

ORDINANCE NO. 1484 ,AS AMENDED

AN ORDINANCE TO REGULATE SIGNS WITHIN THE CITY OF WEST MEMPHIS, ARKANSAS, DECLARING AN EMERGENCY AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST MEMPHIS, ARKANSAS:

SECTION 1. SHORT TITLE AND PURPOSE.

This Ordinance shall be known and may be cited as the "Sign Ordinance of the City of West Memphis, Arkansas". The purposes of these regulations are: to encourage the effective and safe use of signs as means of communication in the City; to preserve and enhance the aesthetic environment and the City's ability to attract sources of economic development and growth; to preserve and improve pedestrian and traffic safety; to eliminate visual clutter and to minimize possible adverse effects of signs on nearby public and private property and to enhance and enable the fair and consistent enforcement of these sign regulations. This sign ordinance is adopted pursuant to the zoning authority of the City and is also in furtherance of both the more general purposes set forth in the zoning ordinance and the more specific purposes as are set forth herein.

APPLICABILITY-EFFECT. Any sign may be erected, placed, established, painted, created, or maintained in the City only in conformance with the standards, procedures, exemptions, and other requirements of this Ordinance.

To establish a permit system to allow a variety of types of signs to commercial and industrial zones, and a limited variety of signs in other zones, subject to the standards and the permit procedures of this Ordinance;

To allow certain signs that are small, unobtrusive, and incidental to the principle use of the respective lots on which they are located, subject to the substantive requirements of this Ordinance, but without requirement for permits;

To prohibit all signs not permitted by this Ordinance; and

To provide for the enforcement of the provisions of this Ordinance.

SECTION 2. DEFINITIONS.

For the purpose of this Ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein:

- A. **Area Identification Sign.** A sign to identify a common area containing a group of structures, or a single structure on a minimum site of five (5) acres, such as a residential subdivision, apartment complex, industrial park, mobile home park, or shopping center, located at the entrance or entrances of the area, and consisting of a fence or wall or archway with letters or symbols affixed thereto.
- B. **Banner.** Any sign printed or displayed upon cloth or other flexible material, without frames.
- C. **Beacon.** A stationary or revolving light which flashes or projects illumination, single color or multicolored, in any manner which is intended to attract or divert attention; except, however, this term is not intended to include any kind of lighting device which is required or necessary under the safety regulations described by the Federal Aviation Agency or similar agencies.
- D. **Building Marker.** Any sign indication the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.
- E. **Bulletin Board.** A sign portraying a non-commercial message for the purpose of announcing an event to be held on the same premises upon which the sign is placed.
- F. **Commercial Message.** Any sign wording, logo, or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service or other commercial activity.
- G. **Controlled Access Highway.** Any state or federal numbered highway, including and interstate highway, within the City of West Memphis, Arkansas.
- H. **Display Surface Area.** The net geometric area enclosed by the display surface of the sign including the outer extremities of all letters, characters and delineations; provided, however, "display surface area" shall not include the structural supports for free standing signs; provided further, that only one face of a double-faced sign as defined shall be considered in determining the display surface area.

- I. District or Zoning District. A section or sections of the incorporated area of the city for which the then effective zoning ordinance governing the use of buildings and land are uniform for each class of use permitted therein. References to individual zoning districts contained herein shall refer to the zoning districts established by the City Council in Ordinance Number 1988 of the City of West Memphis, Arkansas.
- J. Election Campaign Sign. A sign representing or portraying the name and/or picture of an individual person who is a candidate for election to public office or containing a reference to an issue in an upcoming election such as "vote no on amendment 2."
- K. Erect. To build, construct, attach, hang, place, suspend, or affix, and shall also include the painting of wall signs.
- L. Flashing Sign. An illuminated sign on which artificial or reflected light is not maintained stationary and constant in intensity and color at all times when in use.
- M. Free Standing Sign. A sign which is attached to or a part of a completely self-supporting structure. The supporting structure shall be set firmly in or below the ground surface and shall not be attached to any building or any other structure whether portable or stationary.
- N. Identification sign. A sign which serves as an identification for a person or business operating on the premises where the sign is located. Such sign may name the person, organization or business but shall not portray any other commercial or non-commercial message.
- O. Illuminated, Direct. Illumination which is so arranged that the light is directed into the eyes of the viewer from the light source.
- P. Illuminated, Indirect. Illumination so arranged that the light is reflected from the sign to the eyes of the viewer.
- Q. Illuminated Sign. Any sign which has characters, letters, figures, designs or outline illuminated by electric lights or luminous tubes as a part of the sign proper.
- R. Incidental Sign. A sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located such as "no parking", "entrance", "loading only", telephone", and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental.

- S. Joint Identification Sign. A sign which serves as common or collective identification for a group of persons or businesses operating on the same zone lot (e.g., shopping center, office complex, etc.) and shall include a sign which identifies architects, engineers, contractors and other individuals or firms involved with the construction on the premises. Such sign may name the persons, organizations or businesses included but shall not portray any other commercial or non-commercial message.
- T. Lease. An agreement by which a property owner conveys, usually for a specified rent, to other persons, permission to erect and maintain an advertising sign upon his property.
- U. Lot. A parcel of land under on ownership whether described by metes and bounds or as a platted lot.
- V. Mall. Any concentration of retail stores and/or service establishments which share customer parking areas and are located within an enclosure having public walkways whereby a customer in one (1) store or establishment may walk to another store or establishment without leaving the enclosure.
- W. Mansard Roof. Any roof that has an angle greater than forty-five (45) degrees and which derives part of its support from the building wall and is attached to, but not necessarily a part of, a low slope roof and which extends along the full length of the front building wall or three-quarters of the length of a side building wall. For purposes of this ordinance, a low slope roof shall mean any roof with a pitch less than three (3) inches rise per twelve (12) inches horizontal.
- X. Non-commercial Message. Any sign wording, logo, or other representation that does not, directly or indirectly, name, advertise, or call attention to a business, product, service or other commercial activity. Non-commercial signs include but are not limited to: signs expressing political or religious views; signs of nonprofit organizations related to their tax-exempt purposes.
- Y. Nonconforming Sign. A sign existing at the effective date of the adoption of this ordinance which could not be built under the terms of this ordinance.
- Z. Person. "Person" shall mean and include any person, firm, partnership, association, corporation, company or organization, of any kind.

- AA. Portable Signs. Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported, by means of wheels; signs converted to A - or T - frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used primarily in the normal day-to-day transportation operations of the business.
- BB. Projecting Sign. Any sign that shall be affixed at an angle or perpendicular to the wall of any building in such a manner to read perpendicular or at an angle to the wall on which it is mounted.
- CC. Public Sign. A sign erected by or on behalf of a governmental body to post a legal notice, identify public property, convey public information or to direct or regulate pedestrian or vehicular traffic.
- DD. Residential Sign. Any sign located in a district zoned for residential uses that contains no commercial message except such sign may contain a representation advertising the sale or lease of the residential premises.
- EE. Roof Sign. Any sign wholly erected, constructed or maintained on the roof structure or parapet wall of any building.
- FF. Sign. The term "sign" shall mean and include every device, frame, letter, figure, character, mark, plane, point, design, picture, stroke, stripe, trademark, or reading matter, which is used or intended to be used to attract attention or convey information when the same is placed out of doors in view of the general public; in addition, any of the above which is not placed out of doors, but which is illuminated with artificial or reflected light not maintained stationary and constant in intensity and color at all times when in use shall be considered a sign within the meaning of this ordinance, when placed near the inside surface of a window in such a way as to be in view of the general public and used or intended to be used to attract attention or convey information to motorists. For the purpose of determining number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner, without organized relationship of elements, or where there is a reasonable doubt as to the relationship of elements, each element shall be considered to be a single sign.

- GG. Shopping Center. Two (2) or more retail stores and/or service establishments, or one retail store and one service establishment, sharing customer parking areas, regardless of whether said stores and/or establishments occupy separate structures or are under separate ownership.
- HH. Spot Light Illumination. "Spot light illumination" shall mean illumination which comes from lamps, lenses or devices designed to focus or concentrate the light rays of the source.
- II. Temporary Sign. Any sign that is used only temporally and not for a period exceeding ten (10) days and which is not permanently mounted.
- JJ. Wall Sign. Any sign that shall be affixed parallel to the wall or printed on the wall of any building in such a manner as to read parallel to the wall on which it is mounted; provided, however, said wall sign shall not project above the top of the wall or beyond the end of the building. For the purpose of this ordinance, any sign display surface that is affixed flat against the sloping surface of a mansard roof shall be considered a wall sign. Any sign that is affixed to the face of a building marquee, building awning, or a building canopy shall be considered a wall sign.
- KK. Building. A permanent structure on a permanent foundation with water, electric and sewer connection.

SECTION 3. SIGN PERMITS GENERALLY.

- A. Generally. It shall be unlawful for any person to erect, repair, alter, relocate or keep within the City of West Memphis, Arkansas, any sign or other advertising structure as defined in this ordinance, except as exempted under Section 5 or Section 6 or Section 6.1, without first obtaining a sign permit from the Code Enforcement Officer and payment of the fee as required by this section. All illuminated signs shall, in addition, be subject to the provisions of the electrical code, and the permit fees required thereunder.
- B. Application for initial sign permit. Application for initial sign permits shall be made upon blanks provided by the Code Enforcement Officer and shall contain or have attached thereto the following information.
 - (1) Name, address and telephone number of the applicant.
 - (2) Location of building, structure, or lot to which or upon which the sign or other advertising structure is to be attached or erected.

- (3) Position of the sign or other advertising structure in relation to nearby buildings or structures.
 - (4) Two (2) blueprints or ink drawings of the plans and specifications and method of construction and attachment to the building or in the ground.
 - (5) Name of person, firm, corporation or association erecting structure.
 - (6) Written consent of the owner of the building, structure or land to which or on which the structure is to be erected.
 - (7) Any electrical permit required and issued for said sign. Application requesting electrical permit for proposed sign must accompany sign application.
 - (8) Such other information as the code enforcement officer shall require to show full compliance with city ordinance.
- C. Sign Permit Fees. Every applicant, before being granted a permit hereunder, shall pay to the Code Enforcement Officer's office the following permit fee for each sign or other advertising structure regulated by this ordinance:
- (1) Permit fee of ten dollars (\$10.00) plus ten cents (\$0.10) per square foot of the sign face.
- D. Issuance of Sign Permit. It shall be the duty of the Code Enforcement Officer, upon the filing of an application for an erection permit, to examine such plans and specifications and other data and the premises upon which it is proposed to erect the sign or other advertising structure, and if it shall appear that the proposed structure is in compliance with all the requirements of this ordinance and all other laws and ordinances of the City of West Memphis, Arkansas, he/she shall then issue the erection permit. If the work authorized under an erection permit has not been completed within six (6) months after date of issuance, the said permit shall become null and void.
- E. Sign Permit Revocable. All rights and privileges acquired under the provisions of this ordinance or any amendment thereto, are mere licenses revocable at any time by the City Council of the City of West Memphis, Arkansas, and all such permits shall contain this provision.

SECTION 4. SIGN MAINTENANCE.

- A. Sign Identification. Every sign or other advertising structure hereafter registered shall show in a conspicuous place thereon which is visible to the inspector and is readable by the inspector from the ground, the permit number.
- B. Premises Maintenance. All free standing signs and the premises surrounding the same shall be maintained by the owner thereof in a clean, sanitary condition, free and clear of rubbish and weeds
- C. Design, Construction Maintenance. All signs shall be designed, constructed and maintained in accordance with the following standards:
 - (1) All signs shall comply with applicable provisions of the Building Code and the Electrical Code of the City at all times.
 - (2) Except for banners conforming in all respects with the requirements of this Ordinance, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building or another structure by direct attachment to a rigid wall, frame or structure.
 - (3) All signs shall be continuously maintained in good structural condition in compliance with building and electrical codes and in conformance with this sign code at all times.

SECTION 5. NONCONFORMING SIGNS.

- A. Nonconforming Signs. For the purpose of this section, a nonconforming sign shall be defined as a sign existing at the effective date of this ordinance which could not be built under the terms of this ordinance. Where a lawful sign exists at the effective date of adoption or amendment of this ordinance that could no be built under the terms of these regulations, such sign may be continued so long as it remains otherwise lawful, subject to the following provisions:
 - (1) No nonconforming sign may be enlarged or altered in a way which would increase its nonconformity.
 - (2) Should any nonconforming sign be damaged by any means to an extent of more than fifty (50) percent of its replacement cost at time of damage, it shall not be reconstructed except in conformity with the provisions of this ordinance.

- (3) A sign that was constructed, painted, installed, or maintained in conformance with a permit under this ordinance, but for which the permit has lapsed or has not been renewed or for which the time allowed for the continuance of a nonconforming sign has expired, shall forthwith be removed without notice or action from the City.

SECTION 6. EXEMPTIONS.

The exemptions granted in this section are from the requirement of a sign permit only and do not relieve the owner from the responsibility of compliance with all other provisions of this Ordinance. The exemptions are contingent upon the standards set forth for each such exempt sign. No permit shall be required for the erection of the following signs:

- A. Identification signs and Joint Identification signs erected flat on the wall of a building and not exceeding four (4) square feet of display surface area.
- B. One Joint Identification sign which identifies architects, engineers, contractors and/or other individuals or firms involved with construction on the premises and having a maximum display surface area of eight (8) square feet or less for premises in R Zoning Districts and thirty-two (32) square feet or less in all other Zoning Districts.
- C. One Residential sign provided the same is unanimated, nonilluminated and has a maximum display surface area of eight (8) square feet or less.
- D. Incidental signs not exceeding four (4) square feet of display surface area.
- E. Building Markers.
- F. The posting of bills on signs, repainting of signs, or the changing of letters or numbers on signs designed for changeable lettering or numbering.
- G. Election Campaign Signs. The City council hereby finds that the citizens of the City have a compelling community of interest in the furtherance of the democratic process and the support of free elections with widespread participation of both candidates and voters in that process as well as in the importance of an electorate informed as to their choice among candidates. Therefore, election campaign signs are exempt from the requirement of a permit and are allowed to be placed on private property in any district subject to the following conditions:

- (1) In districts where signs are not otherwise permitted, and election

campaign sign may be erected but shall be removed within seventy-two (72) hours following the final election to which it applies; the owner of the property on which said sign is placed shall be responsible for its removal. In these districts, such signs must be set back no less than fifteen (15) feet from the edge of the street pavement.

- (2) In districts where signs are otherwise permitted, election campaign signs shall meet those requirements and in addition shall be removed within seventy-two (72) hours after the final election to which it applies; the owner of the property on which said sign is placed shall be responsible for its removal.

- H. Banners shall be exempt when they are firmly affixed, at all four corners, to the side of the building and do not exceed allowable wall signage, in regards to display surface area , or when used to announce a specific event providing they are not placed more than ten (10) days prior to and removed within seventy-two (72) hours following said event.¹

- I. All signs located within a building that are not visible to the public outside said building.

- J. Signs painted on or affixed to glass surfaces of windows, or doors of buildings and pertaining to the lawful business of the persons located therein.

- K. Subdivision signs. In any district one (1) temporary subdivision sign identifying the name of said subdivision is allowed provided that it may be illuminated only indirectly; it shall not exceed fifty (50) square feet in display surface area. In no event shall such sign remain more than six (6) months where it is within fifty (50) feet of an occupied dwelling in an R Zoning District.

- L. A freestanding bulletin board shall be set back a minimum of fifteen (15) feet from street right-of-way; and any bulletin board having a display surface area in excess of ten (10) square feet shall be set back from the street right-of-way an additional one (1) foot for each two (2) square feet of display surface area in excess of ten 2.(10) square feet not to exceed seventy-five (75) square feet of total display surface area.

- M. Fuel price informational signs. In any district, signs advertising the price of motor vehicle fuel sold from a fuel pump located on the premise sshall permitted, Subject to the following conditions:

¹
(Section 6; paragraph H; amended, Ord. 2012, 11/15/2001)

- (1) Only one (1) fuel price informational sign shall be permitted per fuel pump.
- (2) Fuel price informational signs shall be limited in size to an a area of two hundred sixteen (216) square inches.
- (3) Each fuel price informational sign shall be affixed directly and firmly to a fuel pump and shall be stationary.
- (4) Nothing herein shall be construed to prohibit the advertisement of fuel prices on any other sign meeting the requirements of this Ordinance.

SECTION 6.1. EXEMPTIONS FOR PUBLIC SIGNS.

Public signs are exempt from all the requirements of this Ordinance.

SECTION 7. GENERAL REGULATIONS.

A. Removal of certain signs. In the event a person, business, or organization ceases operation for a period of time in excess of sixty (60) days, the sign owner or lessee, or the property owner, shall immediately remove any sign identifying or advertising said person, business, or organization or any product sold thereby; provided, however, this requirement shall not apply where under the provisions of this ordinance an existing conforming sign may be altered to advertise a new person, business, or organization, and there is evidence that a new person, business, or organization will be in operation on the premises within sixty (60) days. Upon failure of the sign owner or lessee, or the property owner, to comply with this section, the Code Enforcement Officer shall issue a written notice to the sign owner or lessee, or property owner, fails to comply with such written notice to remove, the Code Enforcement Officer is hereby authorized to cause removal of such sign, and any expense incidental to such removal shall be charged to the owner of the property upon which their sign is located and shall constitute a lien upon the property. For the purpose of this section, the word "remove" shall mean:

- (1) The sign face, along with post, columns, or supports of freestanding signs, shall be taken down and removed from the property.
- (2) The sign face and supporting structures of "projecting", "roof" or "wall" signs shall be taken down and removed from the property.
- (3) The sign face of "painted wall signs" shall be removed by painting over

the wall sign in such a manner as to completely cover up and hide from sight the sign in question.

B. Signs not to constitute traffic hazard. No sign as regulated by this ordinance shall be erected or continued to be displayed at the intersection of any street in such a manner as to obstruct free and clear vision; or at any location where, by reason of the position, shape, or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device; or which makes use of the words, "STOP", "LOOK", "DRIVE-IN", "DANGER", or any other word, phrase, symbol or character in such a manner as to interfere with, mislead, or confuse traffic.

C. Placing signs on public and private property.

(1) No signs shall be allowed on public property except for the following:

Permanent signs including:

- * Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic;
- * Bus stop signs erected by a public transit company that contain no commercial message;
- * Informational signs of a public utility regarding its poles, lines, pipes, or facilities.

Temporary signs including :

Temporary signs for which a permit has been issued in accordance with this Ordinance which shall be issued only for signs meeting the following requirements:

- * Such signs shall contain no commercial message; and
- * Such signs shall be no more than six (6) square feet in area.

Emergency signs including:

Emergency warning signs erected by a governmental agency, a public utility company, or a contractor doing authorized or permitted work within the public right-of-way.

(2) Placing signs on private property. No signs shall be placed on any private

property without the consent of the owner thereof;

- (3) Placing signs on trees or rocks. No signs shall be placed or painted on any tree or rock.
 - (4) Placing signs on utility poles. No sign shall be placed on any utility pole except for utility identification or similar purposes.
- D. Sign illumination. Direct illumination by incandescent light bulbs shall be restricted to light bulbs rated at twenty-five (25) watts or less.
- E. Spot lights and beacons prohibited. It shall be unlawful for any person to continue in operation or erect any attraction device or sign which contains a beacon of any type and/or contains a spot light providing direct illumination to the public.
- F. Fluctuating illumination prohibited. It shall be unlawful for any person to erect additional attraction devices or signs or an attraction device or sign which flashes, blinks, or is animated. Illumination of attraction devices or signs located in the city that fluctuates in light intensity shall be prohibited.
- G. Portable signs. It shall be unlawful for any person to continue to display or erect any portable sign in the City.
- H. Use of vehicle as sign. It shall be unlawful to use a vehicle or a trailer as a sign in circumvention of this ordinance.
- I. Revolving, rotating, or moving signs prohibited. It shall be unlawful for any person to erect any sign the exterior of which revolves, rotates or otherwise moves in whole, or in part.

SECTION 8. ROOF SIGNS.

Roof signs shall not be permitted except on appeal to the Design Review Commission. The Design Review Commission may grant a variance allowing a roof sign only in those cases where the applicant demonstrates extreme hardship in utilizing another type of sign that is permitted under this Ordinance for placement on its property. In determining whether extreme hardship exists, the Commission shall consider the relative economic costs to the applicant of a roof sign compared to the costs of other allowable signs; the lack of effectiveness as a means of communication of other allowable signs compared to the roof sign; the proposed size, lighting and type of materials to be used in the roof sign and whether the variance if granted will be in keeping with the purpose and spirit of this Ordinance.

SECTION 9. FREESTANDING SIGNS.

It shall be unlawful to erect any freestanding sign which total height is greater than thirty (30) feet above the level of the street upon which the sign faces. For any sign located closer to the street right-of-way than forty (40) feet the maximum height shall be reduced one-half foot for each foot of set back less than forty (40) feet. Freestanding signs shall be permitted to be erected in the city subject to the following:

A. R and O Districts: Freestanding signs shall be prohibited and no freestanding signs shall be erected in any R or O district of the City ; provided, one (1) freestanding bulletin board per lot shall be permitted, subject to the restrictions on bulletin boards prescribed by Section 6 (L) of this Ordinance ; provided further, one (1) freestanding sign shall be permitted on a lot or parcel zoned O-1, subject to the following restrictions:

- (1) The maximum display surface area shall not exceed four (4) square feet;
- (2) {Reserved.}
- (3) The sign shall be set back a minimum of fifteen (15) feet from street right-of-way;
- (4) The height of the sign shall not be greater than six (6) feet above the level of the street upon which the sign faces;
- (5) The sign shall be set back a minimum of twenty-five (25) feet from the boundary of any R District;
- (6) The sign shall be erected a minimum of ten (10) feet from adjoining property;
- (7) The sign may be illuminated by indirect illumination only;

B. C Districts:

- (1) Only one (1) freestanding sign shall be permitted on a lot with a building, at a shopping center or a mall.
- (2) {Reserved.}
- (3) Freestanding signs shall be subject to the following:
 - (a) Display Surface Area.

- (1) Display surface area shall not exceed ten (10) square feet;
 - (2) Notwithstanding the restriction set forth in the previous subparagraph, the display surface area may be increased two (2) square feet for each one (1) foot the sign is set back from the street right-of-way beyond fifteen (15) feet;
 - (3) Notwithstanding the restrictions set forth in the previous two subparagraphs, a freestanding sign which is set back from street right-of-way forty (40) feet or more may have a maximum display surface area of seventy-five (75) square feet;
 - (4) Notwithstanding the restrictions set forth in the previous three subparagraphs, a freestanding sign located on property which abuts a controlled access highway and which is set back from street right-of-way fifteen (15) feet or more may have a maximum display surface area of seventy-five (75) square feet.
 - (5) Special provisions for signs on property abutting a Interstate Highway. The City Council hereby finds that the traffic on the Interstate Highways through West Memphis, Arkansas, is significant and is essential to efficient transportation and healthy commerce in the city; that sign height and size for signs along such Interstate Highways should be increased as an aid to motorist and also in the interest of traffic safety on such highways. Therefore, notwithstanding the provisions of the previous four subparagraphs, and notwithstanding the height limitation of the first paragraph of this Section, a freestanding sign located on property with a building which abuts an Interstate Highway and which is located within eight hundred (800) feet of the nearest main travel lane on such Highway and which is set back from street right-of-way fifteen (15) feet or more may have a maximum height of eighty (80) feet and a display surface area of two hundred (200) feet. such sign may have an additional display surface area of fifty (50) square feet for each three hundred (300) square feet of gross floor area contained in the principal building located on the same property up to a maximum additional display surface area of two hundred (200) square feet where the gross floor area of such principal building is twelve hundred (1,200) square feet or more.
- (b) May be erected a minimum of one (1) foot from adjoining property; provided, said signs must be set back at least twenty-five (25) feet from the boundary of any R or O District.

- (c) Shall be set back a minimum of fifteen (15) feet from street right-of-way.

C. I Districts:

- (1) Only one freestanding sign shall be permitted on a lot with a building.
- (2) Freestanding signs shall be subject to the following:
 - (a) Display Surface Area.
 - (1) Display surface area shall not exceed ten (10) square feet;
 - (2) Notwithstanding the restriction set forth in the previous subparagraph, the display surface area may be increased two (2) square feet for each one (1) foot the sign is set back from street right-of-way beyond fifteen (15) feet;
 - (3) Notwithstanding the restrictions set forth in the previous two subparagraphs, a freestanding sign which is set back from street right-of-way forty (40) feet or more may have a maximum display surface area of seventy-five (75) square feet;
 - (4) Notwithstanding the restrictions set forth in the previous three subparagraphs, a freestanding sign located on property which abuts a controlled access highway and which is set back from street right-of-way fifteen (15) feet or more may have a maximum display surface area of seventy-five (75) square feet.
 - (5) Special provisions for signs on property abutting an Interstate Highway. The City Council hereby finds that the traffic on the Interstate Highways through West Memphis, Arkansas, is significant and is essential to efficient transportation and healthy commerce in the City; that sign height and size for signs along such Interstate Highways should be increased as an aid to motorists and also in the interest of traffic safety on such highways. Therefore, notwithstanding the provisions of the previous four subparagraphs, and notwithstanding the height limitation of the first paragraph of this Section, a freestanding sign located on property with a building which abuts an Interstate Highway and which is located within eight hundred (800) feet of the nearest main travel lane on such Highway and which is set back from street right-of-way fifteen (15) feet or more may have a maximum height of eighty (80) feet and a display surface area of two hundred (200) square feet. Such sign may have an additional display surface area of fifty (50) square feet for each three hundred (300) square feet of gross floor area contained in the principal building located

on the same property up to a maximum additional display surface area of two hundred (200) square feet where the gross floor area of such principal building is twelve hundred (1,200) square feet or more.

- (b) May be erected a minimum of one (1) foot from adjoining property; provided, said signs must be set back at least twenty-five (25) feet from the boundary of any R or O District.

SECTION 10. PROJECTING SIGNS.

- A. It shall be unlawful to erect any projecting sign that projects from the wall of a building upon which it is erected a distance of more than two-thirds of the width of the sidewalk (in those instances where there is a sidewalk next to the building) or within two (2) feet of street right-of-way (in those instances where there is no sidewalk next to the building); provided, no projecting sign shall project more than six (6) feet from the wall of the building upon which it is erected.
- B. Projecting signs shall be located on the vertical surface of a building and shall not be higher than the eave or rafter line, whichever is higher. Projecting signs shall clear grade level below the sign by a minimum of eight (8) feet.
- C. The display surface area of a projecting sign shall not exceed sixteen (16) square feet. Only one projecting sign per building shall be permitted and a projecting sign shall not be permitted on property which has a freestanding sign.

SECTION 11. WALL SIGNS.

- A. Wall signs shall not project more than eighteen (18) inches from the surface upon which they are mounted; provided, the upper edge of a wall sign mounted on a mansard roof may project more than eighteen (18) inches, except banners which must be displayed in accordance with Section 6, Paragraph H, so long as the sign is perpendicular to the ground. The display surface area of all wall signs on any one wall shall not exceed one hundred fifty (150) square feet or twenty (20) percent of the area of the wall on which they are located, whichever is greater; provided, in the event a building which houses multiple tenants does not front on the street or highway from which principal access to the building is obtained, the display surface area of each sign on a wall shall not exceed one hundred fifty (150) square feet or twenty (20) percent of the area of the wall and the display surface area of all wall signs on the wall facing said street or highway shall not exceed the area of the wall.²

²
(Section 11; paragraph A; amended, Ord. 2012, 11/15/2001)

- B. In O Zoning districts, only one (1) wall sign for each business, person or organization located on the property, with a maximum of four (4) signs per building. Display surface area of such signs shall not exceed sixteen (16) square feet.

SECTION 11.2. DESIGN REVIEW COMMISSION.

- A. The word "commission" when used in this section shall be construed to mean the Design Review commission.
- B. Interest in sign. Any member of the commission who shall have direct or indirect interest in any sign or in any decision relating to such sign, which shall be the subject matter of, or affected by, a decision of the commission, shall be disqualified from participating in the discussion, decision or proceeding of the commission in connection therewith.
- C. Appeals. An appeal stays all proceeding in furtherance of the action appealed from, unless the Code Enforcement Officer certifies to the commission after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order granted by the commission, or by a court of record on application, on notice to the Code Enforcement Officer and on due cause shown. The commission shall fix a reasonable time for the hearing of the appeal, give seven (7) days' public notice thereof by publication in a newspaper of general circulation in the city, give due notice to parties in interest, and decide the appeal within a reasonable time. At the hearing, any party may appear in person or by agent or by attorney.
- D. Jurisdiction. The commission shall have the following powers and it shall be its duty:
 - (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or interpretation made in the enforcement of this Ordinance.

- (2) To here requests for variances from the provisions of this ordinance for the erection of a new sign in cases where strict compliance with this Ordinance would cause extreme hardship due to the circumstances unique to the property and the individual sign under consideration. The Commission may grant such variance only when it is demonstrated that such action is necessary and the only way possible to reduce the extreme hardship exists, the Commission shall consider the relative economic cost to the applicant if the variance is granted compared to such cost if it is not; the lack of effectiveness as a means of communication of signs allowed on such variance is requested; the proposed size, lighting and type of materials to be used in the proposed sign; whether the proposed variance can be made subject to such conditions as would address the concerns of City staff and adjacent property owners and whether the variance, if granted, will be in keeping with the purpose and spirit of this Ordinance.
- a. Reserved.
 - b. The commission may impose reasonable conditions in the granting of a variance to insure compliance and to protect adjacent property. A violation of such conditions shall constitute a violation of this ordinance.
 - c. In exercising the above mentioned powers, the commission may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision, or interpretation as ought to be made.
 - d. The concurring vote of a majority of the full commission shall be necessary to reverse any order, requirement, decision or determination of the Code Enforcement Officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in this ordinance.
 - e. Any variance granted by the commission shall automatically be revoked, if the applicant does not comply with the terms of the variance within thirty (30) days from the granting thereof; and, the applicant shall be required to comply with the literal provisions of this ordinance.

SECTION 12. SEPARABILITY.

Should any section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 13. PENALTIES.

- A. Violation of the provisions of this ordinance or failure to comply with any of its requirements shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000.00). Each day such violation continues shall be considered a separate offense.
- B. The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, or maintains such violation may be found guilty of a separate offense and suffer the penalties herein provided.
- C. If the Code Enforcement Officer finds that any sign regulated herein has been constructed or erected or is being maintained in violation of the provisions of this ordinance, he shall give written notice to the permittee or the owner of the property where the sign is located. If the permittee or the owner fails to remove or alter the sign so as to comply with the standards herein set forth within a reasonable time specified in such notice, such sign may be removed or altered to comply by the Code Enforcement Officer. Any expense incidental to such removal or alteration shall be charged to the owner of the property upon which the sign is located and shall constitute a lien upon the property. Further, the Code Enforcement Officer may cause any sign which is an immediate peril to persons or property to be removed summarily without notice. In determining whether an immediate peril exists, the Code Enforcement Officer shall consider whether a person may be injured or whether the time in which the same might be removed pursuant to written notice. Such signs are hereby declared to be a public nuisance. When any sign is removed summarily without notice, the owner or lessee thereof shall have the right to a post-seizure administrative hearing to determine whether there was probable cause to remove the sign. Said administrative hearing shall be governed by, and held in accordance with the procedure prescribed by the Design Review Commission of the City of West Memphis.

- D. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION 13. PROVISIONS DECLARED TO BE MINIMUM REQUIREMENTS.

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety and general welfare. Wherever the requirements of this ordinance are at variance with the requirements of any other ordinances, the highest and most restrictive standard shall apply.

SECTION 14. REPEALING CLAUSE.

Ordinance 1313 of the City of West Memphis and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 15. EMERGENCY CLAUSE.

It is hereby found by the City Council of the City of West Memphis, Arkansas that there is Therefore, an emergency is declared to exist, and this ordinance being necessary for the preservation and advancement of the public peace, health, safety and welfare, shall be in full force and effect from and after the date of its passage and approval.

PASSED AND APPROVED THIS _____ DAY OF _____, 2001.

WILLIAM H. JOHNSON, MAYOR

ATTEST:

PHILLIP PARA, CITY CLERK

SPONSORED BY: