

# Sign Ordinance

City of Victoria

Revised: April 19, 2011

## **Sec. 5-146. Intent and Purpose.**

It is the intent of this article to provide comprehensive regulation of signs, including the erection, alteration, and maintenance of all types of billboards, signs, bills and posters within the city limits, in order to protect and enhance the health, safety and welfare of the general public, and provide such comprehensive regulations in a manner which will be compatible with all applicable city ordinances. Further, it is the purpose of this article to provide uniform sign standards which promote a positive city image to maintain and enhance the aesthetic environment and the city's ability to attract sources of economic development and growth, thereby strengthening the stability of Victoria's business, cultural and residential areas.

## **Sec. 5-147. Objectives.**

Objectives to be pursued in applying specific sign standards are as follows:

- (1) To identify individual business, residential, and public use without creating confusion, unsightliness, or visual obscurity.
- (2) To assure that all signs are properly related to the overall adjacent land use, character and development lot size in terms of size, scale, height, and location.

## **Sec. 5-148. Scope.**

The provisions of this article shall apply to all signs, as that term is defined here within the city limits, except for the following:

- (1) Official government signs and notices.
- (2) National, state, and local government flags.
- (3) Scoreboards facing an athletic area.

## **Sec. 5-149. Definitions.**

The following definitions shall govern this article:

*Advertise:* Promoting, identifying, or calling attention to a business, product, service, or activity, through use of words, symbols, figures or similar means.

*Advertising vehicle:* Any vehicle or trailer has as its primary purpose the advertisement of a business, activity, product or service.

*Area:* The area of a sign face shall encompass the extreme limits of the writing, representation, emblem, color, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but

not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets these or other ordinances or regulations and is clearly incidental to the display itself.

*Banner sign:* A temporary sign other than a pennant which is made from reinforced vinyl, and usually hemmed and grommeted along the edges. Any such sign displayed behind glass and within a building shall be deemed a wall sign.

*Billboard/Off-premise sign:* A sign which directs attention to a business, product, service, or activity that is not offered, sold, or conducted on the lot upon which the sign is displayed.

*Canopy sign:* Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area.

*Clearance:* The smallest vertical distance between the ground or improvements underneath a sign and the lowest point of the sign, including framework and embellishments.

*Construction sign:* A sign identifying a business participating in construction on the property on which the sign is located.

*Development sign:* An off-premise sign that (1) identifies a residential development; (2) does not exceed 16 feet in height; (3) contains no more than 32 square feet of face size; and (4) may be externally lighted.

*Directional sign:* An on-premise sign giving directions, instructions, or facility information, such as parking or exit and entrance signs.

*Director:* The Director of Development Services of the City of Victoria, Texas or his/her designated representative, is the administrative official designated by the City Manager to administer the provisions of this Article.

*Downtown Business District:* The area of the City of Victoria bounded by and within Goodwin Street, William Street, Church Street, and Glass Street.

*Electrical sign:* A sign or sign structure which uses or incorporates electrical wiring, connections, lights or fixtures.

*Easement:* A grant of one (1) or more property rights by the property owner to and for the use of the public, a corporation or other persons, for a designated part of his property, and for a specified purpose.

*Electrical sign:* A sign or sign structure which uses or incorporates electrical wiring, connections, lights or fixtures.

*Electronic message sign:* A sign, the wording, symbols or figures of which automatically changes at least once every three seconds. Such sign shall be considered on-premise signs if no more than 50% of the total number of messages displayed on the sign relate to off-premise activities.

*Erect:* To construct, build, raise, assemble, emplace, affix, attach, create, paint, draw or in any other way bring into being or established.

*Face:* The entire advertising area of a sign excluding framing, trim, or supporting structure.

*Freestanding sign:* Any sign attached to or a part of a completely self-supporting structure that is permanently affixed to the ground.

*Financing sign:* A sign identifying a financial institution participating in development of the property on which it is located.

*Frontage:* The length of the property lines of a lot which abut public streets.

*Height:* The vertical distance between the highest part of the sign or its supporting structure, whichever is higher, and the average ground level beneath the sign.

*Lot:* A parcel of land legally defined as a lot on an approved subdivision plat of record, or a parcel of land defined by a legal record or survey map.

*Noncommercial sign:* A noncommercial sign that conveys a political, social, ideological, community service, or similar message.

*Occupancy:* The purpose for which a building, lot, sign, or structure is used or intended to be used.

*On-premise sign:* A sign which advertises a business, product, service, or activity offered, sold or conducted on the premises on which the sign is located.

*Pennant Sign:* Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a structure, rope, wire, or string, designed to move in the wind and attract attention to a business, product, service or activity.

*Portable sign:* Any sign not permanently affixed to the ground or to a building, which is designed to permit removal and reuse.

*Premises:* A parcel of land with its appurtenances and buildings, which is devoted to a particular land use.

*Primarily residential area:* An area of property along one side of a public street between two (2) adjacent intersecting public streets in which a majority of the total front footage is used for residential purposes.

*Projecting sign:* A sign, other than a flat wall sign, which is attached to and projects from a building wall or other structure not designed primarily to support the sign.

*Public street or right-of-way:* Shall mean the entire width between property lines of any road, street, way, alley, bridge, or other similar thoroughfare publicly maintained when any part thereof is open to the public for vehicular traffic.

*Realty sign:* Any temporary sign used to advertise a real estate development site or to advertise that real estate is for sale, rent or lease.

*Roof sign:* Any sign affixed to the roof of a building.

*Setback:* The horizontal distance between a sign and the front lot line, as measured from that part of the sign nearest to the front lot line.

*Sign:* Any object, device, display, or part thereof, visible from a public street, which is used to advertise a business, product, service, or activity.

*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 roof with an angle greater than 45 degrees shall be considered a wall sign.

### **Sec. 5-150: Inspections**

- (a) Location. A location inspection shall be conducted for each sign foundation prior to digging or drilling a foundation hole or pier. The location shall be shown by placing a stake at the proposed foundation hole or pier designating the center line of support pole or column. A stake shall be placed showing the sign cabinet's closest edge toward the street. In concrete or asphalt areas, in lieu of stakes, the previously stated requirements may be painted on the ground showing the proposed locations using a durable paint that can withstand weather and traffic.
- (b) Foundation. A foundation inspection shall be conducted for each sign foundation, hole or pier prior to placing/pouring concrete. Sign pole(s) shall be verifiable on location or in the ground in place prepared for concrete. Foundations requiring reinforcement (rebar) shall have reinforcement tied and suspended in place. Anchor bolts required in foundations shall be verifiable on location or tied in place by template. The foundation shall not be poured or permanently covered before the approval has been issued by the Development Services Department.
- (c) Electrical. New and rebuilt electrical services shall be inspected prior to permanent metered connection. New circuits from existing service panels shall be properly labeled and inspected during the final inspection. Wiring shall comply with the latest City of Victoria adopted National Electric Code.
- (d) Final. Final inspections shall be conducted on all signs after completion of signs with sign faces in place.

### **Sec. 5-151 General Provisions**

- (a) No sign, sign structure, or sign support shall be placed upon or project over any public property or right-of-way; provided, that a wall sign affixed to a building wall located upon a property line may project up to one foot across public property or right-of-way so long as it maintains a clearance of at least 8 feet.
- (b) No sign or its foundation shall be located in a public utility easement. Aerial encroachment of a public utility easement may be allowed with a minimum clearance of 14 feet. A minimum clearance of 18 feet shall be required if the area beneath the sign is subject to truck traffic.
- (c) No sign shall be erected, constructed, or maintained so as to obstruct any means of egress, or any opening necessary for required light, ventilation or fire-fighting or for escape from the premises, or as to prevent free passage from one part of a roof to any other part thereof.
- (d) No sign shall be attached to any exterior stairway, fire escape, fire tower balcony, fire wall, or balcony serving as a horizontal exit.

- (e) No sign shall be erected, constructed, or maintained so as to interfere with the fire operation of a counterbalanced section of a fire escape, and no projecting sign shall be erected, constructed or maintained without a minimum of 7 feet clearance over any such counterbalanced section.
- (f) No sign shall obstruct the free use of any window above the first story as a required means of egress to a fire escape.
- (g) All signs shall be constructed and erected so as to prevent the accumulation of rainwater in the sign.
- (h) The ground surface area under and adjacent to signs shall be kept clean of weeds, high grass, and rubbish.
- (i) Signs shall maintain clearances from telephone, cable television, and electric power lines in accordance with utility company standards.
- (j) Any electronic message center sign or electronic billboard sign shall be equipped with a photo cell or other programmable system that automatically adjusts the brightness of illuminated messages such that the contrast is appropriate for the ambient light conditions. Illumination intensity levels shall be automatically lessened for nighttime viewing within 30 minutes of dusk or dawn. Illumination intensities shall not interfere with or create sight obstruction for motorized or pedestrian traffic.
- (k) In the event that more than one sign-related definition applies to a proposed sign, resulting in conflicting regulations thereon, the sign applicant may choose the definition that is to apply, with the qualification that all regulations related to that definition must be adopted. Where the proposed sign is of a type that is prohibited, it shall remain prohibited notwithstanding that it may also come within the definition of an approved type of sign.
- (l) All signs shall meet applicable construction standards of the International Building Code and the National Electrical Code, as adopted by the city.
- (m) A noncommercial sign shall be allowed in any instance in which an on-premise or billboard sign is allowed within this article.
- (n) Upon satisfactory compliance with the conditions set out below as determined by the Director of Public Works, a business fronting on a city street affected by a city construction project may temporarily erect directional signs at locations approved by the Director of Public Works. Such conditions are as follows:
  - (1) Each business owner/representative requesting said signs must complete a permit application to be obtained at the Department of Public Works for the placement of said signs;
  - (2) The Director of Public Works will determine on a case by case basis if a business is affected by a city construction project;
  - (3) The Director of Public Works will provide to each business approved for a permit the necessary specifications including but not limited to the location for each sign;

- (4) Each business permitted for said signs will be allowed two (2) signs as specified in the Department of Public Works specification drawing;
  - (5) Each business permitted for said signs, must provide a current certificate of insurance in the amount of at least a combined single limit of \$500,000.00 covering any liability claim, whether personal injury or property damage, related to the placement of said signs and also must sign a statement on the permit application that the business owner will indemnify, defend and hold harmless the city and the city's contractor against all claims arising out of the placement of said signs;
  - (6) The Director of Public Works will have Public Works Department inspectors make the final inspection prior to permit approval and during the term of the permit; and
  - (7) The Director of Public Works will determine when said signs must be removed due to the business no longer being affected by a city construction project and will provide a least 5 days' written notice of such to the business.
- (o) The city board, commission, or official receiving an application for any permit, inspection, or appeal that is the subject of an application pursuant to this article shall issue or deny such permit, perform such inspection, or make a decision on such appeal within 30 days after a person has made an application for such permit, inspection, or appeal that meets the legal requirements of this article. Failure to act within 30 days of application shall constitute a denial of the applicant's request.

**Sec. 5-152. Prohibited Signs.**

(a) The following signs shall be prohibited:

- (1) Signs with flashing, blinking, or traveling lights, which are located within 100 feet of any street right-of-way, or within 1,000 feet of any street intersection, except for time and temperature or electronic message signs.
- (2) Banners, flags, pennants, streamers, searchlights, twirling signs, balloons or other inflatable objects, except as expressly provided in Section 5-156.
- (3) Sandwich or A-frame signs, sidewalk or curb signs.
- (4) Signs upon trees, rocks, bridges or utility poles, or signs utilizing such objects for all or part of their support
- (5) Portable signs.
- (6) Advertising vehicles.
- (7) Any sign that is attached, painted or supported to any fence, railing or wall that is not a structural part of a building except a sign that is commonly associated with safeguarding the use of the occupancy, including but not limited to "no trespassing, beware of dog, no soliciting."

**Sec. 5-153. On-Premise Signs.**

(a) Freestanding signs shall be subject to the following:

- (1) Only one freestanding sign shall be allowed on each lot which fronts only one public street. For lots fronting on more than one public street, one sign shall be allowed for each street, with each sign to be oriented towards a different street or street corner.
  - (2) The maximum cumulative area of freestanding signs shall not exceed one square foot for each linear foot of public street frontage.
    - 1. *Computation of Area of Individual Signs.* The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, color, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative face or wall when such face or wall otherwise meets these or other ordinances or regulations and is clearly incidental to the display itself.
    - 2. *Computation of Area of Multifaced Signs.* The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.
  - (3) The maximum height of freestanding on-premise signs fronting roadways that are not elevated shall be 35 feet. The maximum height of freestanding on-premise signs fronting roadways that are elevated shall not exceed a maximum height of 50 feet. A highway shall be considered elevated if any point on a line drawn from the sign perpendicularly across a roadway upon which the sign fronts is elevated more than five feet above the surface of the ground upon which sign is located.
  - (4) Such signs may rotate not more than 6 revolutions per minute.
  - (5) Such signs shall have a minimum setback of 10 feet from the property line to the closest point of sign structure.
  - (6) Freestanding signs shall maintain a minimum clearance of 10 feet if the area beneath is subject to pedestrian traffic. A minimum clearance of 18 feet is required if the area beneath is subject to truck traffic.
- (b) The combined area for all wall, roof, canopy, and projecting signs on a building shall not exceed 30% of the area of the front of the building.
  - (c) Directional signs not more than 3 feet in height and 3 feet in width may be placed within the setback required in (a) above and shall not be counted against allowed number or area of freestanding signs. No more than one directional sign may be placed next to each curb cut.
  - (d) Wall signs shall be subject to the following:
    - (1) Such signs shall not project more than two feet horizontally from the wall,

- (2) The maximum area of such signs shall not exceed 30% of the area of the wall on which such signs are mounted. In Multi-Tenant buildings on a single lot, the wall sign area allowed for each tenant space shall not exceed 30% of each tenant's wall area on which such signs are mounted.
- (e) Roof signs shall be subject to the following:
- (1) Such signs shall not project beyond any exterior wall of the building on which such signs are mounted.
  - (2) Such signs may rotate not more than 6 revolutions per minute.
  - (3) The maximum height of such signs shall be 15 feet above the building upon which such signs are mounted.
- (f) Canopy signs shall be subject to the following:
- (1) Such signs shall not extend beyond the sides of the canopy.
  - (2) One sign may be hung beneath a canopy, provided such sign maintains a minimum clearance of 8 feet.
- (g) Projecting signs shall maintain a minimum clearance of 8 feet.
- (h) Construction and realty signs shall be subject to the following:
- (1) Such signs shall be used only temporarily during relevant periods of development or listing. Such signs shall become abandoned signs upon occupancy of the premises. Realty signs, when anchored or mounted securely to the ground, shall not be considered to be portable signs.
  - (2) One construction sign up to 128 square feet, and one realty sign up to 32 square feet, may be used on a lot; provided that on corner lots, such allowable areas may be divided between two construction and two realty signs oriented towards different streets; and provided further that for lots with frontage exceeding 500 feet, one such realty sign may be used for each 500 feet of frontage.
  - (3) Within primarily residential areas, such signs shall be subject to the provisions of Section 5-155.

**Sec. 5-154. Billboards/ Off-Premise Signs.**

- (a) No billboards/off-premise signs shall be located:
- (1) Within 200 feet of any on-premise freestanding sign. This section shall not limit the subsequent construction of on-premise freestanding signs otherwise allowed by this code.
  - (2) Within 200 feet of any intersection controlled by a traffic control signal as measured from the closest point of the sign structure to the edge of the right-of-way.

- (3) Within 500 feet of any other billboard on the same side of a street other than a street designated as a “freeway” on the Master Thoroughfare plan.
- (4) Within 1,000 feet of any other billboard on the same side of a street designated as a “freeway” on the Master Thoroughfare plan.

In determining the distance specified in this subsection, the distance between billboards shall be measured along the right-of-way from the centerline of the supporting pole to the centerline of the other supporting pole, or nearest supporting pole if there is more than one.

- (b) Billboards shall have a maximum height of 25 feet, except that billboards within 100 feet of primary arterials and freeways shall have a maximum height of 35 feet. Billboards shall also maintain a minimum clearance of 7 feet.
- (c) The maximum area of billboards shall vary directly with the setback, in accordance with the following:

Area of Sign Face	Minimum Setback
Less than 200 square feet	15 feet
200—300 square feet	20 feet
More than 300 square feet	25 feet

Billboards shall have an absolute maximum area of 400 square feet.

- (d) Extensions shall be allowed provided such extensions do not exceed 25% of the width of the sign and 40 square feet of additional area. Extensions may extend no more than 4 feet above the top of the sign face or more than 3 feet beyond either end of the sign face. Extensions shall be braced to the structural support of the sign. Extensions shall not exceed the height limitations of subsection (b).
- (e) Billboards larger than 70 square feet in area shall be built on a steel frame, and mounted on a single steel pole.
- (f) Billboards may have a skirt or trim piece at the bottom of the sign. The skirt may extend the full width of the sign, but shall not exceed 36 inches in height. The skirt shall not be used for advertising purposes other than displaying the sign company’s name.
- (g) A location review permit is required and shall be approved before an application for a sign permit will be accepted. A plot plan describing the property and showing the location of the sign is required, along with a copy of the executed lease, deed or other contract for the property that shows the applicant for the sign permit has the right to place a sign on the property upon which the sign is to be placed.
- (h) No billboard shall be utilized until the final inspection has been approved and either a certificate of approval or certificate of occupancy has been issued.
- (i) Billboard permits will expire 6 months after issuance. If a billboard is constructed after such expiration, a new billboard permit must be obtained prior to such construction, and another billboard installation and inspection fee (but not a location review permit fee) must be paid.

- (j) Billboard owners shall notify the Director when a billboard is removed.

**Sec. 5-155. Primarily Residential Areas.**

- (a) With the exception of a Development Sign as defined above, no billboard shall be located:
  - (1) Within a primarily residential area;
  - (2) Less than 300 feet, measured along the same side of the street, from any lot within a primarily residential area;
  - (3) Less than 100 feet, measured on a radius, from any lot within a primarily residential area.
- (b) No signs, other than the following non-electrical on-premise signs, shall be located on a lot within a primarily residential area:
  - (1) One realty sign, displayed temporarily during periods of development or listing for sale, rent or lease; provided that banner or pennant signs may be used for such purpose for not more than three consecutive days.
  - (2) One construction sign and one financing sign, displayed temporarily during periods of development.
  - (3) One permanent advertising sign.
  - (4) All signs allowed herein, except banner or pennant signs, shall have a maximum area of 8 square feet and maximum height of 6 feet.

**Sec. 5-156. Banners and Flags.**

- (a) Light Pole Mounted Banners. Banners may be mounted on light poles within off-street parking, maneuvering and display areas, and shall comply with the following:
  - (1) Banners shall be mounted on a frame attached to a permanently affixed light pole.
  - (2) No more than two banners may be mounted on any one light pole.
  - (3) Banners shall maintain a minimum clearance of 8 feet from the ground to the bottom of the banner.
  - (4) Banners shall not exceed 3 feet in width or 8 feet in height.
  - (5) Banners shall not be faded, tattered or torn.
- (b) Sign Pre-installation Temporary Banner Permit. A holder of a valid permit to install a permanent sign that has been ordered and not yet installed may mount a sign pre-installation temporary banner on any structure or pole on the holder's property if said holder has received a Sign Pre-installation Temporary Banner Permit, subject to the following limitations:
  - (1) Upon written application for a Sign Pre-installation Temporary Banner Permit, payment of the required fee, the Director's approval of an executed copy of a valid contract for the

installation of a properly permitted, permanent sign, and compliance with all conditions provided in this subsection (b), the owner of a lot and each legal entity that holds a legal right to possession of a separate business on such lot shall be entitled to receive one Sign Pre-installation Temporary Banner Permit per calendar year.

- (2) The Director shall approve a contract for the installation of a properly permitted, permanent sign if it appears to the Director that the document is valid, and no evidence controverts the obligation of a third party to install the aforementioned permanent sign. The Sign Pre-installation Temporary Banner Permit applicant shall cooperate with such investigative activities as the director deems appropriate to verify the validity of the underlying sign, including, but not limited to, interviews, inspections, and document review by legal counsel, and failure to cooperate with such investigative activities shall be grounds for denial of the permit. The Director may require the applicant to present any proffered document with an affidavit affirming the document's validity.
  - (3) The duration of a Sign Pre-installation Temporary Banner Permit shall be 60 days, but shall be renewable for up to two additional 60-day periods if the Director determines that the sign's owner is diligently attempting to place or replace a sign on the premises.
  - (4) During the valid period of a Sign Pre-installation Temporary Banner Permit, a holder of such permit may install and maintain one sign pre-installation temporary banner on the property on which the holder's business is located.
- (c) Temporary Banner and Inflatables Permit. A holder of a valid Temporary Banner and Inflatables Permit may install one temporary banner and an unlimited number of inflatables on the lot of the business to which the permit applies, subject to the following limitations:
- (1) Upon written application for a Temporary Banner and Inflatables Permit, and with payment of the required fee, the Director shall issue a permit for a banner and/or inflatables to the owner of a lot, or to each legal entity that holds a legal right to possession of a separate business on such lot. For a business with multiple lots, the permit shall apply to the business on the lot and not each individual lot.
  - (2) The fee for each Temporary Banner and Inflatables Permit shall be set forth by Chapter 24, Fees.
  - (3) A Temporary Banner and Inflatables Permit shall be valid for the calendar month for which the permit is issued, and shall expire at the end of the last day of the calendar month for which it is issued.
  - (4) Any banner or inflatable that is installed prior to acquiring and posting the required permit, and any banner or inflatable that exceeds or varies from the allowable durations stated herein, will result in an investigation fee for each day investigated, plus the applicable permit fee for each month in violation. Investigation fees shall be set forth by Chapter 24, Fees.
  - (5) The Temporary Banner and Inflatables Permit shall be posed in the front window of the business or near the entrance, and be viewable from the street or parking lot. The permit holder is responsible for removing posted, expired permits.
  - (6) Banners and Inflatables shall not encroach any public right-of-way.

- (7) Banners and Inflatables shall not create a sight obstruction for vehicular or pedestrian traffic.
  - (8) Banners and Inflatables shall not be attached to any public or franchised utility pole, support wire or tree.
  - (9) Banners and Inflatables shall not become torn, tattered or faded, and shall remain securely fastened.
- (d) Pennants and Streamers Permit. A holder of a valid Pennants and Streamers Permit may erect pennants and streamers on the lot to which said permit applies, subject to the following limitations:
- (1) Upon written application for a Pennants and Streamers Permit and payment of the required fee, the Director shall issue up to two Pennants and Streamers Permits per calendar year to the owner of a lot or to each legal entity that holds a legal right to possession of a separate business on such lot.
  - (2) The duration of a Pennants and Streamers Permit shall be 180 days. It shall be unlawful to maintain a pennant or streamer at any time during which the Pennants and Streamers Permit is not effective.
- (e) Banner Signs Extending Across Streets. Banner signs extending across a street shall advertise only civic and nonprofit activities, and shall be allowed only with the written permission of the Director of Public Works.
- (f) Advertising Flags. One advertising flag shall be allowed on each lot, provided that if the area of such flag exceeds 40 square feet, then such area shall be included against maximum combined sign area.

**Sec. 5-157. Downtown Business District Requirements.**

The following requirements shall apply in the Downtown Business District. If any of the requirements of this section conflict with any other part of this article, the requirements of this section shall control to the extent of such conflict.

- (a) Canopy Signs over Public Right of Way
- (1) One canopy sign may be hung beneath a canopy for each business, provided a minimum clearance of 8 feet is maintained from the bottom of the sign and the ground.
  - (2) Canopy signs mounted perpendicular to the building face may not exceed 2/3 the width of the canopy.
  - (3) Canopy signs mounted parallel to the building face may not exceed 2/3 the length of the canopy.
  - (4) Canopy signs shall not extend beyond the sides of the canopy.
  - (5) No canopy sign shall be installed within 10 feet of any other canopy sign.

(b) Projecting Signs over Public Right of Way

- (1) One projecting sign may be installed over public right of way on each face (wall) of a building.
- (2) A projecting sign shall not extend more than three feet into the public right of way from the building face (wall) to which it is attached and shall not exceed 12 square feet in area.
- (3) Projecting signs in a public right of way may not extend vertically above the window sill of a second story.
- (4) A projecting sign in the public right of way shall maintain a minimum clearance of 8 feet from the bottom of the sign and the ground.

(c) Wall Signs

- (1) Wall signs are permitted for each building with a maximum total sign area of 1½ square feet for each linear foot of building frontage.
- (2) No wall sign shall project above the roof line of a building to which it is attached.
- (3) Wall signs shall be erected parallel to and extend not more than 12 inches outward from the façade of any building to which it is attached.

**Sec. 5-158. Miscellaneous.**

- (a) A sign that was lawfully in place on January 1, 2004 shall be considered a “grand-fathered nonconforming use” and shall be exempt from the terms of this article as long as the director has not found that any of the following “exceptions” apply to the sign:
  - (1) The sign was erected in violation of local ordinances, laws, or regulations applicable at the time of its erection,
  - (2) The sign endangers the public by presenting a visual obstruction to traffic or posing a significant risk of collapse,
  - (3) The sign or a substantial part of the sign has blown down or was otherwise destroyed (including, but not limited to, destruction through storm, collision, deterioration or lack of maintenance) so that the cost of repairing the sign is more than 60% of the cost of erecting a new sign of the same type at the same location, or
  - (4) The sign was dismantled for any purpose other than maintenance operations or for changing the letters, symbols, or other matter on the sign.
- (b) If the director finds that a sign (1) was not lawfully permitted in accordance with this article and (2) is not a “grand-fathered nonconforming use” because any of the aforementioned “exceptions” are applicable, then the director may order the sign be removed.
- (c) It shall be unlawful for an owner of any sign, a sign user, and an owner of the property on which a sign is located to fail to remove an unpermitted sign within 30 days after the director has found that a sign is not a “grand-fathered nonconforming use”. A sign user and an owner of the

property on which the sign was located shall have an affirmative defense to prosecution under this subsection that the sign user or owner being prosecuted:

- (1) Informed the director of the name and address of all owners of the sign within 30 days after being notified that a sign had been determined to not be an allowed “grand-fathered nonconforming use,” and
  - (2) Did not have the lawful right to remove the sign.
- (d) It shall be unlawful for an owner of any sign, a sign user, and an owner of the property on which a sign is located to:
- (1) Allow the copy or face of the sign to remain torn, cracked or otherwise dilapidated for a period exceeding 60 days after notice by the director that such sign is torn, cracked or otherwise dilapidated,
  - (2) Fail to keep the exposed surfaces of the sign or any supporting poles or structures clean and painted, unless the finish of the sign does not require paint for proper maintenance for a period exceeding 60 days after notice by the director that such sign or any supporting poles or structures are not clean or painted,
  - (3) Allow an on-premise sign to advertise a business that is not currently utilizing the premises. If a business on the premises becomes vacant, the owner of the premises shall blank the sign face out within 60 days after notice by the director that such sign is advertising a business that is not currently utilizing the premises,
  - (4) Allow a sign or any pole or supporting structures to have rust visible from a public right-of-way for a period exceeding 60 days after notice by the director that such sign or any pole or supporting structures have rust visible from a public right-of-way.
- (e) If an owner or user of a sign fails to comply with the order of the director issued in accordance with this Section, the director may cause the sign to be removed or otherwise perform the required work. Any owner of the sign, user of the sign or owner of the property upon which the sign is located shall be jointly and severally liable for the cost of removal or other work and any costs of storing the sign. If the director orders the sign removed, the director shall give written notice to the owner of the sign, if known, and the owner of the sign shall have the right to reclaim such sign within 30 days of the notice by payment of the costs of removal and storage. Any sign not so reclaimed within such time may be disposed of by the director in a reasonable manner, including, but not limited to, auction by the City for payment of the aforementioned removal and storage costs.
- (f) The following procedures shall apply to the director’s determination pursuant to this section:
- (1) The director shall make an initial determination that a sign is not a “grand-fathered nonconforming use” or otherwise failed to meet the requirements of this section.
  - (2) The director shall then give or mail notice to the owner of the property on which the sign is located or otherwise failed to meet the requirements of this section that the sign has been initially determined to not be a “grand-fathered nonconforming use” or has otherwise failed to meet the requirements of this section. The director may also include other information at his discretion, including a short statement of the reason for such

determination. For purposes of this subsection, the director may presume that the owner of the property on which the sign is located is the person shown in the records of the Victoria County Appraisal District as the owner of the property.

- (3) The director shall place at the site of the sign a notice that the sign has been initially determined to not be a “grand-fathered nonconforming use” or has otherwise failed to meet the requirements of this section.
- (4) Any entity with a legal interest in the sign may send the director a written “Request for Hearing.”
- (5) The director’s initial determination shall become final 10 days after notice has been delivered or given to the aforementioned owner of the property or posted on the site of the sign, unless an entity with a purported legal interest in the sign has delivered to the director a written “Request for Hearing.”
- (6) If the director sends a notice to a property owner or other person with an interest in the sign, and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered to have been delivered.
- (7) If an owner or any entity with a purported legal interest in the sign has delivered to the director a written “Request for Hearing” within the aforementioned 10-day period, then the director shall suspend the initial determination and hold a hearing upon on at least 3 days notice to the requestor, to make findings and issue orders in accordance with this section. At the hearing, the requestor shall have the right to be present and present sworn statements of witnesses concerning the sign.
- (8) If the director finds that the sign endangers the public by presenting a visual obstruction to traffic or posing a significant risk of collapse, then the director may cause the sign to be removed or repaired immediately, at the director’s discretion, and follow the procedures, including notices, described in this section after such repair or removal.

#### **Sec. 5-159. Variance Procedure.**

- (1) **Application.** Any permit applicant requesting that the provisions of this article be varied shall file a completed variance application form, appropriate fee as specified in Chapter 24, and a written request with the Director stating the circumstances to show that literal enforcement of such provisions will result in an unnecessary and extraordinary hardship. The Director shall make a recommendation on any such variance request and submit it to the Planning Commission.
- (2) **Public Hearing and Notice.** Each variance request shall be considered at a public hearing before the Planning Commission. Notice of such public hearing shall be required as follows:
  - (a) **Newspaper.** Due notice, in the form provided by the Director, of a variance public hearing shall be published in the Victoria Advocate newspaper, in the legal classified advertisements section, at least ten (10) days prior to the public hearing date. Verification of notice as required by this section shall be documented in the form of an affidavit of publication received from the Victoria Advocate newspaper.
  - (b) **Mail.** Due notice, in the form provide by the Director, of a variance public hearing shall also be given by mail to all property owners located within two hundred (200) feet of the

affected property; required mailings must be made at least ten (10) days prior to the public hearing date.

- (c) Cost. The cost of publication and mailing of the required notice of public hearing shall be borne directly by the applicant.
- (3) Action. The Planning Commission shall either recommend approval or denial of the variance to the City Council. In the event of a recommendation of denial by the Planning Commission, the applicant shall have seven (7) days in which to notify the Director of an appeal to the City Council; otherwise, the denial becomes final. The City Council may, by resolution, authorize any variance if it deems such action proper, and may establish appropriate conditions on any such variance.