building wall.

**Comment [C3]:** The issue also arose as to the bricks and possible signs on the sidewalks. SBW tried using footprints and was questioned by the City.

**30.01.03: PENALTY**

Any violation of the provisions of this Title is a Class 2 Misdemeanor punishable by a maximum punishment set forth by the laws of the State of South Dakota pursuant to SDCL 22-6-2. Said punishment may also include payment of any costs and restitution authorized by this Title and/or state law. In addition, any violation of the provisions of this Title may result in the revocation, suspension, or refusal to issue any license or permit pursuant to any section of this Title.

Any violation of the provisions of this Title may also result in removal of any violator's sign(s) and/or elimination of said violator's right to obtain future permits.

**CHAPTER 30.02  
OFF PREMISE SIGNS/BILLBOARDS****SECTIONS:**

- 30.02.01: Application
- 30.02.02: Inventory List
- 30.02.03: Off Premise Signs/Billboards Permitted in District Zoned Billboard with Limitation
- 30.02.04: Limitations Applicable to Off Premise Signs/Billboards
- 30.02.05: Size and Distance Restrictions
- 30.02.06: Maintenance
- 30.02.07: Alterations or Relocation
- 30.02.08: Permits
- 30.02.09: Permit Fee Schedule
- 30.02.10: Annual Inspection Fee
- 30.02.11: Off Premise Signs Existing Outside BB Zoned Area
- 30.02.12: Off Premise Signs in Violation of Size and Distance Requirements
- 30.02.13: Enforcement

**30.02.01: APPLICATION**

The following provisions shall apply to all off premise signs or billboards.

**30.02.02: INVENTORY LIST**

An authorized list or inventory of existing billboards shall be prepared and kept updated by the Building Inspector and shall be placed on file in the Office of the Building Inspector.

**30.02.03: OFF PREMISE SIGNS/BILLBOARDS PERMITTED IN DISTRICT ZONED BILLBOARD (BB ZONE) WITH LIMITATION**

Off premise signs or billboards shall only be allowed by permit in the areas of the City zoned BB. BB-1 Zone shall be in the area located within the City described as follows:

**Comment [C4]:** I believe this list was originally generated by Mark Mechling and a file created for each sign. I do not believe an actual list has ever been found or generated after Mark left but Tami may be working on it. SABA is requesting a copy.

A strip 100' wide adjacent to the south Right-of-Way line of US I-90 within the Werdel & Hudson Subdivision, within Lot 3 of NE  $\frac{1}{4}$  SW  $\frac{1}{4}$  of Section 15, T. 5 N., R. 5 E., B.H.M., within Lot 2 of NW  $\frac{1}{4}$  SW  $\frac{1}{4}$  of Section 15, T. 5 N., R. 5 E., B.H.M., within Lots 9, 7A and 7B of SW  $\frac{1}{4}$  NW  $\frac{1}{4}$  of Section 15, T. 5 N., R. 5 E., B.H.M., and within the Denker Subdivision.

A strip 100' wide adjacent to the south Right-of-Way Line of US I-90 through Lots B and G2 of the SE  $\frac{1}{4}$  NE  $\frac{1}{4}$  of Section 16, T. 5 N., R. 5 E., B.H.M.

A strip 100' wide adjacent to the north Right-of-Way Line of US I-90 through Lots 1, H-3, E-2, E-3 and E-4 of the E  $\frac{1}{2}$  NE  $\frac{1}{4}$  of Section 16, T. 5 N., R. 5 E., B.H.M.

A strip 100' wide adjacent to the north Right-of-Way Line of US I-90 through Lots C, D and E of SW  $\frac{1}{4}$  NW  $\frac{1}{4}$  of Section 15, T. 5 N., R. 5 E., B.H.M.

A strip 100' wide adjacent to the north Right-of-Way Line of US I-90 through Blocks N, S, T, U, Z, AA, Lot 1,2,6,7,8,9,10 of Block J and the 30' Lane to North Pasture of the Glover's Second Addition and Lot B of the NE  $\frac{1}{4}$  SW  $\frac{1}{4}$  and the NW  $\frac{1}{4}$  SE  $\frac{1}{4}$  of Section 15, T. 5 N., R. 5 E., B.H.M.

A strip 100' wide adjacent to the south Right-of-Way Line of US I-90 and the east Right-of-Way line of SD 14A within the Baker Subdivision.

A strip 100' wide adjacent to the south Right-of-Way Line of US I-90 within Lots RR-2, MK-1, MK-2, and MK-3 of the SW  $\frac{1}{4}$  SE  $\frac{1}{4}$  of Section 5, T. 5 N., R. 5 E., B.H.M., within Lot RR-1 of the NW  $\frac{1}{4}$  SE  $\frac{1}{4}$  of Section 5, T. 5 N., R. 5 E., B.H.M., within Lots B-1 and B-2 of the NE  $\frac{1}{4}$  SW  $\frac{1}{4}$  of Section 5, T. 5 N., R. 5 E., B.H.M., within Lot E-1 and Tract C of the NW  $\frac{1}{4}$  SW  $\frac{1}{4}$  of Section 5, T. 5 N., R. 5 E., B.H.M., within Lots D-1, D-5 and D-6 of the NE  $\frac{1}{4}$  SE  $\frac{1}{4}$  of Section 6, T. 5 N., R. 5 E., B.H.M., within Lots F-1 and 4 of the SE  $\frac{1}{4}$  NE  $\frac{1}{4}$  of Section 6, T. 5 N., R. 5 E., B.H.M. and within Interstate Industrial Park Subdivision in the SW  $\frac{1}{4}$  NE  $\frac{1}{4}$  of Section 6, T. 5 N., R. 5 E., B.H.M.

**(This paragraph added by Ordinance 2005-12, effective 7/22/05)**

BB-2 Zone shall be in the area located within the City described as follows:

A strip 100' wide adjacent to the south Right-of-Way Line of US 14A within the Schnell's Addition, within the SW  $\frac{1}{4}$  SE  $\frac{1}{4}$  of Section 5, T. 5 N., R. 5 E., B.H.M., and within Lot 1 of SE  $\frac{1}{4}$  SW  $\frac{1}{4}$  of Section 5, T. 5 N., R. 5 E., B.H.M.

A strip 100' wide adjacent to the north Right-of-Way Line of US 14A with Lot A of SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  Section 6, T.5N, R.5 E., B.H.M.

A strip 100' wide adjacent to the east Right-of-Way Line of US I-90 within Tract A, Lot 1A-2A and 1A-2B in the SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  Section 5, T.5 N. R. 5 E.

A strip 100' wide adjacent to the north Right-of-Way Line of US 14A within Lot 1 of the Brink Addition, within Lot A and Tract A of the SW  $\frac{1}{4}$  SE  $\frac{1}{4}$  of Section 5, T. 5 N., R. 5 E., B.H.M., and within Lot 1 of SE  $\frac{1}{4}$  SW  $\frac{1}{4}$  of Section 5, T. 5 N., R. 5 E., B.H.M.

A strip 100' wide adjacent to the north Right-of-Way Line of US I-90 within Lot MB of Block K of the Ash's Extension.

A strip 100' wide adjacent to the east Right-of-Way of US I-90 within that portion of Lot 9A south and east of Lot H-1 pursuant to the Plat of Public Right-of-Way over Lot 9A of the SE  $\frac{1}{4}$  SW  $\frac{1}{4}$  Section 9, T. 5 N., R. 5 E., B.H.M.

#### **30.02.04: LIMITATIONS APPLICABLE TO OFF PREMISE SIGNS/BILLBOARDS**

As soon as practical after the effective date of this Title, the City shall compile an inventory of existing billboards within the City. Said inventory shall include billboards located within and outside of the BB zoned area. The Building Inspector may use said list as the inventory discussed above.

Until the inventory is completed, no billboard shall be erected, nor shall the City issue any permits. Following completion of the inventory, the City shall grant a billboard permit for each existing billboard face. The permit shall refer to the location, size, height, and the degree of conformity to this Title. Only inventoried billboards may be subsequently issued billboard alteration permits. Owners may accelerate the inventory process by providing the Building Inspector with the necessary information for their billboards.

An off premise sign which has one base with two Billboard faces will be considered to be two signs for all purposes under this Title, including the assessment of fees.

The base of any and all off premise signs shall be black or brown unless approved otherwise by the City Council.

#### **30.02.05: SIZE AND DISTANCE RESTRICTIONS**

Any off premise sign or billboard located within the BB-1 Zone shall not be erected to exceed ten feet six inches (10' 6") by thirty six feet (36') with a maximum height of forty five feet (45'), including all supports and aprons. Any off premise sign or billboard located within the BB-2 Zone shall not be erected to exceed fourteen feet (14') by forty eight feet (48') with a maximum height of forty five feet (45'), including all supports and aprons. There shall be a maximum of two billboard faces allowed for each structure.

Said faces must be placed opposite of each other at the same height facing opposite directions. Billboards shall not have two billboard faces facing the same direction.

**Comment [C5]:** It was questioned by the SABA why the City has two different BB zones with different sizes. BB – 2 was created in order to allow the City to not breach an agreement the City had made prior to the ordinance with Leveques regarding their billboards.

An off premise sign or billboard shall not be erected within five hundred (500) feet radius of an existing off premise sign or billboard. Five hundred (500) feet is the minimum distance that must exist between signs. Said distance must exist between signs in all directions. A longer distance may be required based upon the size and or density of the signs.

Whenever dimensions of a sign are specified, they shall include panels, frames and all parts of the sign. In cases where parts of the advertisement extend beyond the rectangular or other shaped face of the sign, the method of measuring shall be to enclose the entire sign into the closest geometric shape and the measurements of that shape shall constitute the average square footage of the sign.

### **30.02.06: MAINTENANCE**

All authorized, existing billboards must be kept in good repair. If a billboard on the authorized list is not maintained in good repair and has not deteriorated more than 50 percent of its replacement value, the Building Inspector shall notify the owner thereof and order him/her to repair the billboard within a specified period of time not less than 30 calendar days. If the Building Inspector finds that the billboard has deteriorated more than 50 percent of its replacement value, or is not repaired within the time specified in the repair notice, the Building Inspector shall notify the owner of the billboard and the owner of the real property on which the billboard is located is to remove the billboard from the property within a specified period of time. All billboards ordered to be removed shall be stricken from the authorized list when the time limit set in the removal notice ends.

It shall be the responsibility of each sign owner to provide the Building Inspector with the value of each sign he/she owns. The value of existing signs shall be submitted to the Building Inspector at the time that the Building Inspector is gathering information for the inventory discussed in this Title. Thereafter, the value shall be submitted at the time of issuance of the permit. Said value shall be used as the replacement value for the purposes discussed above, however, the City shall reserve the right to request an appraisal of the sign if the City has reason to believe that the value submitted by the owner is not accurate.

No permit is needed for general maintenance, but no existing billboard shall be structurally altered without first obtaining an alteration permit from the Building Inspector for that purpose. A separate permit shall be required for each billboard.

**Comment [C6]:** SABA was concerned with who would pay for the appraisal. The City has not had this issue arise. It is presumed the City would pay for it but not necessary for ordinance to specify – may depend on the situation.

### **30.02.07: ALTERATIONS OR RELOCATION**

An off premise sign or billboard shall not be altered with regard to size, shape, or height without the prior issuance of a billboard alteration permit. All such permits shall require full compliance with this Title.

Relocation of an existing billboard shall be considered a new billboard requiring a billboard permit.

### **30.02.08: PERMITS**

No permanent sign shall be erected, structurally altered, replaced or enlarged within the City without first having been issued the appropriate permit. The responsibility for securing the permit is joint and several of the sign owner and contractor. A separate permit shall be required for each sign.

To obtain a permit, the applicant shall make application to the Inspections Office on a form to be furnished by the City. The permit application shall include and/or be accompanied by the following information:

- A. The applicant's name and address;
- B. The sign and real property owners' names and addresses;
- C. The legal description and address of the property on which the sign is to be placed;
- D. The estimated value of the sign;
- E. Any plans, specifications or other information deemed necessary and requested by the Building Inspector.

It is not necessary to obtain a permit before completing general maintenance to a sign such as painting, repainting, cleaning or minor repairs provided no structural alteration is made.

Any permit shall expire one hundred and eighty days (180) days after its issuance. The sign must be erected within this time. Erecting a sign after the expiration date of the permit shall be a violation of the provisions of this Title.

### **30.02.09: PERMIT FEE SCHEDULE**

The cost of an off premise sign permit shall be based upon the value of the sign. The cost shall be fifty dollars (\$50.00) for the first two thousand dollars (\$2,000.00) of sign value plus five dollars (\$5.00) for each additional one thousand dollars (\$1,000.00) in sign value.

### **30.02.10: ANNUAL INVENTORY FEE**

An annual inventory fee shall be assessed against all existing billboards. Said fee shall be assessed each January following the effective date of this Title. The amount of said fee shall be fifty dollars (\$50.00). Failure to pay said fee in a timely manner shall result

**Comment [C7]:** SABA questions the reasonableness of the fee. Francie called Epic and was told the average cost was \$50-\$70,000. They pointed out that the fee for a low end would be \$285.

in the Building Inspector notifying the owner of the billboard and the owner of the real property that the billboard in violation shall be removed within a specified period of time. After said time period, the billboard in violation shall be removed from the authorized list.

**Comment [C8]:** The SABA questioned whether an annual inspection was actually being done and Tami advised she drives by them but does not do an actual inspection being concerned with going on the property uninvited. It was also questioned as to whether she has the expertise to actually inspect the construction. The question then arose what cost to the city is the fee recouping?

**30.02.11: OFF PREMISE SIGNS EXISTING OUTSIDE BB ZONED AREA**

Any Off Premise sign which is in compliance with all provisions of this Title, except that the sign is located outside of a BB Zoned Area is a nonconforming sign and shall be removed unless the owner files for and receives a variance from the Sign Board Of Appeals established herein within one hundred and eighty days (180) days of the effective date of this Section.

10.

**Comment [C9]:** The SABA is requesting a copy of a list. It appears to include Bob Family restaurant sign (which has been changed), Gold Pan Pizza(which was changed to Sr. Center), First Western Bank, Harley Davidson

**30.02.12: OFF PREMISE SIGNS IN VIOLATION OF SIZE AND DISTANCE REQUIREMENTS**

Any Off Premise sign which is in compliance with all provisions of this Title, but by reason of its size exceeds that allowed by this Title or its location being within five hundred (500) feet of another off premise sign in violation of this Title is a nonconforming sign and shall be removed unless the owner files for and receives a variance from the Sign Board Of Appeals established herein within one hundred and eighty days (180) days of the effective date of this Section.

**30.02.13: ENFORCEMENT**

Unless otherwise specified in this Title, in the case of noncompliance with the requirements of this Title, the Building Inspector shall provide written notice to the owner of the violating sign and the owner of the property upon which it is located, which notice shall state the reason(s) such sign is in violation and set forth a period of thirty (30) days for compliance or removal of the sign. In the event that compliance is not made within the thirty (30) days, the sign shall be removed in accordance with the provisions of this Title at cost to the owner of the building, structure, premises or sign.

Service of the notice shall be made upon all persons entitled thereto either personally or by mailing a copy of the notice by certified mail to each person at their address as it appears on the last equalized assessment role of the county or as known to the Building Inspections Office. If no address of any such person so appears or is known, then a copy of the notice shall be mailed, addressed to the person, at the address of the premises involved in the proceedings. The failure of any such person to receive the notice shall not affect the validity of the proceedings taken under this Title. Service by certified mail in the manner herein provided shall be effective upon receipt of mailing.

**CHAPTER 30.03  
ON PREMISE SIGNS**

**SECTIONS:**

- 30.03.01: Application
- 30.03.02: Permits
- 30.03.03: Permit Fee Schedule
- 30.03.04: Maintenance, Removal and Repairs
- 30.03.05: Maintenance, Removal and Repair Responsibility
- 30.03.06: Regulations for General Commercial, Highway Service, Industrial and Agricultural Districts
- 30.03.07: Regulations for Agricultural District
- 30.03.08: Regulations for General Residential, Multi-Family Residential and Mobile Home Districts
- 30.03.09: Regulations for General Commercial District
- 30.03.10: Regulations for Retail Commercial District
- 30.03.11: Regulations for Highway Service District
- 30.03.12: Regulations for Industrial District
- 30.03.13: Regulations for Office Commercial Single Family Residential District
- 30.03.14: Enforcement

**30.03.01: APPLICATION**

The following provisions shall apply to all on premise signs located in all zoned districts except those signs specifically exempted, and if the provision specifically states that it only applies to signs located in a specific zoned district.

**30.03.02: PERMITS**

No permanent sign shall be erected, structurally altered, replaced or enlarged within the City without first having been issued a sign permit. The responsibility for securing the permit is joint and several of the sign owner and contractor. A separate permit shall be required for each sign.

To obtain a permit, the applicant shall make application to the Inspections Office on a form to be furnished by the City. The permit application shall include and/or be accompanied by the following information:

- A. The applicant's name and address;
- B. The sign and real property owners' names and addresses;
- C. The legal description and address of the property on which the sign is to be placed;
- D. The estimated value of the sign;

- E. Any plans, specifications or other information deemed necessary and requested by the Building Inspector

It is not necessary to obtain a permit before completing general maintenance to a sign such as painting, repainting, cleaning or minor repairs provided no structural alteration is made.

Any permit shall expire one hundred and eighty (180) days after its issuance. The sign must be erected within this time. Erecting a sign after the expiration date of the permit will result in the erection of a sign in violation of this Title.

### **30.03.03: PERMIT FEE SCHEDULE**

The cost of an on premise permanent sign permit shall be based upon the value of the sign. The cost shall be fifty dollars (\$50.00) for the first two thousand dollars (\$2,000.00) of sign value plus five dollars (\$5.00) for each additional one thousand dollars (\$1,000.00) in sign value.

### **30.03.04: MAINTENANCE, REMOVAL AND REPAIR**

All signs must be kept in good and safe repair. If a sign is not maintained in good and safe repair, the Building Inspector shall notify the owner thereof and order him/her to repair the sign within a specified period of time not less than 10 calendar days. If the Building Inspector finds that the sign is not repaired within the time specified in the repair notice, the Building Inspector shall notify the owner of the sign and the owner of the real property on which the sign is located to remove the sign from the property within a specified period of time.

### **30.03.05: MAINTENANCE, REMOVAL AND REPAIR RESPONSIBILITY**

The owner of the sign and the owner of the property upon which it is located shall be jointly and severally liable for keeping a sign in good and safe repair and properly maintained; or for the removal of a sign if ordered by the Building Inspector.

### **30.03.06: REGULATIONS FOR GENERAL COMMERCIAL, HIGHWAY SERVICE, INDUSTRIAL AND AGRICULTURAL DISTRICTS**

The following provisions shall apply to signs located in the General Commercial, Highway Service, Industrial and Agricultural Districts:

- A. For each permitted or required parking area that has a capacity of more than four (4) cars, there shall be allowed one (1) non-illuminated sign not exceeding more than two (2) square feet in area, designating each entrance to or exit from such parking area; and one (1) non-illuminated sign, not exceeding more than (9) square feet in area, identifying or designating the conditions of use of such parking area.

- B. There shall be allowed one (1) non-illuminated “for sale” sign or “for rent” sign not exceeding six (6) square feet in area and advertising the sale, rental, or lease of the premises on which the sign is located. A larger sign shall be permitted for two (2) or more lots in single ownership for properties in excess of one hundred (100) feet in width, provided that the area of such sign shall be increased on a graded scale of one (1) square foot increase in area for each additional five (5) feet of frontage over one hundred (100) feet, but in no case shall the sign exceed in the aggregate one hundred (100) square feet. Such sign shall be a ground or wall sign and located not closer than five (5) feet from the property line.
- C. For each real estate subdivision that has been approved in accordance with the regulations of the Ordinance, there shall be allowed one (1) sign not exceeding one hundred (100) square feet in area, advertising the sale of property in such subdivision. Such sign shall be permitted only when located on some portion of the subdivision being advertised for sale.
- D. In situations where construction or development is actively underway upon a lot more than one hundred (100) square feet in area, there shall be allowed one (1) non illuminated sign not exceeding forty-eight (48) square feet in area advertising the construction or development.
- E. Signs displaying information regarding a community event, may be allowed within the public right-of-way, only upon compliance with the provision of Section 30.04.07.
- F. In public parks, playgrounds, and for historical monuments, information signs may be displayed, however, the total area of each sign shall not exceed nine (9) square feet and signs may have indirect lighting.

**Comment [S10]:** Subsection E dealing with community event signs was deleted because it was confusing and somewhat contradictory with the temporary signs section. Community event signs was added to Section 30.04.01

**30.03.07: REGULATIONS FOR AGRICULTURAL DISTRICT**

In additions to those set forth in 30.03.06, the following provisions shall apply to signs located in the Agricultural District:

- A. Single-family dwellings may have nameplates not exceeding four (4) square feet in area.
- B. Signs with flashing lights or intermittent illumination are prohibited.
- C. LED signs are prohibited.

**30.03.08: REGULATIONS FOR GENERAL RESIDENTIAL, MULTI-FAMILY RESIDENTIAL AND MOBILE HOME DISTRICTS**

The following provisions shall apply to signs located in the General Residential, Multi-Family Residential, and Mobile Home Districts:

- A. For each permitted or required parking area that has a capacity of more than four (4) cars, there shall be allowed one (1) non-illuminated sign not exceeding more than two (2) square feet in area, designating each entrance to or exit from such parking area; and one (1) non-illuminated sign, not exceeding more than (9) square feet in area, identifying or designating the conditions of use of such parking area.
- B. There shall be allowed one (1) non-illuminated "for sale" sign or "for rent" sign not exceeding six (6) square feet in area and advertising the sale, rental, or lease of the premises on which the sign is located. A larger sign shall be permitted for two (2) or more lots in single ownership for properties in excess of one hundred (100) feet in width, provided that the area of such sign shall be increased on a graded scale of one (1) square foot increase in area for each additional five (5) feet of frontage over one hundred (100) feet, but in no case shall the sign exceed in the aggregate thirty two (32) square feet. Such sign shall be a ground or wall sign and located not closer than five (5) feet from the property line.
- C. For each real estate subdivision that has been approved in accordance with the regulations of the Ordinance, there shall be allowed one (1) sign not exceeding thirty two (32) square feet in area, advertising the sale of property in such subdivision. Such sign shall be permitted only when located on some portion of the subdivision being advertised for sale.
- D. In situations where construction or development is actively underway upon a lot more than one hundred (100) square feet in area, there shall be allowed one (1) non illuminated sign not exceeding thirty two (32) square feet in area advertising the construction or development.
- E. One (1) sign not exceeding twenty-four (24) square feet in area shall be allowed for community events. Said sign shall be located upon the site of the event and not be erected more than fourteen (14) days before the event being advertised. Said sign shall be removed within twenty-four (24) hours after the conclusion of the event. Also, directional signs not exceeding three (3) square feet in area, displaying only a directional arrow and the name of the event of public interest shall be permitted. Said directional sign shall not be erected more than ten (10) days before the event and shall be removed within twenty-four (24) hours after the conclusion of said event.

- F. Signs displaying information regarding a community event, may be allowed within the public right-of-way, only upon compliance with the provision of Section 30.04.07.
- G. Single-family, two-family, and multi-family dwellings may have nameplates not exceeding two (2) square feet in area.
- H. Multiple family dwellings and mobile home courts may display one (1) identification sign not exceeding twelve (12) square feet in area. Such sign shall be a ground sign located no closer than 1/2 the required set back to all property lines. Said sign may also have indirect illumination.
- I. Churches, schools, and public buildings may display one (1) identification sign on each frontage and may display announcements on one (1) permanent message board. In no case, however, shall the total signage exceed fifty (50) square feet. Said sign shall be located not closer than five (5) feet to any property line.
- J. Only one (1) sign per street frontage shall be permitted.
- K. Signs with flashing lights or intermittent illumination are prohibited.
- L. LED signs are prohibited.
- M. Home occupations are limited to one sign affixed to the dwelling. Said sign shall be no larger than five (5) square feet.

**Comment [C11]:** The SABA questioned whether the square footage max was realistic. They noted the message board on the east side of the middle school is 5x8 and questioned the size of the message board on the cross. There may be a good point to address here and that is the signage on schools. Are they allowed LED signs or are they not in the correct zoning district? There may not have been any strong intention of being overly restrictive but probably didn't anticipate schools having much signage.

**30.03.09: REGULATIONS FOR GENERAL COMMERCIAL DISTRICT**

In addition to those set forth in 30.03.06, the following provisions shall apply to signs located in the General Commercial District:

- A. The total area of wall signs may be two (2) square feet of surface for each one (1) lineal foot of lot frontage on a public street or building frontage whichever is greater.
- B. The total area of ground signs may be two (2) square feet of surface for each one (1) lineal foot of lot frontage on a public street or building frontage whichever is greater.
- C. All signs shall be mounted on a building or on a sign display devise affixed permanently to the ground.
- D. All signs shall be located not closer than five (5) feet to any property line.
- E. Projecting signs may extend over a public sidewalk, a distance equal to two-thirds (2/3) the width of the sidewalk, but in no case exceeding ten

**Comment [C12]:** The city needs to discuss this further because there are existing LED signs in this district. City needs to conform (grandfather) them in or amortize for their value. Seeking additional comment from Bob and Scott.

(10) feet. Projection signs must maintain a minimum vertical clearance of nine (9) feet above the sidewalk.

F. LED signs shall be allowed, subject to the conditions set forth in this Title.

G. Strip malls shall be allowed a maximum of three (3) signs which may be wall or projecting signs for each business front based on the formula of two (2) square feet per each lineal foot of frontage. In no case however, shall the total signage exceed two hundred (200) square feet per business. One sign shall be allowed on a shared monument to be apportioned by the developer/owner. The developer/owner shall be entitled to one monument sign, not exceeding three hundred (300) square feet upon which tenants and the developer may place signs.

Comment [C13]: SABA questions whether or not avenue banners are allowed if they are 9 feet above the sidewalk. Auto Advantage was required to remove theirs?

Comment [C14]: It was criticized that it states this way instead of citing to exact section. This was legal's decision due to the number of amendments and likelihood that the section numbers could change in the future.

Comment [C15]: Please note that the total square footage requirement was changed and will result in allowing twice as much signage but will be split between wall and ground signs. We deleted the term "pole sign" and those would now qualify as a ground sign. SABA still wanted more signage and wondered about roof signs and other types of signs. The committees reasoning was that wall signs are painted directly on the building or are parallel with the building and in most cases likely less of a concern to the general public since they are directly on the building. We stole this from RC Ordinances.

**30.03.10: REGULATIONS FOR RETAIL COMMERCIAL DISTRICT**

The following provisions shall apply to signs located in the Retail Commercial District:

- A. The total area of wall signs may be two (2) square feet of surface for each one (1) lineal foot of lot frontage on a public street or building frontage whichever is greater.
- B. The total area of ground signs may be two (2) square feet of surface for each one (1) lineal foot of lot frontage on a public street or building frontage whichever is greater.
- C. All signs shall be mounted either on a building or on a sign display device affixed permanently to the ground.
- D. All signs shall be located not closer than five (5) feet to any property line.
- E. Strip malls shall be allowed a maximum of three (3) signs which may be wall or projecting signs for each business front based on the formula of two (2) square feet per each lineal foot of frontage. In no case however, shall the total signage exceed two hundred (200) square feet per business. One sign shall be allowed on a shared monument to be apportioned by the developer/owner. The developer/owner shall be entitled to one monument sign, not exceeding three hundred (300) square feet upon which tenants and the developer may place signs.
- F. LED signs are prohibited.

**30.03.11: REGULATIONS FOR HIGHWAY SERVICE DISTRICT**

In addition to those set forth in 30.03.06, the following provisions shall apply to signs located in the Highway Service District:

- A. The total area of wall signs may be two (2) square feet of surface for each one (1) lineal foot of lot frontage on a public street or building frontage whichever is greater.
- B. The total area of ground signs may be two (2) square feet of surface for each one (1) lineal foot of lot frontage on a public street or building frontage whichever is greater.
- C. All signs shall be mounted either on a building or on a sign display device affixed permanently to the ground.
- D. All signs shall be located not closer than five (5) feet to any property line.
- E. LED signs shall be allowed, subject to the conditions set forth in this Title.
- F. Strip malls shall be allowed a maximum of three (3) signs which may be wall or projecting signs for each business front based on the formula of two (2) square feet per each lineal foot of frontage. In no case however, shall the total signage exceed two hundred (200) square feet per business. One sign shall be allowed on a shared monument to be apportioned by the developer/owner. The developer/owner shall be entitled to one monument sign, not exceeding three hundred (300) square feet upon which tenants and the developer may place signs.

**Comment [C16]:** SABA believes a new business may need more signage than is allowed and wonders the reasoning behind 200 sq. feet.

**30.03.12: REGULATIONS FOR INDUSTRIAL DISTRICT**

In addition to those set forth in 30.03.06, the following provisions shall apply to signs located in the Industrial District:

- A. Signs not exceeding one (1) square foot per one (1) lineal foot of street frontage or building frontage whichever is greater, of the business shall be allowed. Said signs shall be wall or ground signs and located not closer than one-half (1/2) the required setback to all property lines.
- B. Signs with flashing lights or intermittent illumination are prohibited.
- C. LED signs are prohibited.

**Comment [C17]:** SABA questioned why LED signs would be prohibited in industrial area. Not aware of any comment or concern from any industry business. Not usually customer oriented – more industrial so we historically haven’t had much interest out there in BB’s so not sure about LED’s – good ? for SEDC.

**30.03.13: REGULATIONS FOR OFFICE COMMERCIAL SINGLE FAMILY RESIDENTIAL DISTRICT**

In addition to those set forth in 30.03.06, the following provisions shall apply to signs located in the Office Commercial Single Family Residential District:

- A. Signs not exceeding one (1) square foot per one (1) lineal foot of street frontage or building frontage whichever is greater of the business shall be

allowed. Said signs shall be wall or ground signs and located not closer than one-half (1/2) the required setback to all property lines.

- B. Signs with flashing lights or intermittent illumination are prohibited.
- C. LED signs are prohibited.
- D. All signs shall be mounted either on a building or on a sign display device affixed permanently to the ground..
- E. All signs shall be located not closer than five (5) feet to any property line.

#### **30.03.14: ENFORCEMENT**

Unless otherwise specified in this Title, in the case of noncompliance with the requirements of this Title, the Building Inspector shall provide written notice to the owner of the violating sign and the owner of the property upon which it is located, which notice shall state the reason(s) such sign is in violation and set forth a period of thirty (30) days for compliance or removal of the sign. In the event that compliance is not made within the thirty (30) days, the sign shall be removed in accordance with the provisions of this Title at cost to the owner of the building, structure, premises or sign.

Service of the notice shall be made upon all persons entitled thereto either personally or by mailing a copy of the notice by certified mail to each person at their address as it appears on the last equalized assessment role of the county or as known to the Building Inspections Office. If no address of any such person so appears or is known, then a copy of the notice shall be mailed, addressed to the person, at the address of the premises involved in the proceedings. The failure of any such person to receive the notice shall not affect the validity of the proceedings taken under this Title. Service by certified mail in the manner herein provided shall be effective upon receipt of mailing.

#### **CHAPTER 30.04 PROVISIONS APPLICABLE TO ON AND OFF PREMISE SIGNS**

##### **SECTIONS:**

- 30.04.01: Exempted Signs
- 30.04.02: Projection, Clearance, Size and Height
- 30.04.03: Design and Construction
- 30.04.04: Prohibited Signs
- 30.04.05: Temporary Signs
- 30.04.06: Banners
- 30.04.07: Community Events
- 30.04.08: Marquees
- 30.04.09: Video Signs

**30.04.01: EXEMPTED SIGNS**

The following signs shall be exempted from the provisions of this Title.

- A. Governmental regulatory, directional, information, and warning signs; governmental agency flags, emblems and insignia; and temporary signs placed for the purposes of public safety.
- B. Commemorative plaques placed by recognized historical agencies and commissions.
- C. Instructional or identification signs less than two (3) square feet, such as parking information.
- D. Political signs, not exceeding thirty-two (32) square feet provided they are removed within one (1) week after the election. Political signs that are in excess of said size are in violation and subject to enforcement. Political signs that are left on display longer than one (1) week after the election are in violation of this Title and may be removed by the Building Inspector without notice.
- E. Signs located within the interior of a building;
- F. Wall murals
- G. Signs informing the public of a community event which is to take place within seven (7) days of the sign being erected conditional however upon the requirement that the sign be removed with twenty-four (24) hours after the event has occurred.

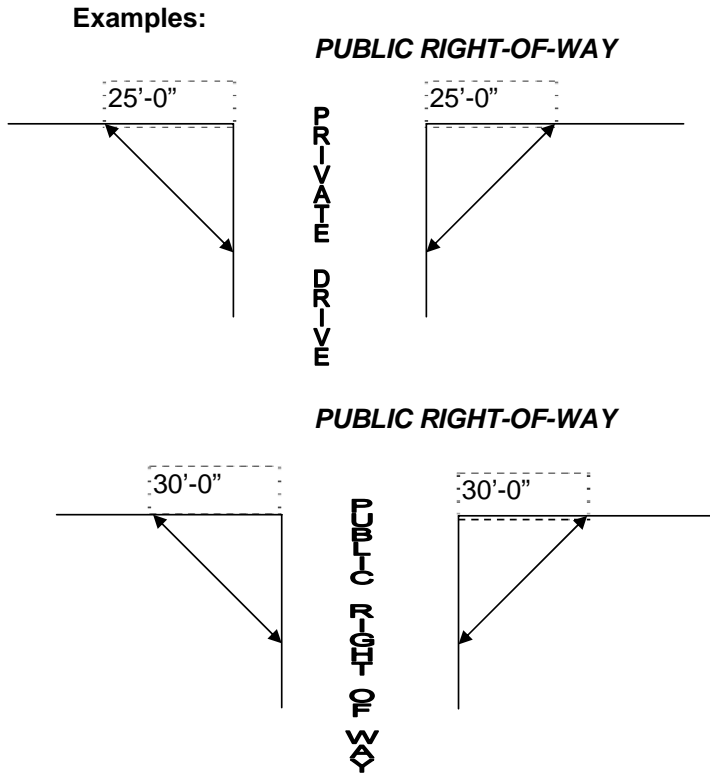
**30.04.02: PROJECTION, CLEARANCE, SIZE AND HEIGHT**

The following provisions shall apply to any sign located within the City.

- A. No part of any wall or projection sign that is attached to a building shall be erected to a height greater than such building, unless the building and sign are architecturally integrated and designed as a unit.
- B. No sign shall be located closer than five (5) feet to any street right-of-way line.
- C. Signs attached to awnings, canopies or marquees shall maintain a minimum vertical clearance of nine (9) feet.
- D. No sign shall obstruct visibility within the first six (6) feet of vertical height within a traffic site triangle. A twenty-five (25) foot site triangle is required

**Comment [C18]:** SABA inquired if this means nothing can go above the roof and if so, does this apply during the Rally.

on both sides of an access-way formed by the intersection of the access-way and a public right-of-way. A thirty (30) foot site triangle is required at a corner formed by the intersection of two or more public right-of-ways.



**30.04.03: DESIGN AND CONSTRUCTION**

Sign and sign structure design shall be reviewed and inspected by the Building Inspector for compliance with this Title and the City’s adopted Building Code, National Electric Code and any other applicable federal or state laws.

**30.04.04: PROHIBITED SIGNS**

The following signs, whether intended as permanent or temporary are prohibited within the limits of the City, except as otherwise provided by this Ordinance.

- A. Signs attached or applied to trees, utility poles, vending machines, boxes, benches and other unapproved supporting structures;

**Comment [C19]:** Benches have always been an issue but this would apply to signs being attached to a bench not painted on the bench. Advertisement may be painted on a bench as long as it is on-premise. The problem the City had with benches is that they were off premise advertising so only allowed in BB zoned areas.

- B. Signs located within or encroaching on a public-right-of-way, including signs extending beyond a property line;
- C. Illuminated signs containing flashing, intermitting or moving light that interfere with the public’s enjoyment of property, the traveled way of streets or obscure traffic signs or devices;
- D. Wall or projecting signs that project above the wall upon which they are attached;
- E. Signs that constitute pedestrian or vehicular traffic hazard;
- F. Signs that could be confused with any governmental regulatory, directional or warning sign;
- G. Roof signs that project above the roofline upon which they are attached;
- H. Portable reader boards;
- I. Banners advertising a product or service;
- J. Abandoned signs;
- K. Obliterated signs;
- L. Signs advertising obsolete advertising material;
- M. Signs not in compliance with this ordinance;
- N. Signs attached to any public property, including but not limited to the following: power poles, street light poles, traffic signs, fire hydrants or any public building;
- O. Signs that interfere with traffic signs or signals;
- P. Signs that cause a visibility problem or interfere with traffic in any way;
- Q. Permanent signs attached to or supported by a vehicle;
- R. Blank signs.

**Comment [C20]:** SABA mentioned did not like the public enjoyment language and stated it “was a lawyers dream for legal action” It is commonly used language and has never been used or abused since enactment in 2002.

**Comment [C21]:** These are a continued problem and SABA argued an inexpensive way of advertisement. City has consistently ruled against them based primarily on aesthetics. We are currently enforcing against two that have been up off and on since the passing of the ordinance.

**Comment [C22]:** Banners have been an area of confusion. The purpose of the language here was to not make Sturgis Scooper banners illegal. Note definition of Banner in 30.01.02 – mounting a traditional banner the proper way could take it out of the definition.

**30.04.05: TEMPORARY SIGNS**

Signs, except video signs, for which no permanent sign permit is obtained as required by this Title shall be considered temporary and shall be registered with the Building Inspector.

Any person wishing to erect a temporary sign, other than a real estate sign, shall register with the Office of the Building Inspector. There will be no cost to register the temporary sign. The Building Inspector shall be informed of the time period for which said sign will be displayed. The time period, location and design of the sign, including the size, weight and condition must be approved by the Building Inspector and the Building Inspector shall have authority to deny approval of the erection of a temporary sign based thereon. The time period for which a temporary sign is erected shall correspond with the purpose for the sign, such as a special sale or event of a specified time period.

If any temporary sign is erected without the authority of the Building Inspector, remains up after its registered time period has expired or otherwise is in violation of any of the provisions of this Title, it shall be removed immediately upon written or verbal notice from the Building Inspector, his or her designated agent or a law enforcement officer. In the event, the sign is not removed by the owner within twenty four (24) hours of notice being received, the Building Inspector or his or her designated agent may remove the sign at the cost of the owner.

Temporary signs, except LED signs, need not be registered with the Building Inspector during the Sturgis Motorcycle Rally and may be erected without permit. Any temporary sign, other than a real estate sign, remaining after the Sturgis Motorcycle Rally, which is not listed in the temporary sign register, will be removed by the Building Inspector. LED signs shall only be allowed as specifically set forth in this Title.

#### **30.04.06: BANNERS**

Banners may not be suspended over any public right-of-way without the permission of the City Council. Permission shall be requested by submitting a written request to the Finance Office at least thirty (30) days prior to the date upon which it is requested that the banner be displayed. The written request shall include the dates upon which it is desired the banner be displayed, the location, and the size and contents of the banner.

#### **30.04.07: COMMUNITY EVENTS**

Signs advertising or displaying information regarding a community event may be allowed within public rights-of-way upon the permission of the City Council. Permission shall be requested by submitting a written request to the Finance Office at least thirty (30) days prior to the date upon which it is requested the sign(s) be displayed. The written request shall include the dates upon which it is desired the sign(s) be displayed, the location, and the size and contents of the sign(s).

#### **30.04.08: MARQUEES**

Letter or symbols used on marquees shall not exceed six (6) inches in height. A minimum clearance of ten (10) feet above the sidewalk level shall be required for pedestrians.

**Comment [C23]:** SABA was concerned with the fact that regulations do not apply during the SMR. Although they expressed understanding of enforcement difficulties during that time, they believed it unfair to those year round businesses adding sales and property tax to the income base of the City and believe it unfair that they have a different set of rules. This was quite a surprising position to take considering many local businesses expand their signage during the SMR.

**30.04.09: TEMPORARY VIDEO SIGNS**

Persons may apply for a permit to be issued by the City Council for use of a video sign as a temporary sign during special events, including the Sturgis Motorcycle Rally. Said permission shall be requested in writing to the Finance Office at least ninety (90) days prior to the first day of the Sturgis Motorcycle Rally or other special event. Temporary video signs may be conditionally allowed during the Sturgis Motorcycle Rally or other special event in General Commercial, Retail Commercial, and Highway Service Districts.

In determining whether to issue a permit pursuant to this Section, the City Council shall consider traffic safety, the general safety of the public and any other concerns expressed by the Building Inspector or Sturgis Police Department. The City shall have the authority to demand removal of any approved temporary video sign that is determined by the Chief of Police or Building Inspector to be a hazard to the safety of traffic or the general public or a public nuisance.

No permit shall be issued pursuant to this Section until the applicant has paid a permit fee of Six Hundred Dollars (\$600.00). In the case of removal of the temporary video sign by the City, said fee shall not be refunded.

**(30.04.09 changed by Ordinance 2006-19, effective 9/2/06)**

**30.04.10: COMMERCIAL ADVERTISING UPON VEHICLES PURSUANT TO SECTION 16.02.26**

No Chapter or Section of Title 30 shall be construed to disallow the use of commercial advertisements upon vehicles as set forth in Section 16.02.26. Specifically, advertisements relating to the business for which a vehicle is used may be put upon a motor vehicle when such vehicle is in use for normal delivery or business purposes, and not merely or mainly for the purpose of commercial advertising; and buses and taxi cabs operated for the transportation of the public for hire or buses operated for transportation of the elderly or disabled whether for hire or at no charge and law enforcement and emergency vehicles may display commercial advertisements on the exterior surface areas of said vehicles.

**30.04.11: PORTABLE "DAILY SPECIAL" SIGNS**

Any business shall be allowed one portable sign in the form of a sandwich board or other similar design, but not a portable reader board, to be used for advertisement of daily specials, events or services of the business. Said sign may be set out each day upon the opening of the business and shall be removed from the outside of the premises upon the end of business hours each day. Any sign used pursuant to this Section shall be approved by the Building Inspector and shall comply with all of the following:

- A. The sign shall be a maximum of sixteen (16) square feet in size except in the General Commercial District;
- B. The sign shall be of a sufficient weight and structure to assure it will stay in place and not be moved by the wind or other natural element;
- C. In General Commercial District only, where the set back makes it impossible for a business to place the sign on the property of the business, the one portable sign may be placed in the public right away subject to the Building Inspector's authority to control the specific location within the public right away to assure pedestrian and vehicular safety. Signs in this district shall be a maximum of nine square feet in size.

**Comment [C24]:** The owner of the Boulder Canyon Restaurant mentioned that nine square feet was a strange size req't as these signs are easily made out of plywood and the committee was not concerned with the size in that area but did not want to go any larger in the downtown area since they do encroach upon the public ROW.

Due to the increase in pedestrian traffic during the Sturgis Motorcycle Rally, any sign authorized by this Section shall not be used during the period of seven days prior to and seven days following the official start and end of the Sturgis Motorcycle Rally each year.

**30.04.12: LED SIGNS**

Permanent LED signs shall only be permitted in General Commercial and Highway Service districts. Permanent LED signs shall only be used as on premise signs and are subject to the restrictions and regulations set forth in Chapter 30.03.

**Comment [C25]:** This is a new Section. The City previously had little regulation on LED signs. Scott originally mentioned a 15 sq foot max size but it appears that may be too small based upon the size of current signs. I have requested a comment from Scott and Bob on the size req't. According to the SABA Campbell's sign is 38 sq feet and Community Center is 24 sq ft and star light is 78 sq feet. They are looking into the current sizes and locations of these signs to limit nonconformity.

No LED sign shall exceed a maximum of ninety-eight (98) square feet regardless of the linear footage of lot frontage of the premises and the number of LED signs for each business shall not exceed one (1).

Persons may apply for a permit to be issued by the City Council for use of an LED sign as a temporary sign during special events, including the Sturgis Motorcycle Rally. Said permit shall be requested in writing to the Finance Office at least ninety (90) days prior to the first day of the Sturgis Motorcycle Rally or other special event. Temporary LED signs may be conditionally allowed during the Sturgis Motorcycle Rally or other special event in General Commercial, Retail Commercial, and Highway Service districts.

**Comment [C26]:** SABA also commented that businesses should not be limited to one LED sign as they are the sign of the future. SABA also believes the fee is too high and 90 days is an extreme requirement.

In determining whether to issue a permit pursuant to this Section for a temporary LED sign, the City Council shall consider traffic safety, general safety of the public and any other concerns expressed by the Building Inspector or Sturgis Police Department. The City shall have the authority to demand removal of any approved temporary LED sign that is determined by the Chief of Police or the Building Inspector to be a hazard to the safety of traffic or the general public or a public nuisance.

No permit shall be issued for a temporary LED sign pursuant to this Section until the applicant has paid a permit fee of Three Hundred Dollars (\$300.00). In the case of removal of a temporary LED sign by the City, said fee shall not be refunded.

**CHAPTER 30.05**

**APPEAL PROCESS**

**SECTIONS:**

- 30.05.01: Creation of Sign Code Board of Appeals
- 30.05.02: Members of the Sign Code Board of Appeals
- 30.05.03: Sign Code Board of Appeals Adoption of Rules
- 30.05.04: Filing an Appeal
- 30.05.05: Hearing and Notice
- 30.05.06: Authority of the Sign Code Board of Appeals
- 30.05.07: Variance Runs With Land
- 30.05.08: Appeals to the City Council
- 30.05.09: Report to Building Inspector

**30.05.01: CREATION OF SIGN CODE BOARD OF APPEALS**

There is hereby created a Sign Code Board of Appeals to hear and decide appeals of decisions made by under this Title and to consider variance requests.

**30.05.02: MEMBERS OF THE SIGN CODE BOARD OF APPEALS**

Members of the Sign Code Board of Appeals shall be appointed by the City Manager subject to the approval of the City Council. A total of six (6) members shall be appointed to the Board from the following groups and for the following terms:

- A. Three appointees to the Board shall be local business owners. Two of the appointees shall have an original term of two (2) years and one appointee shall have an original term of three (3) years. Each renewal term thereafter shall be for a period of three (3) years.
- B. Three appointees to the Board shall be non-business owners who are residents of the City. Two appointees shall have an original term of three (3) years. One appointee shall have an original term of two (2) years. Each renewal term thereafter shall be for a period of three (3) years.
- C. A chairman shall be elected annually by the Sign Code Board of Appeals. It is anticipated that six (6) members shall be present for each meeting and shall constitute a quorum for voting purposes. A two-thirds vote shall be necessary for voting purposes for all appeals and variances.

**Comment [C27]:** This is an entirely new process and board for the City. Legal decided on the 7 members but maybe that is too many since there are alternates. It is anticipated that this will be a very busy board and didn't want to limit it to only one business owner and one non owner but yet also had the suggestions for the other areas. Comments and suggestions are still needed on the membership issue.

**30.05.03: SIGN CODE BOARD OF APPEALS ADOPTION OF RULES**

The Sign Code Board of Appeals shall adopt rules in accordance with this Title. Meetings of the Board shall be called by the chairperson and shall be held at a set time and place. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, indicating if absent or failing to vote, and shall keep records of its examinations and other official actions.

**Comment [C28]:** Please note that there is no definition of an aggrieved person included in these revisions. It is anticipated that the Board will address this issue in its rules and establish a guideline on that and many other issues.

**30.05.04: FILING AN APPEAL**

Comment [C29]: SABA questioned the fee.

Appeals to the Sign Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the Building Inspector. The appeals shall be taken within thirty (30) days from the date of the decision and shall be made by filing with the Building Inspector a notice of appeal specifying the grounds thereof, and by paying a filing fee of Two Hundred Dollars (\$200.00) at the office of the Building Inspector.

**30.05.05: HEARING AND NOTICE**

The Board of Appeals shall fix a reasonable time for the hearing of the appeals, giving public notice in the local newspaper seven (7) days prior to the hearing. The appellant shall notify, by certified mail, all property owners within one hundred and fifty feet (150') excluding any public rights of way of the property for which the appeal or variance is being requested. The notification which shall be sent to the property owners shall be prepared by the Building Inspector however the copying, mailing and ultimate delivery of the letter shall be the responsibility of the appellant. The appellant shall provide proof of mailing to the Building Inspector prior to the date of the public hearing.

**30.05.06: AUTHORITY OF THE SIGN CODE BOARD OF APPEALS**

The Sign Code Board of Appeals shall have the following authority:

- A. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the interpretation or enforcement of this Title.
- B. The Sign Code Board of Appeals is empowered to authorize a variance from the strict application of this Title when:
  - i. There exists exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific premises not prevalent in the area; and
  - ii. Where the strict application of this Title will result in unnecessary hardship.

Comment [S30]: The Committee should clarify this strict standard.

Comment [C31]: The financial disadvantage language was stolen from RC. SABA questioned whether the City was interfering with competition between businesses because what may be a financial hardship for a new small business wont be for Walmart??

Comment [C32]: The Ordinance Committee members were divided on whether or not to allow any variance provisions in the sign ordinance. There currently is no ability to required a variance in Title 30. RC does grant its Board the authority to grant variances under limited conditions. A person may view the minutes of the RC meetings on line and it appears that the majority of the requests to the board are requests for variances. Remember a variance recognizes that the sign would be technically in violation of the ordinance but allows it as an approved exception whereas an appeal is made to show that the BI applied the ordinance incorrectly and the sign is not truly in violation.

For purposes of this section, unnecessary hardship may not be found when the only disadvantage to the applicant is financial or when the hardship is self-imposed.

**30.05.07: VARIANCE RUNS WITH LAND**

Any variance granted by the Sign Code Board of Appeals shall run with the business which shall retain the right to alter the advertising content of the sign. In the event however that the business relocates or otherwise ceases operation on the premises that

was the situs of the variance request, the rights granted under the variance shall be extinguished.

### **30.05.08: APPEALS TO THE CITY COUNCIL**

Any person aggrieved or any officer, department, board or bureau of the City affected by any decision of the Building Inspector may appeal to the City Council the decision of the Sign Code Board of Appeals. Appeals shall be heard at the next regular council meeting after the filing of the notice of appeal unless the meeting is less than ten (10) business days after the filing of the notice of appeal in which case the appeal may be heard at the following regular City Council Meeting.

The appeals to the City Council shall be taken by filing a notice of appeal with the Finance Officer and paying a fee of Two Hundred Dollars (\$200.00). Said notice of appeal shall specify the grounds thereof and be filed with the Finance Officer within seven (7) days of the decision of the Sign Code Board of Appeals. Failure to file within seven (7) days shall constitute a waiver of the right to appeal said decision to the City Council and the decision of the Sign Code Board of Appeals shall become final.

The appellant shall be responsible for notifying, by certified mail, adjacent property owners that an appeal is being made. The notice shall be in substantially the same form as the notice required by the Building Inspector prior to appeal to the Sign Code Board of Appeals. It shall be the responsibility of the appellant to provide the City with proof of the notification and said proof shall be a prerequisite to any hearing before the City Council. The Finance Officer shall provide the appellant written notice of the time set for the appeal by specifying the time, date, and location of the hearing.

The City Council shall have the authority to affirm, reverse or remand any decision of the Sign Code Board of Appeals.

### **30.05.09: REPORT TO BUILDING INSPECTOR**

Following a decision by the Sign Code Board of Appeals, said Board shall forward in writing said decision to the Building Inspector. The Building Inspector shall then take action necessary to carry out the decision of the Board, including issuance of any necessary permit or variance, and enforcement or removal of any nonconforming sign.