

**CITY OF BOX ELDER ORDINANCE # 709
TO AMEND BOX ELDER CODE OF ORDINANCES, CHAPTER 30 – SIGNS AND
ADVERTISING**

WHEREAS, the City of Box Elder seeks to enhance the clarity and consistency of its Signs and Advertising ordinances.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Box Elder that Box Elder Code of Ordinances, Chapter 30, Signs and Advertising, be amended to read as follows:

Chapter 30 SIGNS AND ADVERTISING¹

ARTICLE I. IN GENERAL

Sec. 30-1. Jurisdiction.

This chapter shall govern all territory within the corporate limits of the City of Box Elder for the purpose of promoting the health, safety, morals, and general welfare of the community.

(Ord. No. 466, art. I, § 2, 11-18-2008)

Sec. 30-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned sign means a sign face or sign structure that is blank, missing, obliterated, or displays obsolete advertising material for a period in excess of three (3) continuous months.

Advertising area means the area of the sign face including border and trim, but not supports or aprons, bearing advertising copy.

Advertising material means the copy on a sign which advertises goods, products, services, persons, a business, or public messages.

Alteration means any change, modification, or other adjustment to a sign structure. The term "alteration" does not include such routine maintenance activities unrelated to a sign's structure such as changing the advertising copy, painting, or changing light bulbs on a sign.

Awning means a shelter supported entirely from the exterior wall of a building.

Banner means a sign composed of lightweight material enclosed or not enclosed in a rigid frame, secured or mounted so as to allow movement of the sign caused by movement of the atmosphere.

Blank sign means a sign or sign face that is void of advertising material.

Building sign means a sign painted directly on the surface of a building, fence, awning, or marquee; or a sign attached to or erected against the wall of a building, fence, awning, or marquee, with the sign face in a plane parallel to the plane of the building wall.

Canopy see *awning*.

City means the City of Box Elder, South Dakota.

City council means the City Council, or legislative body of the City of Box Elder, South Dakota.

Copy means the message on a sign face, either in permanent, temporary, or removable form.

County means Meade County, South Dakota, or Pennington County, South Dakota.

Directional information means route markers, mileage markers, directions to on-site location and information sufficient to guide a traveling motorist to a specific facility.

Directional sign means a sign designated, described, and authorized by 23 U.S.C. §131(c)(1) and the rules and regulations promulgated thereunder as of July 1, 1979. A directional sign serves solely to designate the location or direction to a place or area.

Earth tone means a flat, natural color such as black, tan, or light brown.

Electric message center means a sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means.

Erect means to attach, alter, build, construct, reconstruct, enlarge, or move, and shall include the painting of building signs, but does not include copy changes on any sign face.

Exempt sign means a sign for which a permit is not required.

Flag means a piece of cloth or other material, usually rectangular, of distinctive color and design that is used as a symbol, a standard, a signal, or an emblem.

Flashing sign means any sign displaying a pattern of rapidly changing light illumination where the illumination on the sign alternates suddenly between high and low intensity for the purpose of drawing attention to the sign.

Ground sign means a sign erected on a foundation, freestanding frame, mast, or pole and not attached to any building or other structure.

Height means the vertical distance from the top of a sign face or sign structure, whichever is greater, to the lowest level of the ground directly below, measured from a point of equal distance from the sides or edges of the sign.

Illuminated sign means any sign which emanates light either by means of exposed tubing or lamps on its surface, or by means of illumination transmitted through the sign faces.

Nonconforming sign means a sign or sign structure existing at the time of enactment of this article which does not comply with all provisions of this article, but which was legally constructed prior to the enactment of this article.

Lot means a parcel of land which is or may be occupied by a building, group of buildings, their accessory buildings, signs, or uses customarily incidental thereto, together with such yards or open spaces within the lot lines.

Maintain means to allow a sign to exist or remain, or to refurbish a sign in order to prevent decay, deterioration, or structural dilapidation.

Marquee means a permanent structure attached to and supported by a roof or a wall of a building.

Marquee sign means any sign face attached to, or erected in or on, a marquee.

Message means a communication through written words, symbols, signals, or pictures.

Mural means a work of art, such as a painting, which is applied directly to an exterior wall or structural surface. For the purposes of this article, murals are not considered to be signs and are, therefore, exempt from the regulations of this article.

Obliterated sign means a sign or sign face that is totally or partially painted out or otherwise obscured so as to not identify a particular product, service, or facility.

Obsolete advertising material means material advertising a product or service no longer in use or available.

Off-premises sign means a sign which directs attention to a business, person, activity, goods, product, service, place, institution, opinion, or solicitation not located or available on the lot upon which the sign is located.

On-premises sign means a sign identifying an establishment's activities, products, or services conducted or available on the lot upon which the sign is located and signs advertising the sale or lease of the property upon which they are located.

Outdoor advertising means any outdoor sign, display, device, light, figure, drawing, painting, message, plaque, poster, or billboard, which is designed, intended or used to advertise or inform, any part of the advertising or information contents of which is visible from any place on the main-traveled way of the interstate or primary systems.

Owner means any person, agent, firm, or corporation having a legal or equitable interest in the property or premises.

Parapet or parapet wall means that portion of a building wall that rises above the roof level.

Pennant means a tapering flag, often triangular, with or without a logo which is strung with other pennants on a rope, line, or cable. For the purposes of this article, pennants are not considered to be signs and are, therefore, exempt from the regulations of this article.

Planning Director means the authority charged with the administration and enforcement of this article, as designated by the City Council. The Council designates the chairperson of the Planning and Zoning Commission and the Planning Director, or their designees, to have such authority.

Premises means a legally described parcel of land where a sign is physically located.

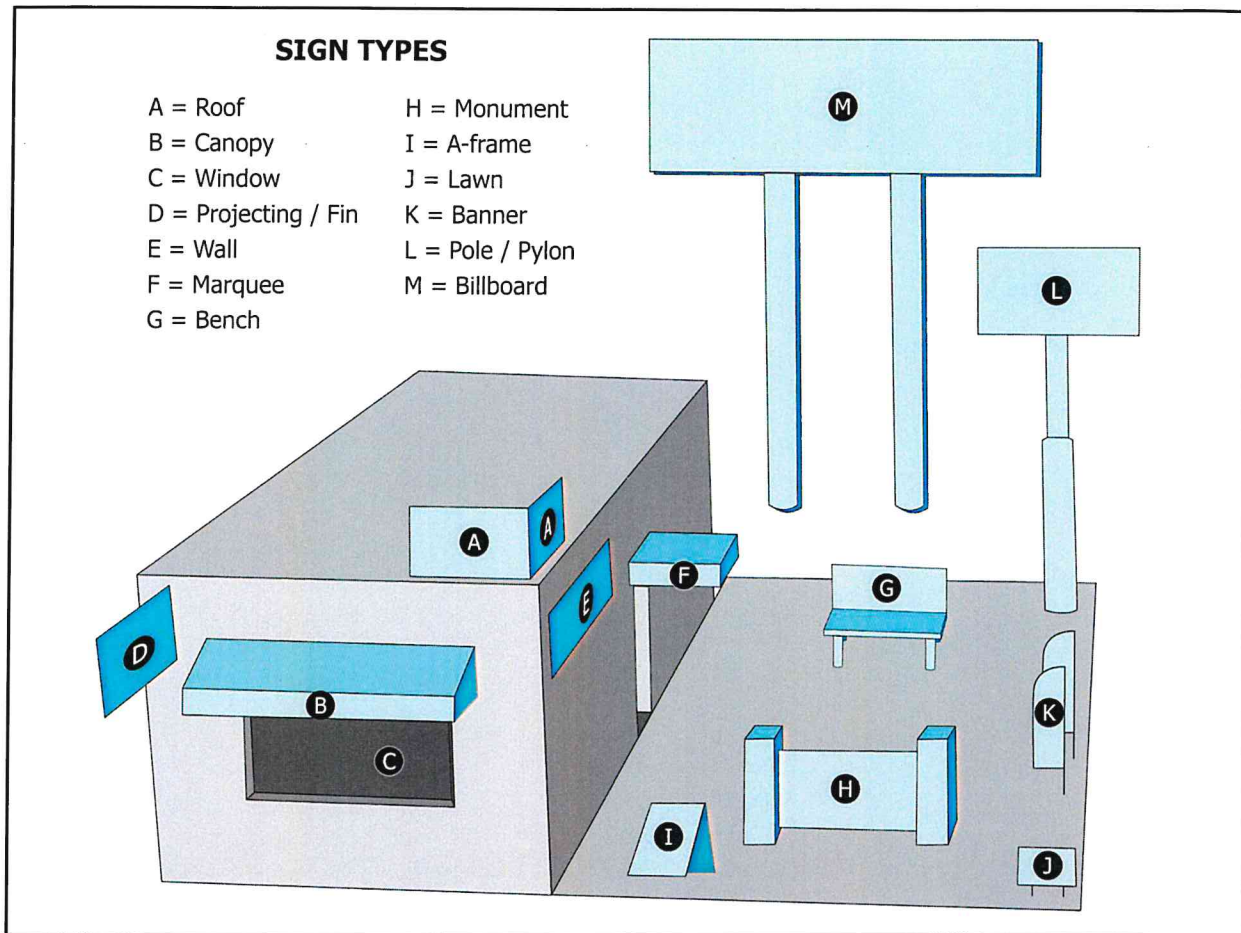
Projecting sign means a sign other than a wall sign which is attached to and projects from a building, structure, or building face.

Political sign means any sign having a message supporting, opposing, displaying an image of, or commenting upon a candidate for any public office or upon any ballot issue.

Roof sign means any sign erected upon, against, or directly above a roof or on top of or above the parapet of a building.

Scrolling means the horizontal and/or vertical movement of an advertising message across the face of an electric messaging center sign.

Sign means any identification, description, illustration, or device, illuminated or non-illuminated, which is visible from any public place or is located on private property and exposed to the public, and which directs attention to a product, service, place, activity, person, institution, business, opinion, or solicitation, including any permanently installed or situated merchandise, or any emblem, painting, banner, billboard, pennant, placard, or temporary structure designed to advise, identify, or convey information, with the exception of window displays and sign structures; however, for the purpose of removal, signs shall also include all sign structures.



Sign face means the area of a sign, supported by a sign structure, used to display an advertising message.

Sign structure means any structure that supports, has supported, or is capable of supporting a sign face or faces, including any decorative apron or cover.

Street means a public or private right-of-way or thoroughfare which affords the principal means of access to abutting property.

Structural change. See *Alteration*.

Temporary sign means a sign that is temporary in nature, used in conjunction with a specific event, and that is placed, moved onto, or erected in such a manner to be easily removed from the property and is not permanently affixed.

Unlawful sign means a sign or sign structure that is installed without a sign permit or by an installer that has not been issued a contractor's license by the City, or that is abandoned, blank, damaged, dilapidated, or inadequately maintained.

Unlawful sign lease means the landowner who leases a site for a sign or sign structure in a location that violates the regulations set forth in this chapter or who renews or extends an existing lease for a legal nonconforming sign or an unlawful sign.

Use means the specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained.

Wall means any wall or element of a wall, or any member or group of members which defines the exterior boundaries or courts of a building and which has a slope of 60 degrees or greater from the horizontal plane.

(Ord. No. 466, art. II, 11-18-2008)

State law reference(s)—Similar definitions, SDCL 31-29-62.

Sec. 30-3. Contractor license required for construction of signs.

No person shall commence the erection of any sign within the City's jurisdiction without first obtaining an approved contractor license from the City.

(Ord. No. 466, art. V, § 1, 11-18-2008)

Sec. 30-4. Alteration of existing signs.

- (a) Any legal nonconforming sign that exists on the effective date of the ordinance from which this chapter is derived or falls within the jurisdiction of this chapter on the effective date of a subsequent annexation, that cannot be altered or moved to become a sign that conforms to this chapter shall cease to be grandfathered if the sign is substantially altered, removed, or not used for advertising for a period of ninety (90) consecutive days. Thereafter, the sign shall comply with this chapter or shall be deemed an unlawful sign.
- (b) Any legal conforming sign that exists on the effective date of the ordinance from which this chapter is derived or falls within the jurisdiction of this chapter on the effective date of a subsequent annexation, shall not be altered to become nonconforming. Any sign so altered shall be deemed an unlawful sign.

(Ord. No. 466, art. VI, § 2, 11-18-2008)

Secs. 30-5—30-26. Reserved.

ARTICLE II. DESIGN STANDARDS AND SPECIFICATIONS

Sec. 30-27. Signs on public property prohibited.

No person shall erect or maintain any building, fence, sign, or structure upon any public right-of-way or upon any public property. This section shall not apply to mailboxes or to buildings, fences, signs, traffic control signs/devices, directional signs, or structures erected or maintained for public purposes by the City or under its authority.

(Ord. No. 466, art. III(H), 11-18-2008)

Sec. 30-28. Construction to minimize safety hazards.

Signs shall be erected in a safe and workmanlike manner to a minimum standard of quality to prevent combustibility, structural failure, smoke or fume generation, and blinding or distraction from lighting or reflection of sunlight. Supports for signs and sign structures shall be erected in conformance with the requirements of the building code adopted by the City for wind, snow, seismic, ice or other loads.

(Ord. No. 466, art. III(I), (J), 11-18-2008)

Sec. 30-29. Electrical sign standards.

- (a) Electrical signs shall be constructed and installed in accordance with the provisions of the Administrative Rules of South Dakota (ARSD) 20:44:22, the National Electrical Code and the City's Municipal Code.

(b) Electrical permits are required for electrical installations serving outdoor signs. Electrical wiring requiring a permit shall be installed by a licensed electrical contractor. Electrical signs and outline lighting shall be listed and labeled in accordance with ARSD 10:44:22:02, 20:44:22:03 and 20:44:22:04 and the National Electrical Code 600-3.

(c) Electrical signs may be illuminated internally or externally so long as all lighting is directed away from the public right-of-way and adjacent residential areas.

(d) *Sign brightness.* Any sign that is internally illuminated, or which displays electronic variable messages through light emitting diodes, liquid crystal display, plasma image display, or any other light emitting mechanism must be equipped with automatic dimming technology that automatically adjusts the display's brightness based upon ambient light conditions. The brightness level for signs shall not 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, measured as follows:

Area of Sign Sq. ft.	Measurement Distance (ft.)
10	32
15	39
20	45
25	50
30	55
35	59
40	63
45	67
50	71
55	74
60	77
65	81
70	84
75	87
80	89
85	92
90	95
95	97

100	100
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(e) For signs with an area in square feet other than those specifically listed in the table (i.e., 12 square feet, 400 square feet, etc.), the measurement distance may be calculated with the following formula: The square root of the product of the sign area and 100.

- Example using a twelve (12) square foot sign:

$$\text{Measurement Distance} = \sqrt{(12 \text{ sq. ft.} \times 100)} = 34.6$$

(f) The brightness measurement shall be performed as follows:

(i) At least thirty (30) minutes after sunset or thirty (30) minutes before sunrise, the Planning Director shall measure and determine the sign's brightness by aiming a foot-candle meter directly at the sign. The measurement will be taken as close as possible to the above prescribed distance from the sign face being measured.

(ii) After the sign brightness has been determined, the Planning Director shall contact the sign owner or the owner's agent to schedule a time to measure and determine the ambient light conditions with the electronic messaging center off or while displaying all black copy. The ambient light reading shall be taken with the same foot-candle meter at the same location used to establish the sign's brightness.

(iii) Once the two light readings have been determined, the second measurement reading shall be subtracted from the first measurement reading. To be in compliance with this standard, the difference of the two readings shall be 0.3 foot-candles or less.

(g) *Existing digital, LED or video type signage.* Existing off-premises signs and public purpose signs displaying variable messages through the use of internal illumination technology or through light emitting diodes, liquid crystal displays, plasma image displays, or any other similar light emitting technology may only display static messages. Full motion images, graphics or video are prohibited. Static copy on these signs may be changed at a minimum interval of eight (8) seconds.

(Ord. No. 466, art. III(L), 11-18-2008)

(Ord. No. 680, 10-19-2021)

Sec. 30-30. Sign content restricted.

No sign shall advertise or display words or pictures of obscene or pornographic material; emit sound, odor, or visible matter; appear similar to traffic control signs or signals or display words such as "stop," "go," "danger," or "warning"; or obstruct the view of traffic or of traffic control signs, signals, or lights in a public right-of-way.

(Ord. No. 466, art. III(K), 11-18-2008)

Sec. 30-31. Off-premises signs.

(a) *Location.*

Zoning District Abbreviation	AD	PK	PUB	GR-1	GR-2	GR-3	GR-4	GC	HS	GLID	HID	OS-1	PD
Off-Premise Signs													
Ground Sign	X	X	C	X	X	C	X	C	C	C	C	X	C
Building Sign	X	X	X	X	X	X	X	X	X	X	X	X	X

Notes: P = Permitted; P-A = Permitted Accessory; P-R = Permitted Review; C = Conditionally Permitted; X = Expressly Prohibited

- (b) *Setbacks.* No portion of any off-premises sign shall be located closer than five hundred (500) feet to any portion of any other off-premises sign located on the same side of the street or highway. The distance between off-premises signs shall be measured from the edge of each sign or sign structure closest to the adjoining sign. No portion of any off-premises sign shall be closer than one hundred (100) feet to any portion of any on-premises sign at the time of construction of the off-premises sign.
- (c) *Consent of property owner required for installation.* Off-premises signs shall not be placed on any property without the written consent of the property owner or the owner's authorized agent.
- (d) *Maximum size.* Off-premises signs with a sign face larger than thirty two (32) square feet are subject to the license requirements of this article.
- (e) *Sign faces restricted.* No off-premises sign structure shall support more than two (2) sign faces. Off-premises sign faces shall be mounted to the sign structure so the sign faces are no more than thirty (30) degrees from parallel to one another. The upper edge of an off-premises sign face that is square or whose face has its longest side in a non-vertical plane shall be no more than twenty four (24) feet above the lowest undisturbed pre-construction ground level beneath the sign face.
- (f) *Structure color to be earth tone.* Off-premises sign structure surfaces shall be painted or coated in earth tone colors.
- (g) *Identification label required.* Each off-premises sign shall be identified by a label, name plate, or trademark identifying the owner of the sign.
- (h) *Illumination restrictions.* The light from any light source intended to illuminate an off-premises sign face shall be so shaded, shielded, and directed so that the light is focused solely upon the sign face and the light intensity or brightness shall not adversely affect surrounding or facing premises, nor adversely affect safe vision of pedestrians or operators of vehicles moving on public or private streets, driveways, or parking areas or aircraft overhead.
- (i) *Moving parts, animation, flashing lights, etc., prohibited.* Off-premises sign faces or structures shall not have animated or moving parts, flashing, blinking, or traveling lights, or any other such lighting not providing constant illumination of the sign face or have digital or electronic message display faces.

(Ord. No. 466, art. IV, § 1, 11-18-2008; Ord. No. 508, art. II, 3-15-2011)

(Ord. No. 680, 10-19-2021)

Sec. 30-32. On-premises signs.

- (a) *Subclasses established.* The class of signs defined as on-premises signs shall consist of three subclasses of signs: ground signs, building signs, and temporary signs.
- (b) *Conversion to off-premises sign prohibited; exception.* No on-premises sign shall be converted to or temporarily used as an off-premises sign, except as otherwise specifically provided in this article.
- (c) *Location.*

Zoning District Abbreviation	AD	PK	PUB	GR-1	GR-2	GR-3	GR-4	GC	HS	GLID	HID	OS-1	PD
On-Premise Signs													
Ground Sign	C	P	P	C	C	C	C	P	P	P	P	X	C
Building Sign	C	P	P	C	C	C	C	P	P	P	P	X	C
Temporary Sign	P-R	P	P	X	X	P-R	X	P	P	P	P	X	P-R

Notes: P = Permitted; P-A = Permitted Accessory; P-R = Permitted Review; C = Conditionally Permitted; X = Expressly Prohibited

- (d) *Moving parts, animation, flashing lights, etc., prohibited.* On-premises ground sign faces or structures which are more than seventy five (75) feet away from a public street intersection may have animated or moving parts, flashing, blinking, or traveling lights, or any other such lighting not providing constant illumination of the sign face or may have digital or electronic message display faces. Digital or electronic message display faces shall not be used as a political sign or to display advertisements for off-premises businesses or services but may display public service and community event related advertisements.
- (e) *Ground sign restrictions.* Ground signs are subject to the permit requirements of this article. In addition, ground signs are subject to the additional restrictions:
 - (1) *Sign face number and size.* Ground signs shall have no more than two (2) major faces and no more than four (4) minor faces that shall each have a sign face area which is no larger than forty (40) percent of the area of the smallest major sign face. The area of each major sign face of a ground sign shall not exceed one hundred fifty (150) square feet. The City Council may grant an exception to this size limitation in those instances where the applicant provides adequate proof of franchise requirements for a larger major sign face. The exception shall only allow the smallest possible area necessary to meet the franchise requirement.
 - (2) *Height.* The height of the top of each sign face or sign structure, whichever is higher, of a ground sign shall not exceed twenty four (24) feet. The City Council may grant an exception to this height limitation in those instances where the applicant provides adequate proof of franchise requirements for a taller sign height. The exception shall only allow the minimum sign height necessary to meet the franchise requirement.
 - (3) *Setback from other signs.* No portion of any ground sign shall be closer than fifty (50) feet to any portion of any other ground sign on the same premises.
 - (4) *Setback from public right-of-way.* No portion of any ground sign shall be less than one (1) foot from a public right-of-way. There shall be a minimum elevation distance of twelve (12) feet between the lowest edge of a sign face, or its associated sign structure, and any sidewalk or other pedestrian way beneath the sign.

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- (f) *Building sign restrictions.* In certain instances the Building Official may determine that a building sign is exempt from either the permit and/license requirements of this article. The owner or owner's designated agent shall be responsible for obtaining all necessary permits or licenses from the City prior to the construction or installation of a building sign. Building signs are subject to the following additional restrictions:
- (1) *Location.* Building signs may be displayed on any side of a building or structure and shall not project above or more than six (6) inches beyond the plane of the building wall to which the sign is attached.
 - (2) *Maximum size.* The total area of building signs for all business entities on the premises shall be no larger than seventy five (75) percent of the wall area on the side of the building where the building sign is displayed.
 - (3) *Window sign placement.* Window signs may be displayed on any window or door of a building, provided the window sign does not project more than one (1) inch beyond the exterior window or door surface.
 - (4) *Marquee sign placement.* Marquee signs, may be erected on any wall or roof of the building, provided the marquee sign does not project above the peak, or highest point, of the building roof.
- (g) *Temporary sign restrictions.* Temporary signs are exempt from the permit and license requirements of this article. In addition, temporary signs are subject to the following additional restrictions:
- (1) *Installation and construction standards.* Temporary signs shall be placed, built, erected, inflated, installed, or moved onto a premises in such a manner to withstand the effects of wind, snow, or rain and to be easily removed from the premises.
 - (2) *Maximum number and display time.* No more than twelve (12) temporary signs are allowed within the City up to fourteen (14) days prior to the event or promotion that is being advertised by the temporary signs and shall be removed within four days following the conclusion of the event or promotion.
 - (3) *Sign face number and maximum size.* Temporary signs shall have sign faces no larger than thirty two (32) square feet and no more than two (2) sign faces.
 - (4) *Maximum height.* Temporary signs shall have a height of no more than ten (10) feet.

(Ord. No. 466, art. IV, § 4, 11-18-2008; Ord. No. 493, art. II, 8-20-2010)

Sec. 30-33. Political signs.

Political (campaign) signs are exempt from the permit and license requirements of this article and subject to the following additional restrictions:

- (1) *Duration of display.* All political signs shall be removed within four (4) days after Election Day. No political sign, in the case of city, school board, or fire district elections, shall be erected or placed more than seventeen (17) days before Election Day.
- (2) *Sign faces.* Each political sign shall have no more than two (2) sign faces that shall each be no larger than thirty two (32) square feet.
- (3) *Location.* Political signs shall only be located on private property and with the permission of the landowner. Political signs shall not be located within a public right-of-way or upon public property. Political signs shall not be placed within a required parking stall or parking area.

Zoning District Abbreviation	AD	PK	PUB	GR-1	GR-2	GR-3	GR-4	GC	HS	GLID	HID	OS-1	PD
Other Signs													
Political Sign	P	X	X	P	P	P	P	P	P	P	P	X	P
Directional Sign	P-R - PLANNING DIRECTOR/PUBLIC WORKS DIRECTOR APPROVAL												

Notes: P = Permitted; P-A = Permitted Accessory; P-R = Permitted Review; C = Conditionally Permitted; X = Expressly Prohibited

- (4) *May not be building signs.* Political signs shall not be erected as building signs.
- (5) *Submission of list of signs required; sign owner identification to be displayed on sign.* Owners of political signs shall provide to the Planning Director a list of political sign locations with the landowner's name, address, and telephone number within twenty four (24) hours of placement of such signs. Each political sign face shall display the name of the owner of the sign ("paid for by...").
- (6) *Placement on utility poles or that obstructs vision at intersections is prohibited.* Political signs shall not obstruct the vision of a driver at or within an intersection, obstruct the view of traffic or of any traffic control sign or device, be attached to any traffic control sign or device, or be attached to any light or utility pole.
- (7) *Construction standards.* Political signs shall be constructed of plywood, paper, or poster material. No part of any political sign shall be more than eight (8) feet above ground level.
- (8) *Sign content restricted.* Political sign copy shall not contain any untrue or slanderous message.
- (9) *Applicability of sign restrictions to other advertising.* Any person who desires to advertise during the campaign process shall comply with the political sign requirements of this article.
- (10) *Removal of noncompliant signs.* Any political sign, erected within thirty six (36) hours of an election, which does not comply with the requirements of this article shall be deemed an unlawful sign subject to immediate removal, without notice, by the Planning Director. Otherwise, the Planning Director shall give a written notice by first class mail of the violation to the candidate or owner of the sign before removing the same. If the violation is not corrected within forty eight (48) hours of the mailing then the sign may be removed. Neither form of removal shall be subject to the requirements section 30-89.

(Ord. No. 466, art. IV, §§ 2, 5, 11-18-2008; Ord. No. 493, art. II, 8-20-2010; Ord. No. 508, art. II, 3-15-2011)

State law reference(s)—Political communications to contain certain language, SDCL §12-27-15; certain signs prohibited near polling places, SDCL §12-18-3; campaign signs not to be placed on state public highways, within the adjacent right-of-way, or on traffic signs or signals, SDCL §31-28-14.

Sec. 30-34. Directional signs.

- (a) Directional signs, as defined in the Manual on Uniform Traffic Control Devices (2009 Edition) chapter on tourist-oriented directional signs, are intended to be used to direct the traveling public to business locations within the City. Such signs shall be allowed on collector or arterial streets as an exception to the MUTCD standard.
- (b) Directional signs shall be installed in the public right-of-way of arterial or collector streets under the direction of the City's Public Works Director and the Planning Director. Directional signs shall have faces no larger than two (2) feet by four (4) feet. Directional signs may have several sign faces on one directional sign structure.

(c) Directional signs shall be exempt from the permit and license requirements of this article but shall be subject to a directional sign installation fee that shall be established by a resolution of the City Council. The cost of the directional sign shall be borne by the business requesting the sign.

(Ord. No. 466, art. IV, § 3, 11-18-2008; Ord. No. 493, art. II, 8-20-2010)

Sec. 30-35. Special use signs.

The following types of special use signs, with their attendant requirements, are allowed and shall be exempt from the permit and license requirements of this article:

Zoning District Abbreviation	AD	PK	PUB	GR-1	GR-2	GR-3	GR-4	GC	HS	GLID	HID	OS-1	PD
Special Use Signs													
Construction Sign	P	P	P	P	P	P	P	P	P	P	P	X	P
Interior Sign	P	P	P	P	P	P	P	P	P	P	P	X	P
Parking Sign	P-R	P	P	X	X	P-R	P-R	P	P	P	P	P-R	P-R
Plaque	P	P	P	P	P	P	P	P	P	P	P	X	P
Property Management Sign	P	X	P	P	P	P	P	P	P	P	P	X	P
Residential Sign	P	X	X	P	P	P	P	X	X	X	X	X	P
Sign Bench	X	X	X	X	X	P-R	X	P	P	P	P	X	P-R
Subdivision Sign	P	X	X	P	P	P	P	X	X	X	X	X	P
Temporary Information Sign	P	P	P	P	P	P	P	P	P	P	P	P-R	P
Special Event Banner	P	P	P	P	P	P	P	P	P	P	P	P-R	P
City Pride Sign	C - CITY COUNCIL APPROVAL												

Notes: P = Permitted; P-A = Permitted Accessory; P-R = Permitted Review; C = Conditionally Permitted; X = Expressly Prohibited

- (1) *Construction signs.* One (1) sign, with no more than two (2) sign faces each no larger than thirty two (32) square feet, on a construction site outside of a public right-of-way to advertise the names of the contractor, engineer, or architect, and the project while the construction or development of the site is occurring and for no more than sixty (60) days before commencement or after completion of construction.
- (2) *Interior signs.* Interior signs are allowed inside any building.

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- (3) *On-premises direction.* Each on-premises direction sign shall have no more than two (2) sign faces each no larger than four (4) square feet.
 - (4) *Parking.* One (1) sign, with one (1) sign face no larger than four (4) square feet, at each entrance or exit of parking areas having a capacity of more than four (4) cars and one (1) parking sign, with one (1) sign face no larger than sixteen (16) square feet, identifying or designating the conditions of use for the parking area.
 - (5) *Plaques.* One plaque (or name plate sign), with one (1) sign face no larger than two (2) square feet, may be fastened directly to a building.
 - (6) *Property management.* One property management sign, with no more than two (2) sign faces each no larger than thirty two (32) square feet, is allowed to advertise the sale, rental, or lease of the premises where the sign is placed. All property management signs must be removed no more than four (4) days after the sale, rental, or leasing of the premises.
 - (7) *Residential.* Permanent residential signs, each with no more than one (1) sign face no larger than four (4) square feet, to display such messages as "beware of dog," "no trespassing," "for sale by owner," "no dumping" or "garage sale" are allowed. The use of vehicle tires to display such messages is prohibited.
 - (8) *Sign benches.* Sign benches displaying off-premises advertising may be located on property zoned as commercial or industrial. The display area on any sign bench shall not exceed ten (10) square feet. No more than two (2) sign benches shall be located on any premises.
 - (9) *Subdivision.* One (1) subdivision sign, with no more than two (2) faces each no larger than thirty two (32) square feet, shall be allowed per subdivision entrance to advertise the subdivision.
 - (10) *Temporary informational signs.* Temporary informational signs, such as "garage sale," "home for sale," "rummage sale," "open house," "reunion," "day care grand opening," etc., with no more than two (2) faces, each no larger than four (4) square feet, may be temporarily placed in public rights-of-way but shall not be allowed to be attached to traffic control sign structures or utility poles. Such signs shall have their sign faces no less than one (1) foot nor no more than three (3) feet above ground level at the sign site. Temporary informational signs shall be allowed in a public right-of-way for no more than four (4) days. Any temporary informational sign that does not comply with the requirements of this section shall be deemed an unlawful sign subject to immediate removal, without notice, by the Planning Director. Such removal shall not be subject to the requirements of section 30-89.
 - (11) *Special event banners.* Special event banners may be displayed to advertise civic or community events and are allowed up to thirty (30) days prior to the event that is being advertised by the banner and shall be removed within four (4) days following the conclusion of the event. Special event banners may not be used as political signs.
 - (12) *City pride signs.* These permanent or semi-permanent signs, such as "Tree City USA Community," "South Dakota Gold Community," "Horizons Community," etc., are intended to promote the community and inform the traveling public about features of community pride and are typically located in public rights-of-way at or near the City boundaries. The installation of such signs shall be at the discretion of the City Council.

(Ord. No. 466, art. IV, § 4, 11-18-2008; Ord. No. 493, art. II, 8-20-2010)

Sec. 30-36. Advertising message required.

All on- and off-premises signs shall display an advertising message. If any such sign fails to display a full-face advertising message for sixty (60) consecutive days, the Planning Director shall notify the owner that the sign is in violation of this section, and that if the violation is not corrected within thirty (30) days of the notice, the sign shall be determined to be an unlawful sign.

(Ord. No. 466, art. VI, § 4, 11-18-2008)

Sec. 30-37. Maintenance required.

All signs and sign structures shall be maintained in a safe and workmanlike manner.

(Ord. No. 466, art. VI, § 1, 11-18-2008)

Secs. 30-38—30-62. Reserved.

ARTICLE III. PERMITS, LICENSES AND FEES

Sec. 30-63. Sign installation permit.

- (a) *When required.* Except as otherwise provided in this article, it is unlawful for any person to alter, erect, or convert any sign or sign structure in the jurisdiction of the City, or cause the same to be done, without first obtaining a sign permit approved by the City for each such sign or sign structure. A sign permit is not required to change the advertising copy or message on a sign face nor is a sign permit required to paint or maintain an existing sign structure. In addition, a sign permit is required to repair an existing sign face or sign structure where the damage, either by natural or manmade causes, to the sign face or sign structure exceeds more than twenty (20) percent of the sign face or sign structure area. When a sign permit is not required to repair such damage, the damage shall be repaired within thirty (30) days of being damaged or the sign shall be deemed an unlawful sign.
- (b) *Expiration; extension.* Any sign permit approved by the City shall expire and become void if the alteration, erection, or conversion of the sign or sign structure does not commence within ninety (90) days from date of approval of the sign permit, and shall expire and become void if the alteration, erection, or conversion of the sign or sign structure is not completed within one hundred and twenty (120) days from the date of approval of the sign permit. The City Council may, upon showing of good cause, extend one (1) time, the time limitation for an additional one hundred and twenty (120) days. Any request for such an extension shall be accompanied by a sign permit extension application fee equal to one-half of the original sign permit application fee paid to the City.
- (c) *Application form and content.* Application for a sign permit shall be made in writing upon a form furnished by the Planning Department. The following information shall be included in or with the application:
- (1) Name, address, and telephone number of the owner, or the person in possession, of the site where the sign is located or will be located.
 - (2) Name, address, and telephone number of the owner of the sign.
 - (3) Name, address, and telephone number of the contractor installing the sign.
 - (4) The date of the submission of the application form to the Planning Director
 - (5) The legal description of the property where the sign site will be, or is, located.
 - (6) A scaled and dimensioned site plan of the property containing the sign site, with the property boundaries, north arrow, scale, building locations, and sign location clearly indicated.
 - (7) A scaled and dimensioned elevation and design plan of the sign structure and sign faces to be erected or altered.
 - (8) An engineered design shall be provided for all signs in accordance with adopted building codes.
 - (9) Other such data and information as may reasonably be required by the Public Works Director, Planning Director, Planning Commission, or City Council

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- (d) *Fee.* The application shall be accompanied by an application fee and, if applicable, a late application fee, in the amount provided in the City's master fee schedule. The application fee is due at the time of submission of the application to the Planning Department and is non-refundable.
 - (e) *Review by planning director and building official for permitted or permitted with review signs.* Upon receipt of the completed application for signs listed as permitted or permitted upon review, the Planning Director and Building Official shall review the application and approve the sign permit if the application is complete and correct and the proposed sign meets the requirements of this article.

(Ord. No. 466, art. V, §§ 2—4, 11-18-2008)

(Ord. No. 680, 10-19-2021)

Sec. 30-64. Annual sign license.

- (a) *When required.* Every sign, except as otherwise provided in this article, shall have a sign license, issued by the Planning Director to the sign owner. The Planning Director shall cause a sign license to be issued to the sign permit applicant within twenty (20) days of written notification of completion of the alteration, conversion, or erection of a permitted sign.
- (b) *Inspection and compliance fee.* The City has established a sign license inspection and compliance fee to provide a fund to reimburse the City for the costs of inspection and of compliance enforcement for signs within the jurisdiction of the City, including the costs of abatement, removal, legal fees, and any other associated costs. The sign license inspection and compliance fee, in the amount provided in the City's master fee schedule, is due and payable to the City within sixty (60) days after the sign license is issued and annually thereafter by January 31. Failure to pay the fee by the due date shall cause the sign license to become void and the sign to which it is attached to become an unlawful sign.

(Ord. No. 466, art. V, §§ 5, 6, 11-18-2008; Ord. No. 508, art. II, 3-15-2011)

(Ord. No. 690,)

Secs. 30-65—30-86. Reserved.

ARTICLE IV. ADMINISTRATION AND ENFORCEMENT

Sec. 30-87. Enforcement officials and procedure.

- (a) *Duty and authority of Planning Director.* The Planning Director is authorized and directed to enforce all provisions of this article. For such purposes, the Planning Director shall have the powers of a Law Enforcement Officer. The Planning Director may deputize inspectors or employees as necessary to carry out the functions of a code enforcement agency.
- (b) *Authority of Planning and Zoning Commission.* The Planning and Zoning Commission shall have the power to render interpretations of this article and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules, and regulations shall be in conformance with the intent and purpose of this article and are subject to appeal to the City Council.
- (c) *Inspections.* All signs and sign structures shall be subject to inspection by the Planning Director, Public Works Director, or Building Official. When it is necessary to make an inspection to enforce the provisions of this article, or when those designated officials have reasonable cause to believe that there exists a sign or a condition which is contrary to, or in violation of, this article, the designated official may enter the property at reasonable times to inspect or to perform duties imposed by this article, provided credentials are

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presented to the occupant and entry requested if the premises is occupied. If the premises is unoccupied, the designated official shall make a reasonable effort to locate the owner and request entry. If entry is refused, the inspector shall have and all remedies provided by law to secure entry.

- (d) *Stop work orders.* Whenever work is being done contrary to the provisions of this article, other pertinent laws, or ordinances implemented through enforcement of this article, the Planning Director, Public Works Director, or Building Official may order the work stopped by personal delivery of a written cease and desist order served on any persons engaged in doing or causing such work to be done. Work must then be stopped until otherwise authorized by the issuing official.
- (e) *Liability for damages.* This chapter shall not be construed to relieve from or lessen the responsibility of any person owning, operating, or controlling any sign or sign structure for any damages to persons or property caused by defects, nor shall the City be held liable by reason of the inspections authorized by this article or any permits or licenses issued under this article.

(Ord. No. 466, art. III(A)—(G), 11-18-2008)

Sec. 30-88. Determination of unlawful signs.

The City's Planning Director, Public Works Director, or Building Official may declare any sign unlawful due to one or more of the following reasons: abandonment; commencement of erection without a required sign permit; damage; dilapidation; erection by an unlicensed contractor; failure to pay the annual sign license inspection and compliance fee; improper alteration; improper placement; inadequate maintenance; renewal of a sign lease for a nonconforming sign; or violation of any other provision of this article or any other state or federal law.

(Ord. No. 466, art. VI, § 3, 11-18-2008)

Sec. 30-89. Removal of unlawful signs.

The City's Planning Director, Public Works Director, or Building Official may, without notice, remove or cause to have removed, any unlawful sign found within a public right-of-way or upon public property. Upon determination that a sign located on private property is unlawful, the following procedure may be implemented:

- (1) *Notice to property and sign owner.* The Planning Director, Public Works Director, or Building Official shall prepare a written notice which shall describe the sign, specify the violation involved, and set forth the time, date, and place of a public meeting occurring at least ten (10) days after notice shall be served to discuss said violation.
- (2) *Review; finding of unlawful sign; order to correct violation.* After the violation has been discussed in a public meeting, the Planning Director, Public Works Director, or Building Official may declare the sign to be unlawful. If the sign is determined to be unlawful, an order stating that if the unlawful sign is not removed or if the violation is not corrected within fourteen (14) calendar days (exclusive) of the declaration, the sign shall be removed in accordance with the provisions of this article at cost to the sign owner. Costs for the removal of the unlawful sign shall be prepared by the City and included with the order.
- (3) *Service of notice and order.* Service of the notice or order shall be made upon all persons entitled thereto (the owner of the sign or, if different, the owner of the property on which the sign exists) either personally or by mailing a copy of such notice or order by certified mail, postage prepaid, return receipt requested, to each such person at his address as it appears on the last property assessment roll of the county or as known to the City. If no address of any such person so appears or is known then a copy of the notice or order shall be mailed, addressed to such person, at the address of the premises involved in the proceedings. The failure of any such person to receive such notice or order shall not

affect the validity of any proceedings taken under this article. Service by certified mail in the manner herein provided shall be effective upon receipt of the mailing.

- (4) *Appeal of commission determination.* Any person having an interest in the sign or the premises may appeal the determination of the Planning Director, Public Works Director, or Building Official to the City Council by filing a written notice of appeal to the Council within ten (10) days of receipt of the notice or order. Failure by any person to appeal the notice or order within that time period shall constitute a waiver of the right to an administrative hearing. The Council will determine any appeal at its next regularly scheduled meeting if the notice of appeal was received at least two (2) business days prior to the meeting, or, if not received in a timely manner, then at the next regularly scheduled meeting or at a special meeting duly held.

(Ord. No. 466, art. VI, § 5, 11-18-2008)

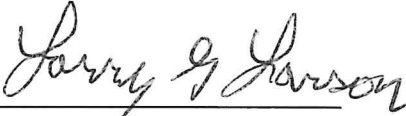
Sec. 30-90. Violations and penalties; violations deemed nuisances.

Any person violating any provision of this code shall be assessed a civil penalty by means of an administrative citation issued by the Enforcement Officer and shall be payable directly to the City. A continuing violation of this code constitutes a separate and distinct violation each day that the violation exists. Penalties assessed by an administrative citation shall be collected in accordance with the City's master fee schedule.

Violations of this chapter may also constitute a Class 2 misdemeanor. In addition to any fine or penalty assessed by the court, any violator found guilty shall pay all court costs and expenses involved in the case. Any violation of this article is declared to be a public nuisance per se.

(Ord. No. 466, art. VII, 11-18-2008)

Dated this 20th day of December, 2022.



City of Box Elder

ATTEST:



Nicole Schneider
City Administrator/Chief Finance Officer

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