

ORDINANCE NO. 3, 2016

AMENDED

**AN ORDINANCE OF THE CITY OF DELTA, COLORADO, HEREBY DELETING CHAPTER 17.68 OF THE DELTA MUNICIPAL CODE IN ITS ENTIRETY AND ADOPTING A NEW CHAPTER 17.68 OF THE DELTA MUNICIPAL CODE PERTAINING TO THE REGULATION OF SIGNS ON PROPERTY WITHIN THE CITY LIMITS AND AMENDING CHAPTER 17.04.240.A.6**

WHEREAS, the Delta Planning Commission has recommended to the Delta City Council that staff discard the current sign regulations and propose new sign regulations; and

WHEREAS, the City Council finds the Planning Commissions' recommendations to be reasonable and in the public interest; and

WHEREAS, the City has the authority to regulate signs under the United States Constitution, the Constitution of the State of Colorado, and the Home Rule Charter of the City of Delta; and

WHEREAS, this Chapter advances important and substantial governmental interests; and

WHEREAS, the regulations set out in this Chapter are unrelated to the suppression of constitutionally-protected free expression and do not involve the content of protected messages which may be displayed on signs, nor do they involve the viewpoint of individual speakers; and

WHEREAS, certain types of speech are not protected by the First Amendment due to the harm that they cause to individuals or the community; and

WHEREAS, the City has an important and substantial interest in preventing sign clutter; and

WHEREAS, the City has an important and substantial interest in keeping its rights-of-way clear of obstructions and litter; and

WHEREAS, the Delta Planning Commission held a public hearing on February 1, 2016, regarding its proposal to amend the sign regulations and has made recommendations to the City Council that have been considered and evaluated in connection with the terms of this ordinance as set forth below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DELTA, COLORADO, AS FOLLOWS:

Section 1: Chapter 17.68 of the Delta Municipal Code is hereby deleted in its entirety, and the following new Chapter 17.68 is hereby adopted:

Sections:

- 17.68.010 General Provisions
- 17.68.020 Application of Chapter
- 17.68.030 Signs Requiring a Permit
- 17.68.040 Signs Allowed Without a Permit
- 17.68.050 Exemptions for Addressing
- 17.68.060 Non-Conforming Signs
- 17.68.070 Relationship to Other Regulations
- 17.68.080 Measurements and Calculations

- 17.68.090 Prohibited Signs and Design Elements
- 17.68.100 Prohibited Sign Locations
- 17.68.110 Illumination of Signs
- 17.68.120 Sign Maintenance
- 17.68.130 Allowable Sign Space

17.68.010 General Provisions. The purpose of this Chapter is to set out regulations for the erection and maintenance of signs while preserving the right of free speech and expression.

A. The objective of the regulations of this Chapter is to provide a balanced and fair legal framework for design, construction, and placement of signs that:

1. Promotes the safety of persons and property by ensuring that signs do not create a hazard by:
  - a. Collapsing, catching fire, or otherwise decaying; or
  - b. Confusing or distracting motorists; or
  - c. Impairing drivers' ability to see pedestrians, obstacles or other vehicles, or to read traffic signs.
2. Promotes the efficient communication of messages, and ensures that persons exposed to signs:
  - a. Are not overwhelmed by the number of messages presented; and
  - b. Are able to exercise freedom of choice to observe or ignore said messages according to the observer's purpose.
3. Protects the public welfare and enhances the appearance and economic value of the landscape by protecting scenic views and avoiding sign clutter that can compromise the character, quality, and viability of commercial corridors;
4. Ensures that the design and appearance of signs are compatible with their surroundings, and prevents the construction of signs that are a nuisance to occupants of adjacent and contiguous property due to brightness, reflectivity, bulk, or height;
5. Promotes the use of signs that are aesthetically pleasing, of appropriate scale, and integrated with the built environment, in order to meet the City's Comprehensive Planning objectives related to the quality and character of development;
6. Enhances property values and business opportunities;
7. Assists in wayfinding; and
8. Provides fair and consistent permitting and enforcement.

B. Certain types of speech are not protected by the First Amendment due to the harm that they cause to individuals or the community, and speech that is harmful to minors may be prohibited in places that are accessible to minors. (See 17.68.090.D)

17.68.020 Application of Chapter. Hereinafter, all construction, relocation, enlargement, alteration, and modification of signs within the City shall conform to the requirements of this Chapter, all State and Federal regulations concerning signs and advertising, and applicable building codes. Publically funded art and murals are not subject to requirements of this chapter. Generally, signs are approved by issuance of a sign permit. However, there are some signs that do not require a permit. These signs are listed in subsection 17.68.040 below.

A. Planned Unit Developments are required to develop a sign plan as set forth in 16.05.050.B.5, which should generally follow this Chapter 17.68.

B. Shopping Centers that are not part of a Planned Unit Development may have one multiple use sign that has been approved by the Planning Commission at each entrance, and each tenant's sign on the multiple use sign counts toward that tenant's allowable sign space.

17.68.030 Signs Requiring a Permit. A sign permit shall be required for all signs exceeding six square feet in area (see table 17.68.130.A and C), unless otherwise exempted by subsection 17.68.040, below. A permit is required when the sign face is changed, such as changes in name or ownership. In addition, a sign permit shall be required at any time the area of a permitted sign is increased, provided that the increase is allowable within the zone district in which the sign is located. This subsection shall not be interpreted so as to grant permission for prohibited signs with sign areas less than six square feet.

17.68.040 Signs Allowed Without a Permit. The following signs do not require a sign permit, but may require a building permit or other related permit (if subject to building or electrical codes). Signs that do not require permits shall still comply with Section 17.68.120, *General Design and Maintenance Standards*, or the applicable standards of this subsection.

A. *Official and Legal Notice.* Official and legal notice signs that are issued by any court, public body, or officer in performance of a public duty, or in giving any legal notice, including signs that are required to be posted to give notice of pending action pursuant to the Delta Municipal Code.

B. *Signs with De Minimus Area.* Signs that are affixed to a building or structure (even if wall signs are not permitted in the district or for the use), which do not exceed one square foot in sign area, provided that only one such sign is present on each elevation that is visible from public rights-of-way or neighboring property; and signs that are less than three-fourths of a square foot in area that are affixed to machines, equipment, fences, gates, walls, gasoline pumps, public telephones, or utility cabinets.

C. *Flags.* Flags that are not larger than 30 square feet in area that are affixed to permanent flagpoles or flagpoles that are mounted to buildings (either temporary or permanent).

D. *Carried Signs.* Signs that are being carried by people or by service animals recognized under the Americans with Disabilities Act (however, such signs are not exempt if they are set down or propped on objects);

E. *Bumper Stickers.* Bumper stickers on vehicles not exceeding 4" x 18" and also as excepted in Section 17.68.090.C.5;

F. *Interior Signs.* Includes window displays not meeting criteria for window signs in 17.68.080.C.2;

G. *Traffic Control Signs.* Traffic control signs and other signs related to public safety that the City, Delta County, any Federal department or agency, or the State of Colorado or any political subdivision thereof with jurisdiction in the City installs or requires a developer to install;

H. *Holiday Decorations.* Holiday or seasonal decorations that are displayed for no more than thirty days.

I. *Balloons.* Balloons less than 24" in diameter.

- J. *Pennants*. Pennants with at least one dimension (either length or width) less than 24”.
- K. *Banners or Wave Flags*. Banners or Wave Flags 25 square feet or less, with a limit of two per lot.

17.68.050 Exemption for Addressing. The posting of the addresses of buildings in locations that are visible from the street is necessary for the effective delivery of public safety services, including E-911. The efficient and timely delivery of emergency services is a compelling governmental interest. Accordingly, the City requires that street addresses shall be posted as follows:

- A. *Nonresidential and Mixed-Use Districts*. In nonresidential districts, street addresses shall be posted at:
  - 1. All primary building entrances;
  - 2. On detached signage if the address on the building is not visible from the street.
- B. *Residential Districts*. In residential districts, street addresses shall be posted:
  - 1. On the facade of the building that faces the street from which the address is taken; and
  - 2. On the mailbox or mailbox support, if the mailbox is detached from the building.
- C. *Exclusion from Sign Area Calculation*. Because address signs are required, numbers and letters used for addressing are not included in the calculation of sign area if they are not more than 14 inches in height.

17.68.060 Non-Conforming Signs. Legally permitted signs in effect prior to the effective date of this Chapter may continue to be used as long as the sign is maintained, not enlarged or changed materially. Changes will require a permit and compliance with this chapter. If the sign is destroyed or damaged, it may be replaced if construction is completed within 6 months.

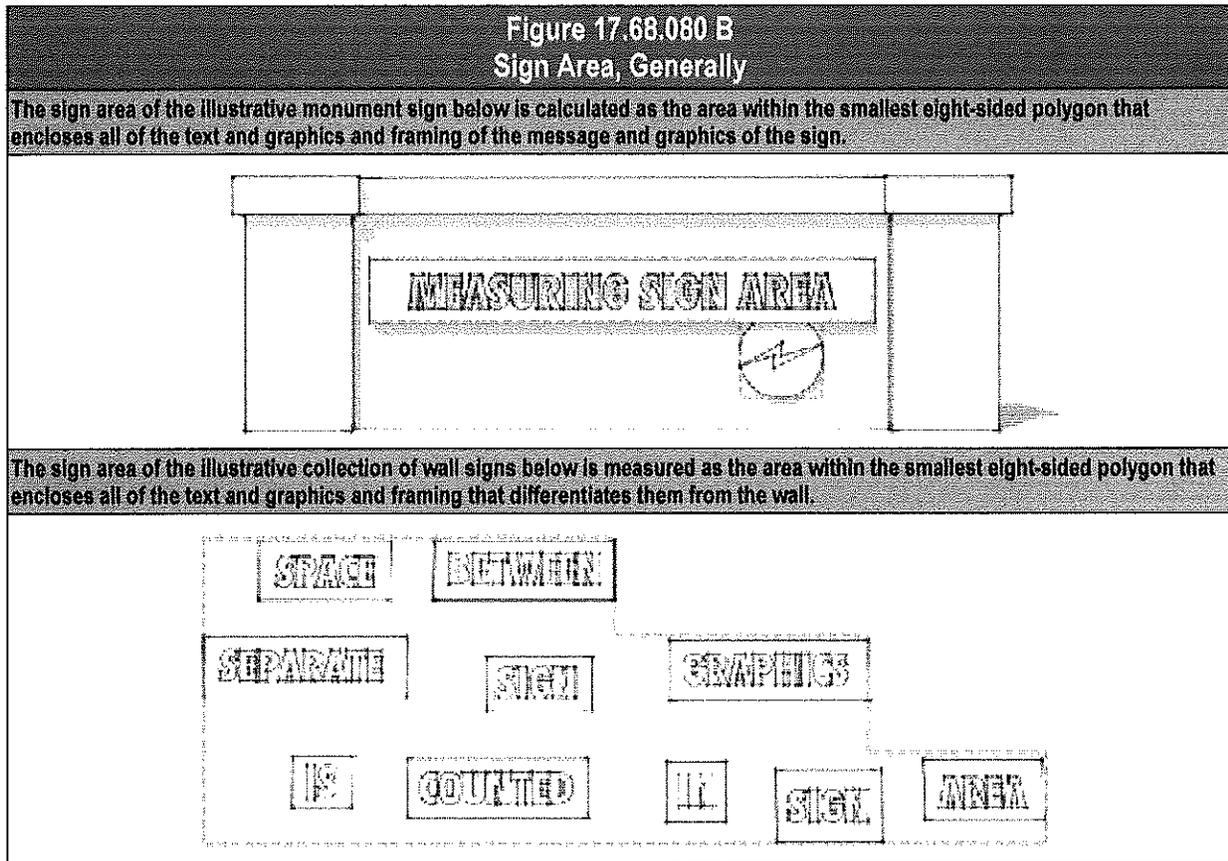
- A. Banners, wind-powered devices and other un-permitted signs in use at the time of the adoption of these sign regulations shall be discontinued by October 1, 2016; this paragraph does not apply to banners allowed in 17.68.040.K

17.68.070 Relationship to Other Regulations. These Regulations recognize other regulations pertaining to signage (e.g., State of Colorado, Department of Highways, “Rules and Regulations Pertaining to Outdoor Advertising,” effective January 1, 1984, and as may be amended, or the Manual on Uniform Traffic Control Devices). Where any provision of this Chapter covers the same subject matter as other regulations, the more restrictive regulation shall apply.

17.68.080 Measurements and Calculations. The regulations of this Chapter shall be applied using the measurements set out in this Section.

- A. Sign area is calculated as the area within a continuous perimeter with up to eight straight sides that encloses the limits of text and graphics of a sign, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign's message from the background against which it is placed. The area excludes the structure upon which the sign is placed (unless the structure is an integral part of the display or used to differentiate it), but includes any open space contained within the outer limits of the display face of a sign, or between any component, panel, strip, or figure of any kind composing the display face, whether this open space is enclosed by a frame or border or not. *See Figure 17.68.080.B, Sign Area, Generally.*

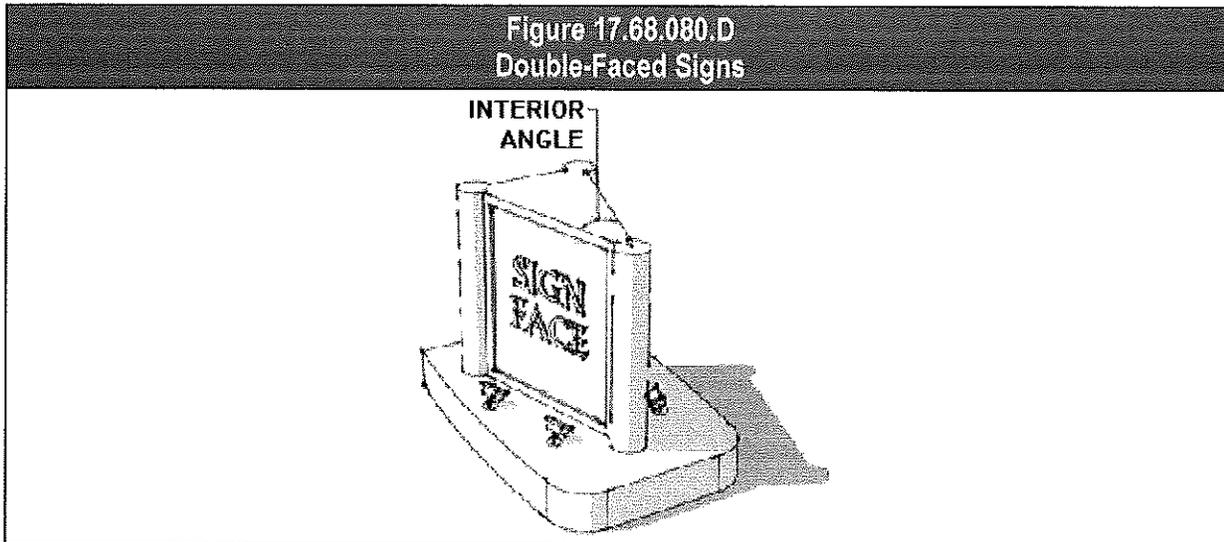
B.



A. *Double-Faced Signs*. For projecting, suspended, or other double-faced signs:

1. Only one display face is measured if the sign faces are parallel or form an interior angle of less than 45 degrees, provided that the signs are mounted on the same structure. If the faces are of unequal area, then sign area is equal to the area of the larger face.
2. Both display faces are measured if:
  - a. The interior angle is greater than 45 degrees; or
  - b. The sign faces are mounted on different structures.

D.



E. Signable area is calculated as follows:

1. *Wall Signs.* A two-dimensional area on the facade of a building that describes the largest square, rectangle, or parallelogram which is free of architectural details.
2. *Window Signs.* The area of glass that has affixed paint, decals or lettering
3. *Other Signs.* The area of the face of the sign which is designed to be used for text and graphics (the signable area does not include the sign's supporting frame or structure, if any, provided that such frame or structure is not designed to display text or graphics).

17.68.090 Prohibited Signs and Design Elements. This section identifies signs and sign elements that are not allowed anywhere in the City.

A. The following signs are prohibited in all areas of the City:

1. Signs with more than two sign faces.
2. Signs that are a traffic hazard because they simulate or imitate (in size, color, lettering, or design) any traffic sign or signal.
3. Animated or moving signs that are visible from public rights-of-way, including any moving, swinging, rotating, flashing, blinking, scintillating, fluctuating, or otherwise animated light (except as allowed in 17.68.130.A, *Electronic Message Centers*).

B. The following elements shall not be used as an element of signs or sign structures:

1. Sound, smoke, or odor emitters.
2. Stacked products (e.g., tires, soft drink cases, bagged soil or mulch).
3. Unfinished wood support structures, except that stake signs may use unfinished stakes.

C. The following elements shall not be used as an element of signs or sign structures, which are visible from public rights-of-way:

1. Flags, banners, or comparable elements that are designed to move in the wind that are not affixed to permanent flagpoles or flagpoles that are mounted to buildings; except as allowed per 17.68.040.J.
2. Spinning or moving parts.
3. Bare light bulbs, except on holiday displays which are exempted from regulation by Section 17.68.040.H.

4. Flashing lights, except on holiday displays which are exempted from regulation by Section 17.68.040.H.
  5. Motor vehicles, unless:
    - a. The vehicles are functional, used as motor vehicles, and have current registration and tags;
    - b. The display of signage is incidental to the motor vehicle use; and
    - c. The motor vehicle is properly parked in a marked parking space or is parked behind the principal building.
  6. Semi-trailers, shipping containers, or portable storage units, unless:
    - a. The trailers, containers, or portable storage units are functional, used for their primary storage purpose, and, if subject to registration, have current registration and tags;
    - b. The display of signage is incidental to the use for temporary storage, pick-up, or delivery; and
    - c. The semi-trailer is parked in a designated loading area or on a construction site at which it is being used for deliveries or storage.
- D. The following content is prohibited without reference to the viewpoint of the individual speaker: (See section 17.68.010.B)
1. Text or graphics that are harmful to minors, as that term is defined below; or
  2. Text or graphics that advertise activity that is unlawful under local, state, or federal law; or
  3. Text or graphics that are obscene, fighting words, defamatory, incite imminent lawless action, or true threats; or
  4. Text or graphics that present a clear and present danger due to their potential confusion with traffic control signs or signs that provide public safety information (for example, signs that use the words "Stop," "Yield," "Caution," or "Danger," or comparable words, phrases, symbols, or characters in such a manner as to imply a safety hazard that does not exist).
- E. Off-premise signs are not allowed, signs may identify or advertise only that activity or use conducted upon or related to the premises upon which the sign is located except as permitted in 17.68.040. Signs on motor vehicles or semi-trailers that otherwise comply with subsections C(5) or (6) above are not in violation of this section merely because the vehicle happens to be traveling or parked temporarily away from the premises on which the advertised business is located, provided that such vehicles are not permanently or routinely parked in an off-premises location (not including the residence of the owner or driver) to function as an advertisement for the purpose of evading the intent of this section. For purposes of this section, parking within 50 feet of the same off-premises location for more than 80 hours during any consecutive 30-day period shall create a rebuttable presumption of a violation.

The narrow classifications of content that are prohibited by this subsection are either not protected by the United States or Colorado Constitutions, or are offered limited protection that is outweighed by the substantial governmental interests in protecting the public safety and welfare. Each paragraph of this subsection shall be individually severable in the event that a court of competent jurisdiction were to hold one or more of them to be inconsistent with the United States or Colorado Constitutions.

For the purposes of this Section 17.68.090, “harmful to minors” shall mean any description or representation, in whatever form, of nudity, sexual conduct, or sexual excitement that:

1. Predominantly appeals to the prurient, shameful, or morbid interest of minors in sex;
2. Is patently offensive to contemporary standards in the adult community as a whole with respect to what is suitable sexual material for minors; and
3. When taken as a whole, lacks serious literary, artistic, political, or scientific value.

17.68.100 Prohibited Sign Locations. Attached signs shall be installed on signable areas of buildings. Signs that are in violation of this Section are subject to immediate removal.

A. In no event shall a sign, obstruct:

1. Building ingress or egress, including doors, egress windows, and fire escapes.
2. Features of the building or site that are necessary for public safety, including standpipes and fire hydrants.
3. Sight triangles and distances that are required by the City of Delta Standards and Specifications.

B. No sign shall be posted, installed, or mounted on any of the following locations:

1. On trees.
2. On utility poles or light poles, unless:
  - a. The utility pole or light pole is the property of the person or entity that posts the sign.
3. On utility cabinets, except signs posted by the utility that are necessary for public safety or identification of the facility by the utility provider.

C. No sign shall be located in any of the following locations:

1. In or over public rights-of-way (which, in addition to streets, may include other elements, such as sidewalks, parkways, retaining walls, utility poles, traffic control devices, medians, and center islands that are within the public right-of-way), except:
  - a. Traffic control signs installed by a governmental entity or which are required to be installed by a governmental entity (*e.g.*, permanent traffic control devices such as stop, yield, and speed limit signs, as well as temporary signs related to street construction or repair);
  - b. Signs posted by governmental entities that support emergency management, such as wayfinding to disaster relief locations;
  - c. Banners posted by the City on utility or light poles;
  - d. Signs constructed by the City or another governmental or quasi-governmental entity pursuant to terms and conditions set forth in an approved intergovernmental agreement with the City that implement a community identity program recognized by resolution of City Council;
  - e. Signs located in the B-1 Use District may be placed over the right-of-way in conformance with the following criteria:
    - i. The sign must be supported and attached to a building located in the B-1 Use District;
    - ii. The sign may extend no more than five feet from the building and may extend no closer than six feet from the curblin. No sign may extend over any roadway or alley.

- iii. No part of the sign may be less than eight feet above the surface beneath it.
  - iv. No more than one sign per business may extend over the City right-of-way.
  - v. No sign with its face parallel to the wall of the building to which it is attached, except for those printed on an awning, may extend more than twelve inches from the building, nor more than twelve inches over the public property.
  - vi. The sign may identify or advertise only that activity or use conducted upon or related to the property immediately abutting the sign.
2. In locations that have less horizontal or vertical clearance from authorized communication or energized electrical power lines than that prescribed by the laws of the State of Colorado and the regulations duly promulgated by agencies thereof.

17.68.110 Illumination of Signs. Signs may be internally illuminated or, if external illumination is used, the source of illumination shall be shielded (see 15.04.080.B.1.f).

17.68.120 Sign Maintenance. Signs and sign structures of all types shall be maintained as provided in this Section.

- A. Signs shall display messages. Signs that do not display a message for a period of more than 30 days shall be deemed abandoned and must be removed. If business or activity being advertised on the sign is closed or abandoned, the sign must be removed.
- B. Paint and other finishes shall be maintained in good condition. Peeling finishes shall be repaired. Signs with running colors shall be repainted, repaired, or removed if the running colors were not a part of the original design.
- C. Permanent signs and sign structures shall be finished and maintained to prevent tattering, tearing, fading, unintended corrosion etc. Signs not maintained in good order shall be deemed abandoned and must be removed.

17.68.130 Allowable Sign Space.

A.

Table 17.68.130.A Permitted Attached and Detached Signage Limits in Commercial Use Districts						
District	B-1	B-2	B-3	I	I-R	Allowed Commercial in Residential Use Districts *
Attached, Detached, Window, Manual Changeable Signs, etc	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed
Total Square Footage of Signs Allowed	50 sq ft or 1' sq ft per linear foot of lot frontage	100 sq ft or 1' sq ft per linear foot of lot frontage	100 sq ft or 1' sq ft per linear foot of lot frontage	100 sq ft or 1' sq ft per linear foot of lot frontage	100 sq ft or 1' sq ft per linear foot of lot frontage	100 sq ft or 1' sq ft per linear foot of lot frontage
Maximum Signage Per Parcel ( Square Feet)	300	n/a	n/a	n/a	300	300
Maximum Sign Area per sign face (Square Feet)	150	150	150	150	150	150
Sign height limits	35'	35'	35'	35'	35'	35'
<b>Neon Signs Use Standards</b>						
One sign allowed per business, to be located in window with a maximum area of 6sqft to be included in total signage limit. May not blink etc. See 17.68.090.A.3	Yes	Yes	Yes	Yes	Yes	No
<b>Electronic Message Centers Standards</b>						
One sign allowed per business, scrolling with no transitions, frame effects, blinking, flashing etc. See 17.68.090.A.3	10 sq ft	10 sq ft	10 sq ft	10 sq ft	10 sq ft	10 sq ft
Larger than 10 sq ft – shall be counted toward total allowable signage – message must be static and may only change once a day.						
<b>Roof Sign</b>	<b>Allowed</b>	<b>Allowed</b>	<b>Allowed</b>	<b>Allowed</b>	<b>Allowed</b>	
Other Limitations	No part of any sign attached to or within six feet of a building shall be higher than the ridgeline of the roof or parapet of the building.					

\*Does not include home based businesses

B. The sign is used to identify a residential subdivision or development and:

1. The sign will be set back at least one foot from any sidewalk;
2. The sign will not encroach on any utility easement;
3. The sign will not obstruct a required sight distance or sight triangle as set forth in the Standards and Specifications Manual; and
4. Sign space is limited to 65 sq ft of aggregate sign space area, in lieu of the individual signs allowed hereinabove on each lot or unit. This larger sign can be used until such time as 60 percent of the total lots or units in such development have been sold. One of these larger signs may be used at each street intersection accessing such development, or at one location within the development.

C.

Table 17.68.130.C Permissible Freestanding Sign Types No Permit Required	
Sign Type	All Residential Use
Yard Sign	Allowed
Maximum Sign Area (per sign / total)	6 sf. / 12 sf.
Maximum Sign Height	6 ft.
Swing Sign	Allowed
Number of Signs Allowed	1 per frontage
Maximum Sign Area	5 sf.
Maximum Sign Height	6 ft.

Section 2: Chapter 17.04 is hereby amended to delete 17.04.240.A.6.

Section 3: Severability. Each subsection of this Ordinance is an independent subsection and a holding of any subsection or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other subsection or part thereof.

ADOPTED ON FIRST READING AND ORDERED PUBLISHED THIS 1<sup>st</sup> DAY OF March, 2016.

Edward C. Larson  
Mayor

ATTEST:

Shere E. Nelson  
City Clerk

ADOPTED ON SECOND AND FINAL READING AND ORDERED PUBLISHED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

C.

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Maximum Sign Height	6 ft.
Swing Sign	Allowed
Number of Signs Allowed	1 per frontage
Maximum Sign Area	5 sf.
Maximum Sign Height	6 ft.

Section 2: Chapter 17.04 is hereby amended to delete 17.04.240.A.6.

Section 3: Chapter 8.24 is hereby amended to add the following as Section 8.24.010.B.9:

9. Any sign that is in violation of Chapter 17.68 of this Code.

Section 4: Severability. Each subsection of this Ordinance is an independent subsection and a holding of any subsection or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other subsection or part thereof.

ADOPTED ON FIRST READING AND ORDERED PUBLISHED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

ADOPTED ON SECOND AND FINAL READING AND ORDERED PUBLISHED THIS 18<sup>th</sup> DAY OF March, 2016.

Edward L. Larson  
Mayor

ATTEST:

Helen E. Nelson  
City Clerk