

**ORDINANCE NO. 956**

**AN ORDINANCE REPEALING CHAPTER 20 ½ OF THE REVISED CODE OF ORDINANCES AND AMENDING CHAPTER 27 TO INCLUDE PROVISIONS REGULATING SIGNS IN THE CITY OF YANKTON, SOUTH DAKOTA**

**BE IT ORDAINED, BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF YANKTON, SOUTH DAKOTA THAT:**

**Section 1.**

Chapter 20 ½ of the revised Code of Ordinances shall be repealed and Chapter 27 shall be amended to include regulations governing signage as follows:

1. **Definitions.**
  - a. A-Frame, T-Frame or Sandwich Board Sign. A portable sign less than 8 square feet that is designed to be set up on a daily basis and constructed as described in the name of the definition.
  - b. Abandoned Sign. A sign is abandoned if (i) there is intent to abandon the sign and (ii) use of the sign ceases for a period of six (6) months or longer. The intent to abandon shall be presumed after the six (6) month period has ended.
  - c. Banner Sign. A sign of lightweight fabric or similar material that is attached to a building, pole, whip or post with cables, ropes, tie downs, or other fasteners. Flags are not banners.
  - d. Beacon Sign. A beacon sign is a beam of light designed to draw attention to a particular location.
  - e. Construction Contractor's Sign. A temporary, on-premise sign identifying a contractor working on a permitted construction project
  - f. Display Sign. A sign, within the principal structure of a permitted place of business behind store windows (not regulated).
  - g. Electronic message sign. An on-premise sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means.
  - h. Fan / Booster Sign. A non-illuminated sign illustrating community support, individual or team spirit.
  - i. Figurines. A molded or sculpted statuette, including holiday and seasonal representations displayed on private property.
  - j. Flags. A sign of fabric or bunting which contains distinctive colors, patterns, expression or symbols.
  - k. Flashing Sign. A sign that contains a sequential, bright, and brief, sudden, or intermittent, light source where the period of time of illumination is equal to the period of non-illumination.
  - l. Gas Pump Bollard Sign. A sign attached to the protective bollards adjacent to the fuel pumping station.

- m. Gas Pump / Pump Topper Sign. A sign not exceeding eight (4) square feet attached to the side or top of a fuel pumping station.
- n. Government Sign. A sign that constitutes government expression erected by or upon the order of a public entity or public officer in the performance of his or her public duty.
- o. Identification Sign. A sign erected to identify a licensed school; group of five (5) or more commercial or industrial activities located within a single structure or planned commercial area by identifying the structure, such as parking or mall open spaces. And, a sign erected to identify a group of five (5) or more single family structures in an area or a sign erected to identify a multi-family residential property containing twelve (12) or more dwelling units per structure.
- p. Impermanent Sign. A sign is impermanent if the intent of the owner is that the sign shall be erected and maintained for a definite period of time which shall exceed seventy five (75) days. Impermanent signs are erected in a manner similar to a permanent sign.
- q. Incidental Signs. A sign which is generally informational and secondary to the principal use of the lot on which it is located. Examples include “no parking,” “entrance,” “exit,” or “loading only.” Signs which are commercial are not incidental (not regulated).
- r. Inflatable sign. (Prohibited) A sign which must be filled, expanded, or intermittently filled, with air or gas prior to use.
- s. Integrated Signs. A sign carved into stone, concrete or other building material or made of bronze, aluminum, or other permanent type of construction when integrated into a structure to which they are attached (not regulated).
- t. Non-Conforming Sign. A sign that does not conform to the requirements of this chapter.
- u. Non-Visible Signs. A sign which is not visible from the street, right-of-way, sidewalk, alley, park or other public property (not regulated).
- v. Off-Premises Sign. (Regulated by zoning district) Any sign which identifies a use, facility or service which is not located on the premises; which identifies a product which is not produced, sold or manufactured on the premises; which advertises or otherwise directs attention to a product, service or activity, event, person, institution or business which may or may not be identified by a brand name and which occurs or is generally conducted, sold, manufactured, produced or offered elsewhere than on the premises where such sign is located. Included within this definition are works of graphic art painted or applied to the exterior walls of a building.
- w. On-Premises Sign. Any sign which identifies a use, facility or service which is located on the premises; which identifies a product which is produced, sold or manufactured on the premises; which advertises or otherwise directs attention to a product, service or activity, event, person, institution or business which may or may not be identified by a brand name and which occurs or is generally conducted, sold,

manufactured, produced or offered on the premises where such sign is located.

- x. Permanent Sign. A sign is permanent if the intent of the owner is that the sign shall be erected and maintained for an indefinite time.
- y. Projection Sign. Any sign which is attached to a permanent roofed structure which is attached to and supported by the building and projecting over public property.
- z. Search Light Sign. A sign that uses a light source with reflectors that projects a beam of light in a particular direction.
- aa. Sign. Words, symbols or illustrations which are affixed to, painted or represented directly or indirectly upon a building, structure or piece of land, and which directs attention to an object, product, place, activity, facility, service, event, attraction, person, institutions, organization, or business and which is visible from the street, right-of-way, sidewalk, alley, park or other public property.
- bb. Sign Area. The area of a sign shall be determined by the smallest circle, triangle or rectangle that can be used to enclose the sign, exclusive of supporting members that bear no message. An “on-premises” sign designed to be viewed from two (2) opposite directions shall be considered as one (1) sign, provided that the two (2) faces shall not be more than two (2) feet apart if angular. Where more than one (1) sign is permitted on a lot, the net sign area shall be the sum of those signs to be viewed from one (1) direction. Each individual word or illustration on a wall sign shall be considered a separate sign area.
- cc. Streamer Sign. Any long narrow wavy strip strung together by rope or cord resembling or suggesting a banner(s) floating in the air.
- dd. Temporary Sign. A sign intended to be displayed for a limited period of time not to exceed seventy-five (75) days (exempt from sign permit).
- ee. Trailer or Vehicle Sign. A sign on a trailer, vehicle or any resemblance thereof regardless of the presence of wheels.

Excluded from the definition of a “sign” as defined in this Chapter are: (i) non-visible, (ii) display signs, (iii) figurines, (iv) government signs, (v) integrated signs and (vi) nameplate signs.

## 2. **Purposes and Intentions.**

- a. The purposes for enacting this sign ordinance are varied.
- b. First, as part of its duty to manage the streets and public ways, the City must protect driver sight lines on public rights-of-way. Some signs may create a traffic hazard by confusing or distracting motorists by impairing the driver’s ability to see pedestrians, obstacles or other vehicles. They may also interfere with a person’s ability to see and interpret any official traffic sign, signal or device.

- c. Second, as a part of its police powers, the City must also protect against damage caused by a sign. A sign may present a danger to persons and property by way of collapse, fire, collision, decay or abandonment.
- d. Third, as a part of its police powers, the City has determined that this ordinance should assist business owners who use signs to advertise their businesses. If there are too many signs in an area, then an existing business owner may have difficulty conveying a simple message(s) to customers. Customers may locate a business or service more readily with a sign. Signs also assist home owners because they identify residences and preserve the beauty of neighborhoods. A sign also assists a business because it permits customer identification of the business, product or service.
- e. Fourth, as a part of police powers, the City has determined that the City as a whole benefits when there is not a clutter of signs or signs that do not meet a basic level of maintenance and use.
- f. Fifth, unmaintenanced signs can be a location for dumping or gather dirt or paper, which may also create a fire hazard. Therefore, the City has an interest in public safety.
- g. Sixth, the content of some signs may be immoral, harmful to persons or businesses, or further illegal activity. As a result, in furtherance of the City's police powers, some content expression is punished, but only that which the United States Supreme Court has held to be categorically suppressible.
- h. Finally, some forms of media present adverse, unwanted consequences which may interfere with neighborhood privacy or solicitude or cause a fluctuation in the desirability of real estate and, in turn, the value of neighboring real estate. As a result, some forms of media are prohibited at all times.
- i. Signs are also important to the City because they identify government buildings and services. The City desires to equally treat the public. As a result, public property is not an appropriate location for any private sign. All signs on public property, which are not approved by or provided for approval by, the City Commission, are prohibited.
- j. In order to provide for orderly implementation of these purposes, the City has enacted licensing and permit requirements. The license and permit requirements are inapplicable in certain limited instances. All signs which are not permitted herein are prohibited.

3. **Sign Contractor Licensing.**

- a. General Rule. It shall be unlawful to erect a sign in the City without first obtaining a Sign Contractor License. Fees for such license shall be as determined from time to time by resolution of the City Commission. Signs erected by an owner on their own premises are exempt from this section. The City Commission may revoke any sign

contractor license when the licensee has been found to have violated any provision of this chapter. Notification of listed violations must be given in writing to the licensee. A period of fifteen (15) days will be allowed from the date of notification for the licensee to make necessary corrections, after which the City Commission may act to revoke the sign contractor's license. Situations where the public's health safety and welfare are in peril as described in the building code do not require a fifteen (15) day notification.

b. Assignability. A Sign Contractor License is not assignable.

4. **Sign Permitting**.

a. General Rule. In order to erect, to alter, or to relocate a sign an owner or licensed sign contractor must first obtain a sign permit from the City. A sign permit may authorize the erection of one (1) or more signs.

b. Exceptions. The following signs do not require a permit but may be regulated by this chapter:

i. A-Frame, T-Frame and Sandwich Board Sign.

ii. Banner Signs.

iii. Construction Contractor's Sign.

iv. Fan / Booster Sign.

v. Flags.

vi. Identification Signs.

vii. Incidental Signs.

viii. Government Signs.

ix. Gas Pump Topper Sign.

x. All signs excluded from the definition of "sign."

xi. Ordinary maintenance and repairs of any sign.

xii. Temporary Signs.

c. Term. A permit is valid as of the date of its issuance and for a total period of one hundred and eighty (180) days thereafter. A permit shall be void if the work for which the permit was issued is not completed within said term.

d. Application/Permanent Signs. All applications for a permanent sign, or the modification of an existing permanent sign, shall be accompanied with:

i. A detailed site plan of the lot showing the exact location and orientation of the sign(s) relative to all lot lines, building lines, parking lots, drive-ways and other pertinent land and architectural features.

- ii. An elevation drawing showing the total height of the sign above the adjacent grade.
  - iii. The total dimensions of the sign facing.
  - iv. The design features of the sign.
  - v. The type of illumination or other characteristics of the sign.
  - vi. The size and type of existing signs on the property.
  - vii. All other applicable data, such as lot line dimensions and building wall or other surface areas dimensions as required by the City.
  - viii. The applicable fee, established by resolution of the City Commission.
- e. Application/Impermanent Signs. All applications for an impermanent sign, or the modification of an existing impermanent sign, shall be accompanied with:
- i. A detailed site plan of the lot showing the exact location and orientation of the sign(s) relative to all lot lines.
  - ii. A drawing showing the total height and facing dimensions.
  - iii. The type of illumination or other characteristics of the sign.
  - iv. All other applicable data, such as lot line dimensions and building wall or other surface areas dimensions as required by the City.
  - v. The applicable fee, established by resolution of the City Commission.
- f. Assignability. All sign permits are assignable to a successor owner.
- g. Grandfather Clause. Any lawfully existing sign which is made unlawful by the adoption of this chapter is exempt from this permit requirement, unless its use is changed, there has been a discontinuance, or it constitutes an “abandoned sign,” all of which void the grandfather status. A Temporary or Impermanent Sign shall not be considered “Grandfathered” beyond the described time allowed herein.
- i. Change of Use. A change of use occurs when the owner alters the sign in any manner, including changing to another non-conforming use, structural alteration intended to prolong the life of the sign, structural alteration of the shape, size, type or design, or alteration of the words or symbols on the message displayed (except when the sign is specifically designed for periodic change of message).
  - ii. Exception to Change of Use. A non-conforming sign may be maintained or repaired, unless the cost of the maintenance or repair exceeds forty percent (40%) of the initial cost of the sign.

iii. Discontinuance. Discontinuance occurs if the activity, business or usage to which the sign was used has been stopped for a period of thirty (30) days or longer.

5. **Sign Design, Construction, Illumination, Height & Maintenance.**

All permanent signs shall be designed, constructed and maintained in accordance with the following standards:

- a. All permanent and impermanent signs must comply with the applicable provisions of the adopted building and electric codes at all times.
- b. All permanent and impermanent 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 in accordance with applicable building code standards.
- c. All signs shall be maintained in a safe and legible condition at all times, including the replacement of defective or damaged parts, painting, repainting, cleaning and other services required for maintenance of the signs. If a sign is not so maintained, then the owner shall be notified in writing and required to remove the sign or to immediately bring the sign into compliance.
- d. All signs with an electronic message display capability shall have internal ambient light monitors installed which automatically adjust brightness to the level defined in this chapter.
- e. Illuminated signs shall be so shielded, shaded or directed so that the light intensity shall not adversely affect the surrounding or facing premises nor adversely affect the safe vision of operators of vehicles on private or public roads. The illumination of Electronic Message Signs shall not exceed a brightness level of 0.3 foot candles above ambient light.
- f. No sign shall exceed the maximum height of structures in the City Zoning Ordinance.
- g. Signs identified in section 4. b. Exceptions, that use weighting as a means of securing their location (sandbags, blocks etc.) shall be placed in such a manner that the weighting shall not be visible to the traveling public.
- h. Banners and other types of temporary vinyl and fabric signs shall be maintained so as to be tight, rigid and in good repair at all times.
- i. It is recognized that vinyl, fabric and other types of pliable materials are used as a media firmly affixed to permanent sign erection materials as a means of permanent sign construction. A banner attached to a sheet of wood or other material in a manner not described herein is not considered a permanent sign.

- j. Temporary Signs shall be located within two (2) feet of a principal permitted structure on private property.

6. **Content Prohibitions.**

No person shall erect or maintain in the City any sign that contains a message, as these categories have been defined by the United States Supreme Court that contains:

- a. Obscenity or child pornography.
- b. False, deceptive or misleading commercial expression.
- c. Defamation.
- d. Threat(s).
- e. Illegal activity.

7. **Media Prohibitions.**

The following types of signs are prohibited in the City:

- a. Banners located more than two (2) feet from a principal permitted structure wall.
- b. Beacon signs.
- c. Flashing signs.
- d. Gas Pump Bollard Signs
- e. Inflatable signs.
- f. Search light signs.
- g. Streamer Sign.
- h. Trailer or Vehicle Sign.

8. **Content Neutral Prohibitions.**

Signs shall not be erected or maintained in the following *manner* in the City unless otherwise specifically provided for in this chapter:

- a. No sign or sign structure shall resemble, imitate, simulate, or conflict with traffic control signs or devices which are found within the Manual of Uniform Traffic Control Devices.
- b. No sign or sign structure shall mislead or confuse persons traveling on public streets if a traffic hazard is caused thereby.

Signs shall not be erected or maintained in the following *locations* in the City:

- c. No sign shall be placed in any location which creates a safety hazard by obstructing the clear view of pedestrians or vehicles.



- d. No sign shall be placed in any location which obscures a government sign or signal.
- e. No sign or sign structure shall be placed in any location which obstructs any required egress from a building or structure.
- f. No sign shall be attached to organic or inorganic natural matter (such as a tree), utility pole, public bench, street light, or a street sign.
- g. No sign shall be placed on any public property or public right of way.
- h. Trailer or Vehicle Signs which are parked or located for the primary purpose of displaying the sign are prohibited.

9. **Off-Premises Signs.**

Off-premises signs are permitted, subject to the following rules.

- a. Off-Premises signs shall only be located in areas designated as I-Industrial District or B-2 Highway Business District.
- b. Off-Premises signs shall not be displayed closer than one hundred feet (100) to any other off-premises sign structure, unless the structures are separated by buildings or other obstructions in such a manner that only one (1) sign located within the above-spacing distance is visible from the highway at any one time.
- c. Off-Premises signs shall not be located closer than fifty (50) feet to any intersection or public street right-of-way access point (such as a driveway or approach) to a public street unless the City approves of the same after determining that there will be no obstruction of traffic visibility.
- d. The maximum size of an off-premises sign shall be 400 square feet in an I-Industrial zone and 50 square feet in a B-2 Highway Business District.
- e. Off-Premises signs shall be included in the calculation of maximum sign area on a parcel.

10. **Regulations in Business and Industrial Zones.**

The following rules are applicable to signs located in business and industrial zones:

- a. No person may place any sign in the triangular area of a corner lot defined as follows: beginning at the intersection of the projected curb lines of two (2) intersecting streets, thence thirty (30) feet along one curb line, thence diagonally to a point thirty (30) feet from the point of beginning on the other curb line, thence to the point of beginning.
- b. A temporary sign may only be erected seventy-five (75) days prior to the single day purpose for which the sign was erected and then it must be removed within seven (7) days after the purpose for which the sign was erected is completed. For example, election campaign signs may

be erected seventy-five (75) days prior to an election and must be removed within seven (7) days after the election. A real estate sign may be erected when the property is listed for sale and it shall be removed within seven (7) days after the closing at which the home is sold. No temporary sign erected on real property may be larger than thirty-two (32) square feet of sign area or extend higher than twelve (12) feet above grade level

- c. Owners are allowed to have two (2) square feet of sign area for each one (1) linear foot of street frontage adjacent to their parcel. On multi-frontage lots, an additional one (1) square foot of signage is allowed for each five (5) linear feet of intersecting street frontage.
- d. One banner sign is allowed per 44 feet of street frontage. The banner shall be parallel to and extend no more than two (2) feet from a principal permitted structure wall. The maximum size for a banner sign is 48 square feet.
- e. One A-Frame, T-Frame or Sandwich Board Sign per adjacent parcel frontage shall be allowed on the public sidewalk in the B-2 and B-3 zoning districts in situations where building fronts are located on the property line. They shall be placed in such a manner that they allow a minimum five (5) foot wide, clear walkway along the traditional pedestrian path.
- f. Non-illuminated fan / booster signs, not exceeding a total of 32 square feet are allowed per parcel. The signs shall not extend more than twelve (12) feet above grade level in commercial or industrial districts and must be located on private property.
- g. Projection signs may not project more than 8'6" or closer than 4' from the curb line. Projections signs may not overhang state right-of-way.
- h. Electronic message sign displays shall be limited to displays, which are gradual movements, including, but not limited to, animation and frame effects. Sudden movement is prohibited, including, but not limited to, blinking and flashing.
  - (1) Any permitted sign may be, or may include as an individual component of the total sign area, electronic message signs.
  - (2) All electronic message signs shall come equipped with automatic dimming controls that automatically adjust the sign's brightness in direct correlation with ambient light conditions.
  - (3) No electronic message sign shall exceed a brightness level of 0.3 foot candles above ambient light as measured using a foot candle (Lux) meter at a preset distance depending on sign area. Measuring distance shall be determined using the square root of the product of the sign area and one-hundred. Example using a 12 square foot sign:  $\sqrt{(12 \times 100)} = 34.6$  feet measuring distance.

11. **Regulations in Residential Zones.**

The following rules are applicable to signs located in residential zones:

- a. No person may place any sign in the triangular area of a corner lot defined as follows: beginning at the intersection of the projected curb lines of two (2) intersecting streets, thence thirty (30) feet along one curb line, thence diagonally to a point thirty (30) feet from the point of beginning on the other curb line, thence to the point of beginning.
- b. Only street address or identification signs may be illuminated in residential zones.
- c. No sign erected on real property may be larger than ten (10) square feet of sign area or extend higher than eight (8) feet above grade level. However, multi-family residential structures containing twelve (12) or more dwelling units per structure may have one (1) sign not exceeding thirty-two (32) square feet of sign area per parcel. Single-family residential areas or subdivisions containing five (5) or more dwelling units may have one (1) identification sign not exceeding thirty-two (32) square feet of sign area.
- d. A temporary sign may only be erected on private property seventy-five (75) days prior to the purpose for which the sign was erected and then it must be removed within seven (7) days after the purpose for which the sign was erected is completed. For example, election campaign signs may be erected seventy-five (75) days prior to an election and must be removed within seven (7) days after the election. A real estate sign may be erected when the property is listed for sale and it shall be removed within seven (7) days after the closing at which home is sold.
- e. No owner may erect or maintain a sign that blinks, flashes, or pulsates.
- f. One non-illuminated fan / booster sign, not exceeding four (4) square feet in size per occupant is allowed. Fan / booster signs shall be located within ten (10) feet of the principal permitted structure on private property.
- g. Off-Premises signs and banners are prohibited in residential districts.
- h. Electronic message signs are only allowed in residential districts when associated with permitted nonresidential uses.

12. **Regulations in Agricultural Zones.**

- a. No person may place any sign in the triangular area of a corner lot defined as follows: beginning at the intersection of the projected curb lines of two (2) intersecting streets, thence thirty (30) feet along one curb line, thence diagonally to a point thirty (30) feet from the point of beginning on the other curb line, thence to the point of beginning

- b. A temporary sign may only be erected seventy-five (75) days prior to the purpose for which the sign was erected and then it must be removed within seven (7) days after the purpose for which the sign was erected is completed. For example, election campaign signs may be erected seventy-five (75) days prior to an election and must be removed within seven (7) days after the election. A real estate sign may be erected when the property is listed for sale and it shall be removed within seven (7) days after the closing at which property is sold
- c. Electronic message signs are only allowed in agricultural districts when associated with permitted nonresidential uses.

13. **Forfeiture and Nuisance Abatement.**

Every sign which is not in compliance with this Chapter shall be forfeited to the public and subject to immediate confiscation. In addition, every sign which is not in compliance with this Chapter, in addition to other remedies herein, is hereby declared to be a public nuisance and the City shall have the right to abate such public nuisance and to recover from the owner or person placing such a sign the full costs of removal and disposal of the sign.

14. **Criminal Penalty.**

Any person who violates this Chapter shall be guilty of a misdemeanor. The maximum penalty for each violation shall be Five Hundred Dollars (\$500.00). Each violation shall be a separate offense

15. **Administration.**

The Community Development Department is hereby authorized and directed to enforce and to inspect for compliance all the provisions of this Chapter. Said Department may request and shall receive the assistance and cooperation of the chief of police and of other City officials as may be necessary in the discharge of his or her duties.

The Board of City Commissioners may grant variances from the provisions of this Chapter when unnecessary hardship exists.

16. **Interpretation.**

- a. It is the City's intent to eliminate all non-conforming signs, except as otherwise specifically set forth herein, as rapidly as the City's police power permits.
- b. If this ordinance conflicts with any other law, then, to the extent possible, the provisions of this Chapter shall govern.

- c. If any section, subsection, sentence, clause, phrase or portion of this Chapter is, for any reason, held to be invalid or unconstitutional, then such decision shall not affect the validity of the remaining portions of this Chapter.
- d. This Chapter shall be in full force and effect from and after its passage, approval and publication, as required by law.

**Section 2.** Saving Clause.

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

**Section 3.** Effective Clause.

This ordinance shall be in full force and effect from and after its passage, approval and publication as required by law.

Adopted:

1st Reading:

2nd Reading:

Publication Date:

Effective Date:

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Nancy Wenande, Mayor

Attest:

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Al Viereck, Finance Officer