

ORDINANCE NO. 2018- 09

AN ORDINANCE REPEALING CHAPTER 42 OF
THE CARLSBAD CODE OF ORDINANCES –
SIGNS – AND REPLACING WITH THE NEW
CHAPTER 42 – SIGNS.

WHEREAS, the current Sign ordinance was adopted in 1974 and has in many respects become outdated; and

WHEREAS, on June 18, 2015, the Supreme Court of the United States handed down their decision in the *CLYDE REED, et al., PETITIONERS v. TOWN OF GILBERT, ARIZONA, et al.* finding that certain sign restrictions based on sign content violated the First Amendment of the U.S. Constitution; and

WHEREAS, the current version of Chapter 42, SIGNS, includes numerous, now prohibited, restrictions based on sign content; and

WHEREAS, City staff has met and worked to incorporate certain signage guidelines and restrictions deemed appropriate for the community; and

WHEREAS, this new Sign Ordinance complies with the decision from the U. S. Supreme Court from *CLYDE REED, et al., PETITIONERS v. TOWN OF GILBERT, ARIZONA, et al.*; and

WHEREAS, this new Sign Ordinance supports the goals and policies of the Greater Carlsbad Comprehensive Plan Strategy 2030 adopted in January, 2013; and

WHEREAS, in order to protect and improve the established community character and the visual aesthetic of the City of Carlsbad; and

WHEREAS, in order to properly promote the commercial and industrial growth currently being experienced by the community; and

WHEREAS, to protect the community from adverse impacts of increased commercial activity and the related advertising; and

WHEREAS, a copy of this code is on file and available for inspection during normal and regular hours;

NOW THEREFORE, be it ordained by the Governing Body of the City of Carlsbad, County of Eddy, State of New Mexico, that the City of Carlsbad's Code of Ordinances is hereby amended to adopt and incorporate the new Chapter 42 – SIGNS – attached to this ordinance:

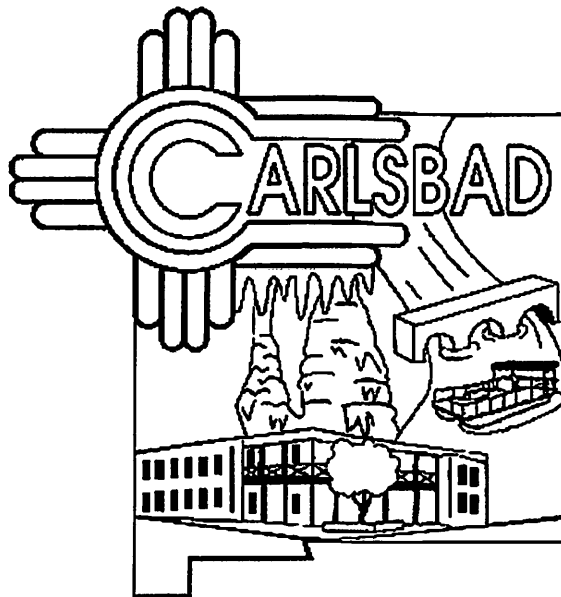
INTRODUCED, PASSED, ADOPTED AND APPROVED this 12th day of June, 2018.



Nadene Mireles
CITY CLERK

Dale Janway
DALE JANWAY, MAYOR

City of Carlsbad
Chapter 42
Sign Ordinance
(Adopted 06/12/2018)
Ord.# 2018-09



Chapter 42

SIGNS

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Sec. 42-1: PURPOSE:

To safeguard the public's health, safety, and welfare in residential, commercial and industrial areas, to protect the distinctive appearance of the City of Carlsbad, and to reduce hazards to motorists and pedestrians traveling on city public ways.

42-2: DEFINITIONS:

- A. *Certified Building Official (CBO)* shall mean the person charged with the administration and enforcement of the building code or his duly authorized representative.
- B. *Designated Sign Area (DSA)* shall mean the total area of the sign face.
- C. *Location* shall mean a lot, premises, building, wall, or any place whatsoever upon which a sign is erected, constructed, or maintained.
- D. *Sign* shall mean any fabrication sign, including its structure, consisting of any letter, figure, character, mark, point, plans, design, poster, pictorial picture, stroke, stripe, line, trademark, reading matter, or illuminating device constructed, attached, erected, fastened or manufactured, in any way whatsoever so that the same shall be used for the attraction of the public to any place, subject, person, firm, corporation, public performance, article, machine or merchandise whatsoever and displayed in any manner whatsoever, out of doors for recognized advertising purposes.
- E. *Structure* shall mean the supports, uprights, bracing and framework of a sign.

42-3: PERMIT REQUIREMENTS:

- A. Any person or company installing, repairing, altering, relocating, or dismantling a sign shall possess a State of New Mexico contractor's license. All electrical work shall be performed or overseen in the field by a State of New Mexico licensed electrical contractor.
- B. Except when a sign is painted directly on a wall or the re-facing of an existing sign requires no modification to the existing sign cabinet, a building permit shall be required to install a new sign; or replace, reconstruct, vary the dimensions of the display surface area, alter the height of, or relocate an existing sign or sign structure.

- C. All signs shall conform to the provisions set forth in this chapter and the provisions of the latest New Mexico Commercial Building Code standards adopted by the City of Carlsbad.
- D. A building permit application shall include construction drawings showing the height and sign dimensions, sign display area calculation, and materials to be used. The drawings shall include specific details, such as wind and snow loads, stresses, anchorage, and all other relevant data, signed and sealed by a registered engineer when required by the CBO. A site plan showing the location of the sign with reference to property lines, streets, sidewalks, and-alleys is also required.
- E. Modifications or variations in the terms and conditions set forth in the original building permit application shall require written approval from the CBO.
- F. For the erection of all signs, the current schedule of permit fees shall apply. A double fee shall be charged for permits secured after any phase of the erection of a sign has begun.
- G. *Inspection Fee: A sign review fee shall be required in addition to any other building permit fee. The city council shall establish a schedule of fees for such action by resolution. The schedule of fees may be altered or amended from time to time by action of the city council with a resolution.*
- I. A sign permit from the New Mexico Department of Transportation shall be required for any sign erected along a State or Federal highway.

42-4: PROHIBITED SIGNS:

- A. Signs, other than official government signs, located within the public rights-of-way or easements, public parks, or on public properties without city council approval.
- B. Signs that attempt to appear or attempt to imitate or resemble any official traffic sign, signal, or device.
- C. Signs or sign structures that prevent the driver of a vehicle from having a clear and unobstructed view of pre-existing official government signs.
- D. Signs or sign structures that prevent a clear and unobstructed view of any ingress or egress point on a lot, street intersection, and/or street and alley intersection as determined by the CBO/building inspector. All signs above three (3) feet in height are prohibited in clear sight triangles as defined in Chapter 56 of the Carlsbad Code of Ordinances.
- E. Signs that move or have moving parts, blink, flash, scroll or are animated in any fashion.
- F. Signs lighted in any way that cause beams or rays of light to be directed onto adjacent properties, directed at any portion of a roadway, or is of such intensity or brilliance as to cause glare or impair the vision of the driver of any motor vehicle.
- G. Abandoned signs and/or signs structurally unsafe or in disrepair as determined by the CBO/building inspector.
- H. Signs attached to or affixed in any way to utility poles, light poles, rocks, trees, or other natural features located within the public rights-of-way.
- I. Off premise signs located in Residential 1 (R-1), Residential 2 (R-2), Rural Residential (R-R), or Commercial 1 (C-1) zoned districts, or in areas designated for public use.
- J. Balloons, streamers, banners, vertical banners, pennants, or pinwheels displayed as part of a special sale, promotion, or community event for more than ninety (90) calendar days.

- K. Mobile signs, unless approved by the Building Official.

42-5: SIGNS NOT REQUIRING A PERMIT:

The following signs shall not require a building and are permitted in all zoning districts **(all signs shall comply with all other applicable sections of this chapter)**:

- A. Signs placed by a government agency, unless this sign is part of a built structure being placed.
- B. Temporary signs located on private property.
- C. Window signs.
- D. Nameplates, street address signs, or memorial plaques that are made to be a fundamental part of the building or structure.
- E. Public art.
- F. Signs painted directly on surfaces and/or applied wall accents and decorations.

42-6: MAINTENANCE:

- A. Sign owners shall regularly maintain and keep their signs in good repair and in working order for aesthetical and safe operational and structural conditions. The CBO/building inspector may order the repair or maintenance of any sign, sign structure or awning that is not maintained in accordance to this chapter. Failure to comply may result in the sign being declared in disrepair and subject to removal at the expense of the sign owner.
- B. Signs shall not have exposed electrical components, including, but not limited to, wires, ballasts, or internal light bulbs. The CBO/building inspector may require the electricity to the sign be turned off or disconnected until the sign is repaired, rehabilitated, or replaced. If the electrical condition of the sign is deemed hazardous, the CBO/electrical inspector shall require the electricity to the sign be turned off or disconnected until the sign is repaired, rehabilitated or replaced.
- C. A sign or sign structure which has been damaged by fire, earthquake, wind, flood, or by any other cause to such an extent that the structural strength or stability is materially less than it was before the catastrophe, and does not meet the minimum requirements outlined in the building code, may be deemed hazardous to the health and safety of the public by the CBO/building inspector. If the sign or sign structure is deemed hazardous, it shall be subject to removal at the expense of the sign owner.
- D. Termination or discontinued use of activity, service or product advertisement by a sign for more than six (6) consecutive months may result in the sign being declared abandoned and subject to removal at the expense of the sign owner.

42-7: PERMITTED SIGNS IN DESIGNATED ZONING DISTRICTS:

Sign Type	R-R, R-1, R-2, PUD, C-1	C-2, I
<p>Wall or Fascia Signs</p>	<p>One (1) per each street frontage per each business on the lot.</p> <p>Shall only face the street.</p> <p>Electronic message signs prohibited.</p> <p>Max. DSA of 20% of the wall area.</p> <p>Signs shall not extend in any direction beyond the walls on which they are attached.</p> <p>Signs shall not extend more than eighteen (18) in. from the structures to which they are attached.</p> <p>One (1) subdivision, MH park, or RV park name sign may be placed on the perimeter fence or wall of said subdivision or park at the intersection of two (2) streets or the intersection of the street and park entry:</p> <p>Max. DSA of fifty (50) sq. ft.</p> <p>Signs shall not extend in any direction beyond the walls on which they are attached.</p> <p>Signs shall not extend more than eighteen (18) in. from the structures to which they are attached.</p> <p><i>Apartments, assisted living facilities, institutions, private schools, parks, and public buildings:</i></p> <p>One (1) per each street frontage of the facility.</p> <p>Shall only face the street.</p> <p>Electronic message signs prohibited.</p> <p>Max. DSA of 20% of the wall area.</p> <p>Signs shall not extend in any direction beyond the walls on which they are attached.</p> <p>Signs shall not extend more than eighteen (18) in. from the structures to which they are attached.</p>	<p>Max. DSA of 20% of each wall of the building.</p> <p>A structure with multi-business tenants shall be permitted the maximum DSA for each business storefront located within the structure.</p> <p>Walls facing adjacent residential districts shall not be illuminated.</p> <p>Electronic message signs prohibited on walls facing adjacent residential districts.</p> <p>Signs shall not extend in any direction beyond the walls on which they are attached.</p> <p>Signs shall not extend more than eighteen (18) in. from the structures to which they are attached.</p>

	R-1, R-2, R-R	C-1	C-2, I
<u>On Premise</u> Freestanding OR Monument Signs	<p><i>Subdivisions, MH parks, or RV parks:</i></p> <p>In lieu of a wall sign, one (1) monument sign with a max. height of six (6) ft. measured from the finished grade to the top of the sign frame.</p> <p>Max. DSA of fifty (50) sq. ft.</p> <p>Electronic message signs prohibited.</p> <p><i>Apartments, assisted living facilities, institutions, private schools, parks, and public buildings:</i></p> <p>One (1) per each lot or multiple lots for the same facility.</p> <p>Electronic message signs prohibited.</p> <p>Max. height of twenty-five (25) ft. measured from the finished grade to the top of the sign frame.</p> <p>Max. DSA of one hundred seventy-five (175) sq. ft.</p> <p>Min. clearance of ten (10) ft. from the finished grade to the bottom of the sign frame.</p>	<p><i>Subdivisions, MH parks:</i></p> <p>In lieu of a wall sign, one (1) monument sign with a max. height of six (6) ft. measured from the finished grade to the top of the sign frame.</p> <p>Max. DSA of fifty (50) sq. ft.</p> <p>Electronic message signs prohibited.</p> <p><i>Apartments, assisted living facilities, institutions, private schools, parks, and public buildings:</i></p> <p>One (1) per each lot or multiple lots for the same facility.</p> <p>Electronic message signs prohibited.</p> <p>Max. height of twenty-five (25) ft. measured from the finished grade to the top of the sign frame.</p> <p>Max. DSA of one hundred seventy-five (175) sq. ft.</p> <p>Min. clearance of ten (10) ft. from the finished grade to the bottom of the sign frame.</p>	<p>One (1) per every one hundred (100) ft. of street frontage, with a minimum separation of one hundred (100) ft. between signs, on the same lot or multiple lots for the same business complex.</p> <p>Max. height of thirty-five (35) ft. measured from the finished grade to the top of the sign frame.</p> <p>Max. DSA of three hundred fifty (300) sq. ft.</p> <p>Min. clearance of ten (10) ft. from the finished grade to the bottom of the sign frame.</p>

<p><u>Off Premise</u></p> <p>Freestanding Signs</p>	<p>Not permitted in the R-1, R-2, R-R or C-1 Districts.</p>	<p><u>Shall only be permitted along US Highways 285 and 62-180, EXCEPTING the area between Skyline Dr. (US 285) along W. Pierce St. and Airport Ave. along National Parks Highway (US 62-180) and from Ridgecrest Dr. (US 62-180) and S. Canal St. (US 285/US 62-180).</u></p> <p>Shall be a minimum of one thousand five hundred (1,500) ft. from any other off premise freestanding sign, regardless of face orientation.</p> <p>Shall be a minimum of two hundred (200) ft. from the nearest border of a residential district, public park, playground or cemetery.</p> <p>Shall be a minimum of fifty (50) ft. from any other freestanding or monument sign on the same side of the street, regardless of face orientation.</p> <p>Shall not exceed six hundred seventy-two (300) sq. ft. of DSA, with a maximum length of twenty five (25) ft. and a maximum height of twelve (12) ft.; length and height measurements shall include border and trim, but shall not include any ornamental base or apron support.</p> <p>Shall not exceed forty-five (45) ft. in height and shall have a minimum clearance of fifteen (15) ft. between the finished grade and bottom of the sign.</p> <p>Shall not be permitted to overhang any structure, building, or other freestanding or monument sign.</p> <p>Shall not be permitted cutouts or extensions outside of or in excess of the DSA of the sign.</p>
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	R-R, R-1, R-2	C-1, C-2, I
Awning and Under Awning Signs	Not permitted in the R-1, R-2, or R-R Districts.	<p>One (1) per each business on the lot.</p> <p>Shall not extend more than five (5) ft. over the public sidewalk.</p> <p>Min. clearance of ten (10) ft. from the finished grade or sidewalk to the bottom of the sign frame.</p>
Canopy and Under Canopy Signs	Not permitted in the R-1, R-2, or R-R Districts.	<p>ALL: The sign copy shall not extend in any direction beyond the canopy and shall not extend more than eighteen (18) in. from the structure to which it is attached.</p> <p>ATTACHED TO THE BUILDING: Shall not extend more than five (5) ft. over the public sidewalk.</p> <p>ALL: Min. clearance of ten (10) ft. from the finished grade or sidewalk to the bottom of the sign frame.</p>
Roof Signs	Not permitted in the R-1, R-2, or R-R Districts.	<p>Permitted in lieu of a freestanding and wall sign.</p> <p>One (1) sign per building.</p> <p>Max. DSA of one hundred twenty (120) sq. ft.</p> <p>Electronic message signs prohibited, and internal illumination only. However, signs facing adjacent residential districts shall not be illuminated.</p> <p>Shall not extend beyond the roof line of the roof.</p> <p>Mounting brackets and hardware shall be screened from public view.</p>

	R-R, R-1, R-2	C-1	C-2, I
Projecting Signs	Not permitted in the R-1, R-2, or R-R Districts.	<p>Permitted in lieu of a freestanding and wall sign.</p> <p>One (1) per each street frontage of the business on the same lot or multiple lots for the same business complex.</p> <p>Shall not extend more than five (5) ft. over the public sidewalk.</p> <p>Min. clearance of ten (10) ft. from the finished grade to the bottom of the sign frame.</p> <p>Electronic message signs prohibited.</p>	<p>Permitted in lieu of a wall sign on the wall where the sign is attached.</p> <p>One (1) per each wall of the building.</p> <p>Shall not extend more than five (5) ft. over the public sidewalk.</p> <p>Min. clearance of ten (10) ft. from the finished grade to the bottom of the sign frame.</p> <p>Internal illumination only.</p>
Directional Signs	<p>One (1) sign per entry and one (1) sign per exit.</p> <p>Max. height of four (4) ft. measured from the finished grade to the top of the sign frame.</p> <p>Max. DSA of six (6) sq. ft.</p> <p>Static and internal illumination only.</p>		
Menu Boards	Not permitted in the R-1, R-2, or R-R Districts.	Sized and directed to the drive-through lane or lanes.	
Fuel Price Signs	Not permitted in the R-1, R-2, or R-R Districts.	As required by state and federal regulations.	

NOTE: Sign regulations for signs in a PUD District are to be approved along with the approval of the district.

42-8: ELECTRONIC MESSAGE SIGNS (DIGITAL, LED):

- A. Electronic message signs shall comply with the following additional restrictions:
1. Shall utilize only one (1) advertisement at any given time for each advertising face, and not display, contain or utilize multiple advertisements or displays.
 2. Shall contain a static display that shall remain for no less than eight (8) seconds in duration.
 3. Shall achieve a transition to another static display in less than two (2) seconds and shall not contain or utilize transitional elements or any movement at all between copy changes.
 4. Shall not incorporate or display any illumination that changes in intensity during the static display or transition period as described above.
 5. Shall change copy uniformly in a fluid, seamless transition.
 6. Shall not contain or include any advertisements that employ the use of intermittent, flashing light or lights, or that are illuminated by intermittent or flashing light or lights.
 7. Shall not include animated, flashing, scrolling, or full-motion video elements, and may not incorporate or display segmented or traveling advertisements.
 8. Shall be shielded so as to prevent light from being directed at any portion of the main traveled way, or if not so shielded, are of such low intensity or brilliance so as not to cause glare or impair the operation of a motor vehicle, or violate the New Mexico Night Sky Protection Act, sections 74-12-1 et seq., NMSA 1978, to the extent it applies.
 9. Shall have brightness levels capable of being measured, and such brightness shall be limited to an acceptable, safe level or measurement. Electronic message signs shall utilize automatic dimming technology to adjust the brightness of the sign relative to ambient light so that at no time shall a sign exceed a brightness level of three tenths (0.3) of a foot candle above ambient light, as measured using a foot candle meter and in conformance with the following process: Light measurements shall be taken with the meter aimed directly at the advertisement or sign face, or at the area of the sign emitting the brightest light if that area is not the advertisement or sign face. Measurements shall be taken as follows:

Table: Electronic Message Sign Brightness

Sign Face Area	Distance of Measurement
385-680 sq. ft.	250 feet
300-384 sq. ft.	200 feet
200-299 sq. ft.	150 feet
150-199 sq. ft.	136 feet
125-149 sq. ft.	118 feet
100-124 sq. ft.	107 feet
75-99 sq. ft.	96 feet
50-74 sq. ft.	83 feet
35-49 sq. ft.	67 feet
25-34 sq. ft.	56 feet
15-24 sq. ft.	47 feet
1-14 sq. ft.	36 feet

10. Shall not incorporate, utilize or emit any sound or noise capable of being detected, or emit any smoke, scent or odors.

11. Shall not contain, incorporate or utilize any interactive component or medium, and not interact or interface with drivers, pedestrians or the public.
12. Shall not interfere with or direct or attempt to direct the movement of traffic, or resemble or simulate any warning or danger signal, or any official traffic control device, and not contain wording, color, shapes or likenesses of official traffic control devices.
13. Shall contain a default mechanism so that in the event 50% or more of a sign has failed, the sign shall immediately revert to a black screen and remain in such condition until the malfunction is corrected. In all such cases, the malfunctioning sign shall be expediently repaired.
14. Shall utilize sufficient safeguards to prevent unauthorized access, use or hacking of changeable electronic message signs and related technology, including infrastructure, hardware, software and networks, by unauthorized users.
15. Shall be continuously monitored twenty-four (24) hours per day by the device owner or the permit holder, including monitoring of hardware, software, network and other infrastructure.

Sec. 42-9: ADMINISTRATION AND ENFORCEMENT OF CHAPTER

The provisions of this chapter shall be administered and enforced by the Building Official.

Sec. 42-10: APPEALS

- A. Whenever the Building Official shall reject or refuse to approve the erection of a particular sign, based on the regulation and criteria set forth in this ordinance, excepting those rejections or refusals based in adopted Building or Electrical codes, then the decision of the Building Official may be appealed to the City Planning and Zoning Commission.
- B. Whenever the Building Official shall reject or refuse to approve location of a sign erection, the decision may be appealed to the City Planning and Zoning Commission.
- C. The rules governing appeals and methods of appeals shall in all respects be as stated in chapter 56 of this Code.