

ORDINANCE #2012-04

AN ORDINANCE OF GULF COUNTY, FLORIDA; WHEREBY AMENDING GULF COUNTY SIGN ORDINANCE NO. 88-3 TITLED “AN ORDINANCE REGULATING OUTDOOR ADVERTISING SIGNS; PROVIDING FOR THE PROHIBITION OF SAID SIGNS ON COUNTY RIGHTS OF WAY; PROVIDING FOR AN EFFECTIVE DATE” AND HEREIN REPLACING IT BY ADOPTION OF “GULF COUNTY SIGN ORDINANCE” AND PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Board of County Commissioners of Gulf County, Florida (hereinafter “Commissioners”), find and determine that the Gulf County (hereinafter “County”) Land Development Regulations and its signage regulations were intended to maintain and improve the quality of life for all citizens of the County; and

WHEREAS, the Commissioners desire to delete sections, subsections, paragraphs, subparagraphs, divisions, subdivisions, clauses, sentences, phrases, words, and provisions of any and all existing sign ordinances which are obsolete or superfluous, and/or which have not been enforced, and/or which are not enforceable, and/or which would be severable by a court of competent jurisdiction; and

WHEREAS, the Commissioners find and determine that the County has adopted Land Development Regulations in order to implement its Comprehensive Plan (last reviewed and revised 11/2010), and to comply with the requirements of the laws of State of Florida, including the regulation of sign structures in conjunction with the development of land; and

WHEREAS, in order to carry out the purposes of the Florida Statutes and the purposes of the County’s Land Development Regulations, the Commissioners find and determine that the County’s Land Development Regulations should regulate signs, including by designating prohibited sign-types that are inconsistent with one or more of the purposes of the Land Development Regulations, and by prescribing the height, size (area), setback, spacing, location, and number of other sign-types that are not inconsistent with the Land Development Regulations provided that they conform to appropriate dimensional and other content-neutral criteria for their placement on land within the County, taking into account the nature of the land use and the function served by the sign-type; and

WHEREAS, the Commissioners have determined the need to update and revise the County’s Land Development Regulations relative to signs, and wishes to ensure that the County’s Land Development Regulations as they relate to signs are in compliance with all constitutional and other legal requirements; and

WHEREAS, the predominant concern in establishing sign regulations for the development and use of land is with adverse secondary effects, and not with the content of speech or viewpoint expressed; and

WHEREAS, the Commissioners wish to prohibit certain sign types, including off-premises commercial billboards; and

WHEREAS, the Commissioners find and determine that a prohibition on the erection of off-site outdoor advertising signs will limit the number of driver distractions and the number of aesthetic eyesores along the roadways and highways of the County [*see, e.g., E. B. Elliott Adv. Co. v. Metropolitan Dade County*, 425 F.2d 1141, 1154 (5th Cir. 1970), *cert. denied*, 400 U.S. 878 (1970)]; and

WHEREAS, the Commissioners find that some signs, particularly large signs, detract from the aesthetic beauty of the landscape, and wishes to preserve the aesthetic and natural beauty of the County; and

WHEREAS, the regulation of signs for purposes of aesthetics has long been recognized as advancing the public welfare; and as far back as 1954 the United States Supreme Court recognized that “the concept of the public welfare is broad and inclusive,” that the values it represents are “spiritual as well as physical, aesthetic as well as monetary,” and that it is within the power of the legislature “to determine that the community should be beautiful as well as healthy, spacious as well as clean, well balanced as well as carefully patrolled” [Justice Douglas in *Berman v. Parker*, 348 U.S. 26, 33 (1954)]; and

WHEREAS, the Commissioners find and determine that aesthetics is a valid basis for zoning, and the regulation of the size of signs and the prohibition of certain types of signs can be based upon aesthetic grounds alone as promoting the general welfare [*Merritt v. Peters*, 65 So. 2d 861 (Fla. 1953); *Dade County v. Gould*, 99 So. 2d 236 (Fla. 1957); *E.B. Elliott Advertising Co. v. Metropolitan Dade County*, 425 F.2d 1141 (5th Cir. 1970), *cert. dismissed*, 400 U.S. 878 (1970)]; and

WHEREAS, the Commissioners find and determine that this ordinance will enhance the attractiveness and economic well-being of the County as a place in which to live, visit, and conduct business; and

WHEREAS, the Commissioners agrees with the American Society of Landscape Architects’ determination that billboards tend to deface nearby scenery, whether natural or built, rural or urban, and that this characteristic is inconsistent with the land use categories and actual land uses within the County; and

WHEREAS, the courts have recognized that outdoor advertising signs tend to interrupt what would otherwise be the natural landscape as seen from the highway, whether the view is untouched or ravished by man, and that it would be unreasonable and illogical to conclude that an area is too unattractive to justify aesthetic improvement [*see E. B. Elliott Adv. Co. v. Metropolitan Dade County*, 425 F.2d 1141 (5th Cir. 1970), *cert. dismissed*, 400 U.S. 878 (1970); *John Donnelly & Sons, Inc. v. Outdoor Advertising Bd.*, 339 N.E.2d 709, 720 (Mass. 1975)]; and

WHEREAS, states such as Vermont, Alaska, Maine, and Hawaii have prohibited the construction of billboards in their states and are now billboard-free in an effort to promote aesthetics and scenic beauty; and

WHEREAS, the Commissioners find and determine that the size, height, and other characteristics of signs can magnify their adverse impacts on both traffic safety and aesthetics, and find and determine that this ordinance will lessen hazardous situations, as well as confusion and visual clutter otherwise caused by the proliferation, improper placement, excessive height, excessive size, and distracting characteristics of signs which compete for the attention of pedestrian and vehicular traffic; and

WHEREAS, the Commissioners recognize that billboards are a form of advertisement designed to be seen without the exercise of choice or volition on the part of the observer, unlike other forms of advertising that are ordinarily seen as a matter of choice on the part of the observer [*see Packer v. Utah*, 285 U.S. 105 (1932); and *General Outdoor Advertising Co. v. Department of Public Works*, 289 Mass. 149, 193 N.E. 799 (1935)], and the Commissioners acknowledge that the United States Supreme Court and many federal courts have accepted legislative judgments and determinations that the prohibition of billboards promotes traffic safety and the aesthetics of the surrounding area [*see Metromedia, Inc. v. City of San Diego*, 453 U.S. 490, 509-510 (1981); *National Advertising Co. v. City & Town of Denver*, 912 F.2d 405, 409 (10th Cir. 1990), and *Outdoor Systems, Inc. v. City of Lenexa*, 67 F. Supp. 1231, 1239 (D. Kan. 1999)]; and

WHEREAS, the Commissioners find and determine that the prohibition of portable signs reasonably advances the governmental goal of protecting the aesthetic environment of the County [*see Harnish v. Manatee Town*, 783 F.2d 1535 (11th Cir. 1986) and *Don's Porta Signs, Inc. v. City of Clearwater*, 298 F.2d 1051 (11th Cir. 1987), *cert. denied* 485 U.S. 98 (1988)]; and

WHEREAS, the Commissioners find that certain types of signs, particularly large signs, create a safety hazard by distracting motorists, pedestrians, and others, and wishes to protect the safety of motorists, pedestrians, and others from distraction caused by signs; and

WHEREAS, the Commissioners find and determine that off-premises billboards attract the attention of drivers passing by the billboards, thereby adversely affecting traffic safety and constituting a public nuisance and a noxious use of the land on which the billboards are erected; and

WHEREAS, the Commissioners find and determine that commercial billboard signs are public nuisances given their adverse impact on both traffic safety and aesthetics; and

WHEREAS, the Commissioners find and determine that billboards are a traffic hazard and impair the beauty of the surrounding area, and the prohibition of the construction of billboards will reduce these harms [*see Outdoor Systems, Inc. v. City of Lenexa*, 67 F.Supp.2d 1231, 1239 (D. Kan. 1999); *Naser Jewelers, Inc. v. City of Concord*, 513 F.3d 27 (1st Cir. 2008)]; and

WHEREAS, the Commissioners find and determine that the prohibition of billboards as set forth herein will preserve the beauty of the County, will maintain the aesthetic and visual appearance of the County, will preserve and keep open areas for beautification on public property adjoining the public roadways, will keep such signage from interfering with the visibility, readability and/or effectiveness of on-site signs by reducing and/or diminishing the visual clutter of off-site signs, will enhance the County as an attractive place to live and/or work, will reduce blighting influences, and will benefit traffic safety by reducing driver distractions; and

WHEREAS, the Commissioners recognize that under current jurisprudence the County's sign regulations may be under-inclusive in their reach to serve the County's interests in aesthetics and traffic safety, while at the same time balancing the interests protected by the First Amendment [*see, e.g., Members of City Council v. Taxpayers for Vincent*, 466 U.S. 789 (1984); Cordes, Sign Regulation After Ladue: Examining the Evolving Limits of First Amendment Protection, 74 Neb. L. Rev. 36 (1995)], and the Commissioners may from time to time modify the sign regulations herein so as to provide additional limitations to further serve the County's interests in aesthetics and/or traffic safety; and

WHEREAS, the Commissioners find and determine that the County's sign regulations are concerned with the secondary effects of speech, including but not limited to aesthetics and traffic safety, and are not intended to regulate viewpoints or censor speech, and for those and other reasons that the foregoing provisions are not subject to, or would not fail, a "prior restraint" analysis; and

WHEREAS, the Commissioners find and determine that in order to reconfirm that its sign regulations meet constitutional scrutiny, it is appropriate to amend the County's Land Development Regulations to emphasize the fact that noncommercial messages may be placed wherever commercial messages appear, that commercial speech is not favored over noncommercial speech, and that any on-site or off-site sign permitted or allowed by law is allowed to contain noncommercial speech in lieu of commercial speech; and

WHEREAS, the Commissioners find and determine that the County has allowed noncommercial speech to appear wherever commercial speech appears; and the Commissioners desire to codify that practice through the specific inclusion of a substitution clause that expressly allows noncommercial messages to be substituted for commercial messages; and

WHEREAS, the Commissioners find and determine that through its sign regulations, the County does not seek to prohibit constitutionally protected rights to assemble and protest in a traditional public forum and desire to specifically exempt from the scope of Article 6 the display of temporary signage in a judicially recognized traditional public forum for a noncommercial purpose and that are reactive to a local happening or that express a view on a controversial issue; and

WHEREAS, the Commissioners have adopted and continue to review and update the Gulf County Comprehensive Plan last revised, 11/2010; and

WHEREAS, the Commissioners find and determine that the Land Use Element of the Gulf County Comprehensive Plan notes the County goals to manage land development in such a way that the health, safety, social, and economic well-being of the citizens of Gulf County is ensured; and

WHEREAS, the Commissioners find and determine that the Gulf County Comprehensive Plan intent and goal is to seek a well planned community that can attract and retain the kinds of residence, business and industry that it desires and can avoid blight and deterioration that cause depreciation of property values; and

WHEREAS, the Commissioners find and determine that the Gulf County Comprehensive Plan Objective 1.3 is to reduce the extent of land uses that are incompatible with the Comprehensive Plan by implementing Land Development Regulations consistent with the stated policies; and

WHEREAS, the Commissioners find and determine that its adopted Comprehensive Plan includes Policy 1.3.3 which requires permits for construction of signs shall be issued by the County only for those signs in conformance with the Land Development Regulations and Gulf County Sign Ordinance; and

WHEREAS, the Commissioners find and determine that the a major deterrent to a decline is a healthy civic pride, and further note the importance of an interest in maintaining and beautifying residences to maintain a civic pride; and

WHEREAS, the Commissioners find and determine that the County staff, its sign ordinance committee, code enforcement officials, Planning Development and Review Board, and the county planner have devoted considerable time to developing, adapting and recommending an ordinance that would attempt to implement the County Comprehensive Plan and stated goals of the Commissioners; and

WHEREAS, the Commissioners find and determine that the import of the Sign Ordinance permitted under the Land Development Regulations for local governments, even small ones such as Gulf County, have an important role to play in rescuing and preserving the natural environment and beauty of the region; and

WHEREAS, the Commissioners find and determine that the Land Development Regulations in Article 6 established maximum square footage of surface areas and height limitations for freestanding signs in Gulf County's various residential and commercial districts in recognition of the character of the land uses allowed in the County ; and

WHEREAS, the Commissioners have studied or is otherwise aware of recent revisions to the signage regulations of the City of Port St. Joe which is bordered on all sides by the County; and

WHEREAS, the Commissioners desire that the provisions within Article 6 of its Land Development Regulations be revised to complement where feasible, the signage provisions of the

two cities (Port St. Joe and Wewahitchka) within Gulf County, where appropriate, including the provision prohibiting commercial offsite advertising signs commonly known as billboards; and

WHEREAS, the Commissioners recognize that on-site business signs are considered to be part of the business itself, as distinguished from off-site outdoor advertising signs, and find and determine that it is well-recognized that the unique nature of outdoor advertising and the nuisances fostered by commercial billboard signs justify the separate classification of such structures for the purposes of governmental regulation and restrictions [*E. B. Elliott Adv. Co. v. Metropolitan Dade County*, 425 F.2d 1141, 1153 (5th Cir. 1970), *cert. denied*, 400 U.S. 878, 91 S.C. 12, 27 L. Ed. 2d 35 (1970)]; and

WHEREAS, allowing certain signage without permits based upon the function served by the sign (*e.g.*, warning signs, construction signs, real estate signs, and other sign types described herein), is preferred to requiring permits for all such signs or alternatively, banning all such signs, and the Commissioners find and determine that the dimensional criteria, including but not limited to size (area) and height, established for certain signs and sign-types as set forth in the Land Development Regulations are not based upon any arbitrary determination but are based upon the function served by the sign and sign-type involved, and serve a legitimate governmental interest of balancing aesthetics and safety with the need for signage that serves a necessary purpose; and

WHEREAS, under current jurisprudence [*see, e.g., Linmark Associates v. Town of Willingboro*, 431 U.S. 85 (1977)], on-site real estate signs, such as "for sale" signs, should be allowed given the important role and unique function that real estate signs, such as "for sale" signs, perform on the premises where they are located; and

WHEREAS, under current jurisprudence [*see, e.g., Ladue v. Gilleo*, 512 U.S. 43 (1994)], signs that allow property owners, especially residential homeowners, to freely express a particular point of view on their own property should be reasonably accommodated and may be uniquely valuable, and the Commissioners wish to codify current practices that have allowed residential property owners to freely express their point of view on their own property consistent with current jurisprudence set forth in *Ladue v. Gilleo*, 512 U.S. 43 (1994); and

WHEREAS, under current jurisprudence, election signs are generally accorded a higher level of protection under the First Amendment than any other classification or type of speech; and

WHEREAS, durational limitations on election signs, sometimes referred to as political signs, are frequently problematic when the limitations affect the posting of election signs *prior* to the election concerning the candidate or ballot issue to which they pertain, but durational limits requiring the removal of election signs *following* such election are generally permissible [*see, e.g., Election Signs and Time Limits, Evolving Voices in Land Use Law*, 3 Wash. U.J.L. & Pol'y 379 (2000)]; and

WHEREAS, free expression signs are sufficient to allow for political speech unrelated to particular candidates or ballot issues; and

WHEREAS, the Commissioners intend to expressly provide that property owners may display at least one sign for free expression at all times, a codification of longstanding actual practice, and to expressly provide that property owners may maintain signs displaying their support or opposition to political candidates and ballot issues before the election to which they pertain; and

WHEREAS, the exceptions and/or exemptions for real estate signs, free expression signs, political signs, and certain other sign types are not intended to diminish or lessen the County's interests in aesthetics or traffic safety, but the same are adopted in recognition of the useful functions and practical needs served by such signage in the County's commerce and/or in the political freedom that must be accorded its citizens to freely express their points of view and political desire; and

WHEREAS, various signs serve and function as signage for particular land uses in recognition of the differing or special functions served by those land uses, but not based upon any intent to favor any particular viewpoint or control the subject matter of public discourse; and

WHEREAS, the limitations on the height, size (area), number, location, spacing, and setback of signage, adopted herein, are based upon the sign types and sign functions, and the Commissioners find and determine that the dimensional criteria specified in the sign regulations for different sign-types are reasonable and do not impair the free flow of protected speech; and

WHEREAS, sign types described herein are related in other ways to the functions they serve and the properties to which they relate (*e.g.*, temporary subdivision entrance signs are allowed at subdivision entrances, real estate signs are directly related to the property on which they are posted or, in the case of directional signs, are limited to a certain distance from the property to which they relate and exceptions to temporary political signs, for sale signs, and the like are founded upon rational and reasonable bases clearly justifying the difference of treatment; and

WHEREAS, the Commissioners find and determine that in order to preserve, protect and promote the safety and general welfare of the residents of the County, it is necessary to regulate off-site advertising signs, commonly known as billboard signs or billboards or commercial billboards, so as to restrict the construction of billboards in all districts, and to provide that the foregoing provisions shall be severable; and

WHEREAS, the Commissioners find and determine that the County has consistently adopted and enacted severability provisions in connection with its Ordinance provisions, and the Commissioners wishes to ensure that severability provisions apply to its land development regulations, including its sign regulations; and

WHEREAS, the Commissioners are aware that there have been several judicial decisions where courts have not given full effect to severability clauses that applied to sign regulations and where the courts have expressed uncertainty over whether the legislative body intended that severability would apply to certain factual situations despite the presumption that would ordinarily flow from the presence of a severability clause; and

WHEREAS, the Commissioners desire that there be an ample record of its intention that the presence of a severability clause in connection with the County's sign regulations be applied to the maximum extent possible, even if less speech would result from a determination that any exceptions, limitations, variances or other provisions are invalid or unconstitutional for any reason whatsoever; and

WHEREAS, the Commissioners desire that there be an ample record that it intends that each prohibited sign-type continue in effect regardless of the invalidity or unconstitutionality of any, or even all other, provisions of the County's sign regulations, other ordinance provisions, or other laws, for any reason(s) whatsoever; and

WHEREAS, the Commissioners desire that the prohibition on billboards continue in effect regardless of the invalidity or unconstitutionality of any, or even all other, provisions of the County's sign regulations, other Ordinance provisions, or other laws, for any reason(s) whatsoever; and

WHEREAS, the Commissioners desire that there be an ample record that it intends that the height, size (area), spacing, setback and number limitations on free-standing signs continue in effect regardless of the invalidity or unconstitutionality of any, or even all other, provisions of the County's sign regulations, other ordinance provisions, or other laws, for any reason(s) whatsoever; and

WHEREAS, the Commissioners desire to make it clear that billboards are not a compatible land use within the County and that there can be no good faith reliance by any prospective billboard developer under Florida law in connection with the prospective erection or construction of new or additional billboards within the jurisdictional limits of the County; and

WHEREAS, the state of Florida has adopted Chapter 479 of the Florida Statutes, and Chapter 14-10 of the Florida Administrative Code, as well as implementing the Outdoor Advertising Control Program, which do not preempt local regulation or prohibition of billboard signs and permits local government to determine where the balance should be struck between the interests involved with outdoor signs, primarily the competing interests of preserving and enhancing the natural scenic beauty and aesthetic features of the highways and adjacent areas while facilitating the flow of speech and expression of which providing messages through the medium of roadside signs and outdoor advertising is an important part; and

WHEREAS, the Commissioners find and determine that the sign regulations adopted hereby allow and leave open adequate alternative means of communications, such as newspaper advertising, internet advertising and communications, advertising in shoppers and pamphlets, advertising in telephone books, advertising on cable television, advertising on UHF and/or VHF television, advertising on AM and/or FM radio, advertising on satellite tv & radio, advertising on internet radio, advertising via direct mail, and other avenues of communication available in the County;; and

WHEREAS, the Commissioners recognize that the government speech doctrine was recently reaffirmed by the U.S. Supreme Court in *Pleasant Grove City, Utah v. Summum*, 129

S.Ct. 1125, (2009) WL 454299, and a government entity is not subject to scrutiny under the Free Speech Clause, although government speech must still comport with the Establishment Clause, and the Commissioners desire that there be flexibility for Gulf County to display temporary and other signage that falls within the protection of the government speech doctrine on public property for traditional temporary special event signage associated with events sponsored in whole or in part by the County, as well as providing opportunities on public property for the posting of messages of public interest on structures such as a bulletin board or message board subject to whatever criteria the County finds to be reasonable; and

WHEREAS, the Commissioners find and determine that the following amendments are consistent with all applicable policies of the County, including its Comprehensive Plan and Land Development Regulations, and are not in conflict with the public interest, and will not result in incompatible land uses; and

NOW THEREFORE, BE IT ORDAINED, by the Board of County Commissioners of Gulf County Florida, as follows:

Section 1. Definitions, Amended. The Gulf County Land Development Regulations, relating to Definitions, is hereby amended to include the following terms.:

Abandoned or discontinued sign or sign structure means a sign or sign structure whose owner has failed to operate or maintain said sign or sign structure for a period of six months or longer. The following conditions shall be considered as the failure to operate or maintain a sign or sign structure: (a) a sign displaying advertising for a product or service which is no longer available or displaying advertising for a business which is no longer licensed, or (b) a sign which is blank.

Advertising means sign copy intended to aid, directly or indirectly, in the sale, use or promotion of a product, commodity, service, activity, entertainment, or real or personal property.

Agricultural produce sign means a sign whose function is exclusively for advertising for the normal, incidental and customary sale of products, produce or livestock grown or raised on the premises.

Animated sign means a sign which includes action, motion, or color changes, or the optical illusion of action, motion, or color changes, including signs set in motion by movement of the atmosphere, or made up of a series of sections that turn.

Artwork means a two- or three-dimensional representation of a creative idea that is expressed in a form and manner as to provide aesthetic enjoyment for the viewer rather than to specifically convey the name of the business or a commercial message about the products or services offered on the property upon which the artwork is displayed.

Awning sign. See *Canopy sign.*

Bandit sign. See *Snipe sign.*

Banner means any sign or string of one or more signs, usually made of cloth or other lightweight material, including but not limited to balloons and pennants, which is or are used to attract attention, whether or not imprinted with words or characters. Flags shall not be considered banners.

Beacon means a stationary or revolving light which flashes or projects illumination, single color or multicolored, in any manner which has the effect of attracting or diverting attention, except, however, this term does not include any kind of lighting device which is required or necessary under the safety regulations of the Federal Aviation Administration or other similar agency. This definition does apply to any similar type of lighting device contained entirely within a structure and which does not project light to the exterior of the structure.

Billboard means a sign structure and/or sign utilized for advertising an establishment, an activity, a product, service or entertainment, which is sold, produced, manufactured, available or furnished at a place other than on the property on which said sign structure and/or sign is located.

Building frontage, for the purposes of the sign regulations set forth in Article 6 of this Ordinance only, means the length of the single face of a building or that portion of a building occupied by a single office, business or enterprise, commonly referred to as "store-front," which is abutting a street, parking area, or other means of customer access such as an arcade, a mall or a walkway. The building frontage for a side façade shall be the length of the single face of a side of a building or that portion of a side of a building occupied by a single office, business or enterprise.

Canopy sign means any sign that is a part of or attached to an awning or canopy, *i.e.*, a fabric, plastic, or structural protective cover constructed over a door, entrance, window, or outdoor service area that is constructed as an integral part of a building.

Commercial message means any sign wording, logo, or other representation or image that directly or indirectly names, advertises, or calls attention to a product, service, sale or sales event or other commercial activity.

Construction sign means a temporary on-premise sign identifying the ongoing construction activity during the time that a building permit is active and prior to completion of the work for which the permit was issued, containing sign copy that is limited to the ongoing construction activity and identifying the contractor and/or any subcontractor engaged to perform construction activity on the site.

Copy means the linguistic or graphic content of a sign.

Directional sign means a noncommercial on-site sign providing direction or information to pedestrian or vehicular traffic that is related or reasonably necessary to the movement of pedestrian or vehicular traffic on the premises (e.g., “entrance,” “exit,” “caution,” “no parking,” “one way only,” “no trespassing,” and the like), and not displaying a commercial message.

Double-faced sign means a single sign with copy on both sides of the sign and mounted as a single structure.

Election sign means a temporary sign erected or displayed for the purpose of expressing support for or opposition to a candidate, or stating a position regarding an issue upon which the voters of the County shall vote.

Erect means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish; but it does not include any of the foregoing activities when performed as an incident to the change of advertising message or customary maintenance or repair of a sign.

Facade means the side of a building that faces a public or private street.

Flag means any fabric or bunting containing distinct colors, patterns or symbols, used as an ornamental flag or as a symbol of government, political subdivision, corporation, business or other entity. (See also *Ornamental flag*.)

Flagpole shall mean a pole on which to raise a flag.

Flashing sign means a sign which permits light to be turned on or off intermittently more frequently than once per minute, or any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use, including an LED (light emitting diode) or digital sign.

Free expression sign means a sign, not in excess of four (4) square feet in size (area) per side and whose top is not more than three (3) feet off the ground, communicating information or views on matters of public policy or public concern, or containing any other noncommercial message that is otherwise lawful.

Freestanding sign means a sign supported by structures or supports that are placed on or anchored in the ground or at ground level and which are independent of any building or other structure.

Frontage means the length of the property line of a parcel of land, which runs parallel with and along a road right-of-way or street, exclusive of alleyways.

Future development sign means a sign that functions to advertise the future or proposed development of the premises upon which the sign is erected.

Garage or yard sale sign (garage-yard sale sign) means any on-site temporary sign pertaining to the sale of personal property in, at or upon any residentially-zoned property located in the County. Garage or yard sales shall include but not be limited to all such sales, and shall include the advertising of the holding of any such sale, or the offering to make any sale, whether made under any name such as garage sale, lawn sale, yard sale, front yard sale, back yard sale, home sale, attic sale, rummage sale, patio sale, flea market sale, or any similar designation.

Holiday and seasonal decorations mean decorations that pertain to legally or otherwise recognized holidays or to a season of the year.

Illuminated sign means any sign or portion thereof, which is illuminated by artificial light, either from an interior or exterior source, including outline, reflective or phosphorescent light, whether or not the source of light is directly affixed as part of the sign.

Incidental sign means a sign not exceeding one square foot in size attached to a freestanding sign or affixed to a wall that either (a) identifies credit cards accepted by the owner, tenant, or occupant of the parcel where the incidental sign is located, or (b) provides an official notice of services required by law or trade affiliation.

Illegal sign means any sign which was unlawfully erected or which has been determined to be in violation of any provision of Article 6 of the Gulf County Land Development Regulations.

Intermittent sign means a sign which permits light to be turned on or off intermittently more frequently than once every twelve hours or which is operated in a way whereby light is turned on or off intermittently or which varies in intensity or color more frequently than once every twelve hours, including any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use, including but not limited to an LED (light emitting diode) or digital sign.

Nameplate sign or occupant identification sign means a sign indicating the name and/or profession or address of a person or persons residing on the premises or legally occupying the premises.

Noncommercial message means any message that is not a commercial message.

Nonconforming sign means a sign that was lawfully erected but no longer conforms to the regulations provided in Article 6 of the Gulf County Land Development Regulations.

Off-premises sign or off-site sign means any sign relating in its subject matter to commodities, accommodations, services or activities on a premises other than the premises on which the sign is located.

On-premises sign or *on-site sign* means any sign relating in its subject matter to the commodities, accommodations, service or activities on the premises on which the sign is located.

Ornamental flag means any fabric or similar material containing patterns, drawings or symbols used for decorative purposes and designed to be flown as a flag.

Parapet means a false front or wall extension above the roofline of a building.

Pennant means any series of small flag-like or streamer-like pieces of cloth, plastic, paper or similar material attached in a row to any staff, cord, building, or at only one or two edges, the remainder hanging loosely.

Permanent sign means any sign which, when installed, is intended for permanent use. For the purposes of this section any sign with an intended use in excess of twelve (12) months from the date of installation shall be deemed a permanent sign.

Portable sign means any sign, banner, or poster that is not permanently attached to the ground or to a structure. For purposes of this section, an inflatable sign shall be considered a portable sign.

Projecting sign means any sign affixed perpendicularly to a building or wall in such a manner that its leading edge extends more than twelve inches beyond the surface of such building or wall.

Real estate sign means a sign advertising the sale, rental or lease of the premises or part of the premises on which the sign is displayed temporarily.

Revolving sign or *rotating sign* means any sign that revolves or rotates.

Roof sign means any sign erected and constructed wholly on or over the roof of a building, which is supported by the roof structure, or any sign that extends in whole or in part above the roofline of a building. For purposes of this definition, *roofline* shall mean the highest continuous horizontal line of a roof. On a sloping roof, the roofline is the principal eave or the highest line common to one or more principal eaves of a roof. On a flat roof, the roofline is the highest continuous line of a roof or parapet, whichever is higher.

Safety sign. See *Warning sign.*

Sandwich board sign means a temporary portable double-faced, freestanding sign.

Sight triangle means a triangular shaped portion of land established at street intersections or street and driveway intersections in which nothing is erected or allowed to grow in such a manner as to limit or obstruct the sight distance of

motorists entering or leaving the intersection. In the absence of any other applicable standard: (a) for street intersections, this triangle is created by establishing points thirty (30) feet from the point of intersection of each of two intersecting right-of-way lines and connecting these two points with a straight line to form a triangle; and (b) for driveway intersections, this triangle is created by establishing points ten (10) feet from the point of intersection of a right-of-way line and the line established by a driveway edge and connecting those two points with a straight line to form a triangle.

Sign means any device, fixture, placard or structure which uses color, form, graphics, illumination, architectural style or design with text, or writing to advertise, attract attention, announce the purpose of or identify the purpose of any person or entity, or to communicate information of any kind to the public. The term "sign" includes sign structure. The following shall not be considered signs subject to the regulations of this section: artwork, holiday or seasonal decorations, cemetery markers, machinery or equipment signs, memorial signs or tablets.

Sign area means the total area, as measured in square feet, of a sign surface, including all parts thereof devoted to the background, computed by bounding the exterior of the sign structure or surface with a series of straight or curved lines tangent thereto. The area of a sign painted directly on a wall or awning and signs with letters attached directly to walls or awnings shall be calculated by constructing an imaginary series of straight lines or lines formed, bounded or characterized by curves around the outside of all elements of the sign.

Sign face means the part of the sign that is or can be used to identify, display, advertise, communicate information, or for visual representation, which attracts or intends to attract the attention of the public for any purpose.

Sign height shall mean the vertical distance measured from ground level nearest the base of the sign to the highest point on the sign.

Sign maintenance means the replacing, repairing or repainting of a portion of a sign structure, or periodically changing changeable copy or renewing copy, which has been made unusable by ordinary wear.

Sign structure means any structure which is designed specifically for the purpose of supporting a sign, which has supports or which is capable of supporting a sign. The definition shall include any decorative covers, braces, wires, supports, or other components attached to or placed around the sign structure.

Snipe sign (bandit sign) means any sign tacked, nailed, posted, pasted, glued or otherwise attached to trees, rocks, or other natural features, or poles, stakes, or fences, with the message appearing thereon not applicable to the present use of the

premises upon which the sign is located. This shall not include *warning signs* such as no trespassing signs or no hunting signs.

Special event sign means a sign, regardless of its content, providing notice of, or direction to, an event, gathering, assembly or meeting that is open to the public at large. Special event sign shall not mean a sign bearing a commercial message.

Statutory sign means a sign required by any statute or regulation of the State of Florida or the United States.

Street address sign means any sign denoting the street address of the premises on which it is located or to which it is attached.

Substantially damaged or destroyed, as it pertains to a nonconforming sign, means that (a) fifty percent (50%) or more of the upright supports of a sign structure are physically damaged such that normal repair practices of the sign industry would call for, in the case of wooden structures, replacement of the broken supports and, in the case of a metal sign structure, replacement of at least twenty-five (25%) of the length above ground of each broken, bent, or twisted support, or (b) that more than fifty percent (50%) of a wall or attached sign is physically damaged such that normal repair practices of the sign industry would call for the same to be replaced or repaired.

Temporary sign means a sign intended for a use not permanent in nature. For the purposes of this section, a sign with an intended use of one year or less shall be deemed a temporary sign.

Traffic control device sign means any sign located within the right-of-way that functions as a traffic control device and that is described and identified in the Manual on Uniform Traffic Control Devices (MUTCD) and approved by the Federal Highway Administrator as the National Standard. *Traffic control device sign* include those signs that are classified and defined by their function as regulatory signs (that give notice of traffic laws or regulations), warning signs (that give notice of a situation that might not readily be apparent), and guide signs (that show route designations, directions, distances, services, points of interest, and other geographical, recreational, or cultural information).

Vehicle sign means any sign or signs where the total sign area covers more than ten square feet of the vehicle.

Wall sign means a sign used for advertising, which is painted on, fastened to, or erected against the wall of a building with its face in a parallel plane with the plane of the building facade or wall, that does not extend above the height of the vertical wall or eaves.

Warning sign or safety sign means a sign that functions to provide a warning of a dangerous condition or situation that might not be readily apparent or that poses a

threat of serious injury (e.g., gas line, high voltage, condemned building, etc.) or that functions to provide a warning of a violation of law (e.g., no trespassing, no hunting allowed, etc.).

Window sign means any sign mounted in any fashion on the interior or exterior of the surface of a window.

Wind sign means a sign, which uses objects or material fastened in such a manner as to move upon being subjected to pressure by wind, and shall include banners, pennants, ribbons, spinners, streamers or captive balloons; however, the term *wind sign* shall not include *flags*.

Section 2. Article 6, Signs, Repealed and Replaced. Current Article 6 of the County 's Land Development Regulations, relating to Signs, is hereby repealed in its entirety and replaced with NEW Article 6, relating to Signs, which shall provide as follows:

Article 6. Signs

6.01. Short Title. This article shall be known as the "Sign Ordinance of Gulf County, Florida".

6.02. Purpose, Intent and Scope. It is the purpose of this section to promote the public health, safety and general welfare through reasonable, consistent and non-discriminatory sign standards. The sign regulations in this Article are not intended to censor speech or to regulate viewpoints, but instead are intended to regulate the secondary effects of speech, and especially insofar as those secondary effects may adversely affect aesthetics and traffic and pedestrian safety. In order to preserve and enhance the County as a desirable community in which to live and do business, a pleasing, visually attractive environment is of foremost importance. The regulation of signs within the County is a highly contributive means by which to achieve this desired end. These sign regulations have been prepared with the intent of enhancing the visual environment of the County and promoting its continued well-being, and are intended to:

6.02-1 Encourage the effective use of signs as a means of communication in the County;

6.02-2 Maintain and enhance the aesthetic environment and the County's ability to attract sources of economic development and growth;

6.02-3 Improve pedestrian and traffic safety;

6.02-4 Minimize the possible adverse affect of signs on nearby public and private property;

6.02-5 Foster the integration of signage with architectural and landscape designs;

6.02-6 Lessen the visual clutter that may otherwise be caused by the proliferation, improper placement, illumination, animation, excessive height, and excessive size (area) of signs which compete for the attention of pedestrian and vehicular traffic;

6.02-7 Allow signs that are compatible with their surroundings and aid orientation, while precluding the placement of signs that contribute to sign clutter or that conceal or obstruct adjacent land uses or signs;

6.02-8 Encourage and allow signs that are appropriate to the district in which they are located and consistent with the category of use and function to which they pertain;

6.02-9 Curtail the size and number of signs and sign messages to the minimum reasonably necessary to identify a residential or business location and the nature of any such residential or business location;

6.02-10 Establish sign size in relationship to the scale of the lot and building on which the sign is to be placed or to which it pertains;

6.02-11 Categorize signs based upon the function that they serve and tailor the regulation of signs based upon their function;

6.02-12 Preclude signs from conflicting with the principal permitted use of the site and adjoining sites;

6.02-13 Regulate signs in a manner so as to not interfere with, obstruct the vision of or distract motorists, bicyclists or pedestrians;

6.02-14 Except to the extent expressly preempted by state or federal law, ensure that signs are constructed, installed and maintained in a safe and satisfactory manner, and protect the public from unsafe signs;

6.02-15 Preserve, conserve, protect, and enhance the aesthetic quality and scenic beauty of all districts of the County;

6.02-16 Allow for traffic control devices, consistent with national standards, to promote highway safety and efficiency by providing for the orderly movement of road users on streets and highways, and to notify road users of regulations and provide warning and guidance needed for the safe, uniform and efficient operation of all elements of the traffic stream;

6.02-17 Protect property values by precluding to the maximum extent possible sign-types that create a nuisance to the occupancy or use of other properties as a result of their size, height, illumination, brightness, or movement;

6.02-18 Protect property values by ensuring that sign-types, as well as the number of signs, are in harmony with buildings, neighborhoods, and conforming signs in the area;

6.02-19 Regulate the appearance and design of signs in a manner that promotes and enhances the beautification of the County and that complements the natural surroundings in recognition of the County's reliance on its natural surroundings and beautification efforts in retaining economic advantage for the community;

6.02-20 Preserve and enhance the rural and historic character of the County; and

6.02-21 Enable the fair and consistent enforcement of these sign regulations.

6.03 Prohibited signs. The following signs and sign-types are prohibited within the County and shall not be erected. Any lawfully existing permanent sign or sign-type that is among the prohibited signs and sign-types listed below shall be deemed a nonconforming sign subject to the provisions of Article 6.

6.03-1 Billboards (see Section 6.05-7 below)

6.03-2 Revolving signs.

6.03-3 Flashing signs.

6.03-4 Animated signs.

6.03-5 Wind signs.

6.03-6 Portable signs.

6.03-7 Roof signs.

6.03-8 Abandoned and discontinued signs.

6.03-9 Snipe signs; bandit signs.

6.03-10 Projecting signs, except as expressly allowed.

6.03-11 Bus bench advertising signs; bus shelter advertising signs.

6.03-12 Signs that emit smoke, visible vapor or smoke, sound, odor, or visible particles or gaseous matter.

6.03-13 Signs that have unshielded illuminating devices and/or that do not fully conform with the lighting restrictions contained within this

Article 6 and/or that will not comply with the lighting standards set forth in Section 6.07, as may be amended or codified.

6.03-14 Signs that obstruct, conceal, hide or otherwise obscure from view any official traffic or governmental sign, signal or device.

6.03-15 Wall signs and or freestanding signs that exceed one hundred twenty eight (128) square feet in surface area. The foregoing maximum sign area limitations, which apply under all circumstances, do not preclude the more restrictive sign area limitations that apply herein by district.

6.03-16 Freestanding signs that are higher than twenty five (25) feet. The foregoing maximum height limitation for a freestanding sign, which applies under all circumstances, does not preclude the more restrictive height limitations as set forth herein by district.

6.03-17 Signs within a sight triangle.

6.03-18 Signs in the public right-of-way, other than Traffic Control Device Signs, warning signs or safety signs.

6.03-19 Signs other than a Traffic Control Device Sign that use the words "stop" or "danger," or present or imply the need or requirement of stopping or the existence of danger, or which copy or imitate an official traffic control device sign, and which are adjacent to the right-of-way of any road, street, or highway.

6.03-20 Signs prohibited by state or federal law.

6.03-21 Vehicle sign or signs which have a total sign area on any vehicle in excess of ten (10) square feet, when the vehicle is not "regularly used in the conduct of the business or activity" advertised on the vehicle, and (a) is visible from a street right-of-way within one hundred (100) feet of the vehicle, and (b) is parked for more than five (5) consecutive hours within one hundred (100) feet of any street right of way. A vehicle shall not be considered "regularly used in the conduct of the business or activity" if the vehicle is used primarily (i) for advertising, or (ii) for the purpose of advertising, or (iii) for the purpose of providing transportation for owners or employees of the business or activity advertised on the vehicle.

6.03-22 Signs located on real property without the permission of the property owner.

6.03-23 Beacon signs, except as required by state or federal law.

- 6.03-24 Intermittent signs.
- 6.03-25 Sandwich board signs, except as expressly allowed.
- 6.03-26 Signs located, painted or affixed on a water tower, storage tower, or cell tower that are visible from a public street or roadway.

6.04. Nonconforming signs. A nonconforming sign that was lawfully erected may continue to be maintained until the nonconforming sign is substantially damaged or destroyed. At such time that the nonconforming sign is substantially damaged or destroyed, the nonconforming sign must either (a) be removed or (b) be brought into conformity with this Article and with any other applicable law or regulation.

6.05 Exemptions. This Article does not pertain to the following:

- 6.05-1 A sign, other than a window sign, located entirely inside the premises of a building or enclosed space.
- 6.05-2 A sign on a car, other than a prohibited vehicle sign or signs.
- 6.05-3 A statutory sign.
- 6.05-4 A traffic control device sign.
- 6.05-5 Any sign not visible from a public street, sidewalk or right-of-way; except that the foregoing does not exempt a sign for a commercial use that is visible from an abutting residential use.
- 6.05-6 Any temporary sign or temporary device utilized to express a noncommercial message that is reactive to a local happening or that expresses a view on a controversial issue, and that is displayed on public property that is a traditional public forum such as a public sidewalk or a public park, provided that the temporary display does not block, or otherwise interfere with, pedestrian or vehicular traffic.
- 6.05-7 *Permanent freestanding or wall-mounted signs.* Permanent freestanding or wall mounted signs are allowed as follows:
 - 6.05-7.01 *Number.* One permanent freestanding or wall-mounted sign is permitted for each parcel containing a permitted use.
 - 6.05-7.02 *Height of permanent freestanding sign.* The height of a permanent freestanding sign shall not exceed twenty five (25) feet in height.

6.05-7.03 *Size.* The maximum sign surface area of a permanent freestanding or wall-mounted sign shall not exceed one hundred twenty eight (128) square feet in size.

6.05-7.04 *Setbacks for permanent freestanding signs.* The following setbacks for permanent freestanding signs shall apply:

6.05-7.04-1 A permanent freestanding sign shall be setback at least fifteen (15) feet from the right of way line.

6.05-7.04-2 A permanent freestanding development sign shall comply with any additional setback requirements in this Code.

6.05-7.04-2 If and when a permanent freestanding sign shall exceed thirty two (32) square feet; said sign shall be engineered by design professional and required construction of a metal frame and or base

6.05-8 *Temporary agricultural produce signs.* For an allowed agricultural use, one temporary agricultural produce sign may be displayed. A temporary agricultural produce sign shall not exceed four (4) square feet in sign area. A temporary agricultural produce sign shall not exceed six (6) feet in height.

6.05-9 *Incidental signs.* Up to two (2) incidental signs are permitted to be attached (i) to a freestanding sign structure or (ii) to a building wall, but not perpendicular to the wall. An incidental sign shall not exceed one square foot in size.

6.05-10 *Permanent Business or Retail Establishment Signs within a Development.* Each permitted business or retail establishment within a development shall be entitled to the following signs:

6.05-10.01 *Permanent Window Sign.* The window surface of any retail establishment within a development may have one or more permanent window signs affixed to the window surface provided that the aggregate sign area on the window surface does not exceed Twenty percent (20%) of the total window surface area of the window.

6.05-10.02 *Permanent wall-mounted sign.* One permanent wall-mounted sign (other than a permanent window sign) that does not exceed Thirty percent (30%) of surface area and does not project more than 6 inches.

6.06. Permits.

6.06-1 Building Permits. It shall be unlawful for any person or business or the person in charge of the business to erect, construct, or alter a permanent sign structure whose construction is subject to the Florida Uniform Construction Code, without first obtaining such building permit from the County as may be required by the Florida Uniform Construction Code. Permit fees, if any, shall be paid in accordance with the applicable fee schedules. The requirement of a building permit under the Florida Uniform Construction Code is separate and independent of the requirement for a sign permit under this article.

6.06-2 Sign Permits.

6.06-2.01 Allowed temporary signs, except for special event signs, of the type described in section 6.12 of this article shall be exempt from sign permitting hereunder. Temporary special event signs shall require a permit.

6.06-2.02 Allowed permanent signs of the type described in section 6.05 of this article shall be exempt from sign permitting hereunder.

6.06-2.03 No sign permit shall be issued for the erection of a prohibited sign.

6.06-2.04 Unless exempt from permitting as provided in section 6.05 of this article, no permanent sign shall be erected, altered, relocated, maintained or displayed until a sign permit is obtained from and the appropriate fee, if any, is paid to the County.

6.06-2.05 A sign lawfully erected under permit may be repainted or have ordinary and customary repairs performed, including replacement of plastic or glass panels, without a new sign permit; however, if such sign is to be structurally altered in any manner, a new sign permit shall be required and the altered sign must meet all requirements of this article and these Ordinances.

6.06-3 Sign Permit Application and Issuance of Sign Permit.

6.06-3.01 A sign permit application shall be made upon a form provided by the County. The sign permit application is in addition to any building permit application required by the Florida Uniform Construction Code. The sign permit application shall be accompanied by plans and specifications drawn to scale, together with any site plan required by this section or this Ordinance. The

applicant shall furnish the following information on or with the sign permit application form:

6.06-3.01-1 The block, lot and street address of the real property where the sign is proposed to be located.

6.06-3.01-2 The zoning district for the real property on which the sign will be located.

6.06-3.01-3 The name, mailing address and telephone number (where available) of the owner(s) of the real property where the sign is proposed to be located.

6.06-3.01-4 A notarized statement of authorization signed by the owner(s) consenting to the placement of the proposed sign on the real property.

6.06-3.01-5 The name, mailing address and telephone number of the sign contractor.

6.06-3.01-6 Type of proposed sign (*e.g.*, wall sign or freestanding sign).

6.06-3.01-7 The proposed sign area.

6.06-3.01-8 The cost of the proposed sign.

6.06-3.01-9 If the proposed sign is a freestanding sign:

6.06-3.01-9.01 The height of the proposed freestanding sign.

6.06-3.01-9.02 The sign area of the freestanding sign, and the dimensions utilized to calculate the size.

6.06-3.01-9.03 The distance between the closest existing freestanding sign and the proposed freestanding sign as measured in each direction along each abutting street or right-of-way.

6.06-3.01-9.04 The location, height and area of any existing freestanding sign on the same lot where the proposed freestanding sign will be located.

6.06-3.01-9.05 The front and side yard setbacks for the proposed signs greater than thirty two (32) sq. ft. sign shall use metal frame and or base in the building materials consistent with Section 6.05-7.04-2 recited above.

6.06-3.01-10 If the proposed sign is an attached sign, the building frontage for the building to which the attached sign shall be affixed.

6.06-3.01-11 The number, type, location, and surface area for all existing signs on the same lot and/or building on which the sign will be located.

6.06-3.01-12 Whether the proposed sign will be an illuminated or a non-illuminated sign.

6.06-3.02 An applicant shall deliver a sign permit application for a permanent sign to the County's Code Enforcement Officer or Building Department Official his or her designee, or such other person as designated by the County. The sign permit application shall be reviewed for a determination as to whether the proposed sign meets the applicable requirements of this article and any applicable zoning law. The review of the sign permit application shall be completed within ten (10) business days from the date of receipt of the application, and the application shall be granted or denied within that time frame. In the event that no decision is rendered within ten (10) calendar days following submission, the application shall be deemed denied. The application shall be deemed denied if the application is for a prohibited sign and the applicant may appeal to the Board of County Commissioners.

6.06-4 Fees.

6.06-4.01 *Sign permit fees.* Every person making an initial application for a sign permit shall pay a sign permit fee to the County at the time of the application. This sign permit fee shall be deemed a permit fee and shall be in accordance with the permit fee schedule set forth in these Ordinances.

6.06-4.02 *Building permit fees distinguished.* The sign permit fee, if any, shall be separate and apart from any required fee for a building permit for the erection of a sign covered by the Florida Uniform Construction Code.

6.06-5 Conditions.

6.06-5.01 *Duration of permit.* If the work authorized under a sign permit has not been completed within one hundred eighty (180) days after the date of issuance, the permit shall become null and void and a new application for a sign permit shall be required.

6.06-5.02 *Maintenance of signs.*

6.06-5.02-1 All visible portions of a sign and its supporting structure shall be maintained in a safe condition and neat appearance according to the following requirements:

6.06-5.02-1.01 If the sign is lighted, all lights shall be maintained in working order and functioning in a safe manner.

6.06-5.02-1.02 If the sign is painted, the painted surface shall be kept in good condition.

6.06-5.02-1.03 Every sign shall be kept in such manner as to constitute a complete or whole sign.

6.06-5.02-2 Lawfully erected nonconforming signs may suffer only ordinary and customary repairs and maintenance. A lawfully erected non-conforming sign shall not be structurally altered except in full conformance with this article.

6.07 Lighting and illumination for signs.

6.07-1. Signs shall be illuminated only by steady, stationary, shielded light sources directed solely at the sign, or internal to it, without causing glare for motorists, pedestrians or neighboring premises.

6.07-2 Illuminated signs, including neon signs, shall not produce more than one foot-candle per square foot of reflected or transmitted illumination four (4) feet from the sign.

6.08 Substitution of noncommercial speech for commercial speech. Notwithstanding anything contained in this article or these Ordinances to the contrary, any sign erected pursuant to the provisions of this article or these Ordinances with a commercial message may, at the option of the owner, contain a noncommercial message unrelated to the business located on the premises where the sign is erected. The noncommercial message may occupy the entire sign face

or any portion thereof. The sign face may be changed from a commercial to a noncommercial message, or from one noncommercial message to another, as frequently as desired by the owner of the sign, provided that the sign is not a prohibited sign or sign-type and provided that the size, height, setback and other dimensional criteria contained in this article and these Ordinances have been satisfied.

6.09 Content neutrality as to sign message (viewpoint). Notwithstanding anything in this article or these Ordinances to the contrary, no sign or sign structure shall be subject to any limitation based upon the content (viewpoint) of the message contained on such sign or displayed on such sign structure.

6.10 Setback measurement. Required setbacks for signs in all districts shall be measured from the property line to the nearest part of the sign.

6.11 Double-faced signs. Double-faced signs shall be permitted in all zones, provided the signs are designed and constructed such that the two sign faces are back to back with a maximum distance of 18 inches between the two sign faces and directionally oriented 180 degrees from each other. The maximum sign area allowed shall be permitted for each sign face, unless otherwise noted.

6.12 Temporary on-site special event signs. Temporary on-site special event signs shall be permitted in all districts, provided they have been approved by the Code Enforcement Officer as meeting the following content-neutral criteria: (a) the signs are temporary signs for a limited time and frequency, limited to one per event (b) the signs are for a special event as defined herein (see *special event sign*), (c) the temporary signs will not exceed four (4) square feet in sign area per side and three (3) feet in height, (d) the temporary signs will not conceal or obstruct adjacent land uses or signs, (e) the temporary signs will not conflict with the principal permitted use of the site or adjoining sites, (f) the temporary signs will not interfere with, obstruct the vision of or distract motorists, bicyclists or pedestrians, (g) the temporary signs will be installed and maintained in a safe manner, and (h) the display of temporary signs for a special event shall not begin any earlier than eighteen (18) days before the event and shall be removed within three (3) business days after the event. Consistent with section 6.09 of this article, approval or disapproval shall not be based on the content of the message contained (*i.e.*, the viewpoint expressed) on such signs. The Code Enforcement Officer shall render a decision within ten (10) business days after an application is made for such temporary signs. In the event that no decision is rendered within ten (10) business days following submission, the application shall be deemed denied. The application shall be deemed denied if the application is for a prohibited sign and the applicant may appeal to the County Planning Review and Development Board and final authority resting with the Board of County Commissioners. Such a decision shall be deemed an administrative interpretation and any person adversely affected has the right to ultimately appeal the decision to the Board of County Commissioners however, the appeal shall be accelerated and

shall be heard by the Board and determined within thirty (30) days after the appeal is filed.

6.13 All Districts. The regulations in this section apply in every district, except where otherwise specified or indicated. Sign permits are not required for the signs and sign-types described and identified in this subsection.

6.13-1 Street address signs. For each parcel, residence or business, one street address sign may be displayed. For each residence, the street address sign shall not exceed two square feet in sign area unless required by applicable law. For each business or parcel in nonresidential use, the street address sign shall not exceed six square feet in sign area unless required by applicable law.

6.13-2 Nameplate or occupant identification signs. For each residence, business or other occupancy, one nameplate sign may be displayed. For residences the nameplate or occupant identification signs shall not exceed two square feet in sign area. For any nonresidential use, the nameplate or occupant identification sign shall not exceed six square feet in sign area.

6.13-3 Directional signs. Noncommercial on-site directional signs, not exceeding four square feet in sign area, shall be allowed on each parcel.

6.13-4 Parking space signs. Noncommercial on-site parking space number signs, not exceeding one square foot of sign area, shall be for a noncommercial use having multiple parking spaces on-site. One such sign shall be allowed for each parking space.

6.13-5 Free expression signs. For each parcel, one free expression sign not exceeding four (4) square feet in sign area may be displayed. The free expression sign may be displayed as an attached sign or as a freestanding sign; if displayed as a freestanding sign, the freestanding sign shall not exceed three (3) feet in height. A free expression sign is in addition to any other sign permitted under this section and is permitted in any zone. Only one such sign shall be permitted on each lot.

6.13-6 Election signs. For each parcel, five (5) election sign for each candidate and each issue may be displayed. An election sign may be displayed as an attached sign or as a freestanding sign. The election sign shall not exceed four (4) square feet in sign area if located on a lot in a residential zone and shall not exceed twenty-four (24) square feet in sign area if located on a lot in a nonresidential zone. If the election sign is displayed as a freestanding sign on the parcel, the election sign shall not

exceed three (3) feet in height. An election sign shall be removed within seven (7) calendar days following the election to which it pertains.

6.13-7 Flagpoles. One flagpole is allowed for each parcel. A flagpole shall not exceed forty (40) feet in height in a nonresidential zone and twenty-five (25) feet in height in a residential zone, and shall be subject to setbacks in the applicable zones in which it is located.

6.13-8 Flags. For each flagpole, two flags not greater than forty-eight (48) square feet each in area may be displayed in a nonresidential zone, and not greater than twenty-four (24) square feet each in area in a residential zone.

6.13-9 Warning signs and safety signs. Warning signs and safety signs, not exceeding four (4) square feet in sign area, shall be allowed in all zones.

6.13-10 Temporary construction signs. One temporary construction sign shall be allowed on a lot, subject to the following limitations:

6.13-10.01 *Number.* For each lot, one temporary construction sign shall be permitted.

6.13-10.02 *Size and height.* For a lot in a residential district, a temporary construction sign shall not exceed four (4) square feet in sign area and four (4) feet in height; and for a lot in a nonresidential district, a temporary construction sign shall not exceed twenty-four (24) square feet in sign area and six (6) feet in height.

6.13-10.03 *Setback.* Temporary construction signs shall be setback from any lot line by at least five (5) feet.

6.13-10.04 *Duration.* Temporary construction signs shall be removed within seven (7) days following the issuance of the certificate of occupancy or the expiration date of any applicable building permit, whichever shall first occur. If no permit is required, the temporary construction sign shall be displayed only until the work is completed.

6.13-11 Temporary real estate signs.

6.13-11.01 *Number - Real Estate.* One temporary real estate sign may be displayed on each parcel of land or part thereof that is for sale; however, when more than one dwelling unit or nonresidential space on a parcel of land is for sale, there may be one real estate sign for each such unit or space.

6.13-11.02 *Number - Rental Signs.* One (1) attached sign either affixed to the structure or displayed from the window that a property is for lease or for recurring short-term rental (*less than six months and a day*).

6.13-11.03 *Size and height.* For residential uses, the temporary real estate sign shall not exceed four (4) square feet in sign area and four (4) feet in height; and for a nonresidential use, the temporary real estate sign shall not exceed twenty-four (24) square feet in sign area and six (6) feet in height.

6.13-11.04 *Setback.* Temporary real estate signs shall be setback from any lot line by at least five (5) feet.

6.13-11.05 *Duration.* Temporary real estate signs shall be removed within seven (7) days following the closing or settlement of a sale, lease or rental of the real estate that was offered for sale, lease, or rent.

6.13-12 Temporary garage-yard sale signs. For each parcel with a lawful residential use, a temporary garage-yard sale sign may be displayed, subject to the following limitations:

6.13-12.01 *Number.* One temporary garage-yard sale sign may be displayed

6.13-12.02 *Size and height.* A temporary garage-yard sale sign shall not exceed four (4) square feet in sign area and four (4) feet in height.

6.13-12.03 *Setback.* A temporary garage-yard sale sign shall be setback from any lot line by at least five (5) feet.

6.13-12.04 *Duration.* A temporary garage-yard sale sign may not be displayed for a period longer than three (3) days.

6.13-13 Temporary window signs. For each lot, one or more temporary window signs may be displayed. On lots that are in residential use, the temporary window sign(s) shall not exceed an aggregate of three (3) square feet in sign area. On lots that are in nonresidential use, the temporary window sign(s) shall not exceed an aggregate of twenty-four (24) square feet in sign area. Temporary window signs shall not cover more than twenty-five percent (25%) of any window surface.

6.13-14 Temporary future development signs. A temporary future development sign shall be allowed in new subdivisions, subject to the following limitations:

6.13-14.01 *Number.* No more than one such sign shall be allowed upon any property held in single and separate ownership.

6.13-14.02 *Size and height.* A temporary future development sign shall not exceed twenty-four (24) square feet in sign surface area. A temporary future development sign shall not exceed six (6) feet in height.

6.13-14.03 *Setback.* A temporary future development sign shall be setback from any lot line by at least five (5) feet.

6.13-14.04 *Duration.* Temporary future development signs shall be removed within seven (7) days after the last dwelling or parcel has been sold.

6.13-15 Sandwich board signs. In nonresidential zones, on a lot with a permitted use for a restaurant, a sandwich board sign may be displayed as follows:

6.13-15.01 *Number:* No more than one such sign shall be allowed.

6.13-15.02 *Size and height:* A sandwich board sign shall not exceed twelve (12) square feet in sign surface area per side. A sandwich board sign shall not exceed five (5) feet in height.

6.13-15.03 *Setback:* Sandwich board signs are allowed within thirty (30) feet of the principal building for which the lot is used. Sandwich board signs are allowed on the sidewalk in front of the principal building for which the lot is used, provided that a minimum width of five (5) feet of the sidewalk is still left open for pedestrian travel.

6.13-15.04 *Duration:* Sandwich board signs are allowed only during the hours of operation of the use to which they pertain.

6.13-16 Government signs on public property. The County may display temporary signs on public property that serve a public purpose, including temporary signs for special events in the form of banners. Such government signs shall not be subject to the size, number or height limitations that apply to special event signs displayed or posted by non-government entities. The County may erect, maintain, and display a bulletin board sign on public property for the display of messages of public interest subject to such criteria as the County may establish.

6.14 Administration and enforcement.

6.14-1 The Code Enforcement Officer or Building Department Official shall be the enforcing official of this section.

6.14-2 Whenever a temporary sign is erected or maintained in violation of this section, the Code Enforcement Officer or Code Inspector may remove the same at any time without notice.

6.14-3 Whenever a temporary sign is erected or posted on public property in violation of this section the same shall be considered litter and may be removed at any time.

6.14-4 Whenever a permanent sign is erected or maintained in violation of this section or any other provision of these Ordinances, or whenever in the opinion of the Code Enforcement Officer or Code Inspector in concurrence with the opinion of the Building Department Official that any sign becomes unsafe or endangers the safety of a building or premises or the public safety, the Code Enforcement Officer shall send a letter by certified mail to the owner of said sign and/or the owner of the premises on which the sign is located, ordering that such sign be brought into conformance or removed within thirty (30) days of receipt of the letter or such other reasonable period of time as the Code Enforcement Officer may determine to be appropriate to the circumstances. If the sign is not brought into conformity or removed by the end of the thirty-day period, the Code Enforcement Officer may cause the same to be removed at the expense of the owner of the sign and the owner of the premises on which the sign is located. In addition and in consultation with the County Attorney, the Code Enforcement Officer shall be authorized to pursue such other remedies as are available or appropriate to the circumstances, and the description of the foregoing remedies are not exclusive and are in addition to such other remedies as are available under the law.

6.14-5 The Code Enforcement Officer or Building Department Official may cause any sign or sign structure to be removed summarily and without written notice at the expense of the owner of the sign and the owner of the premises on which the sign is located, if it is an immediate peril to persons or property by virtue of its construction or moorings.

6.14-6 Fines. Gulf County Commission is authorized to enforce this ordinance and may follow the established procedures and schedule of violations and penalties set forth below to be assessed by county code enforcement officials and in accordance with Florida Statute 125.69:

6.14-6.01 Violation of any provision of this ordinance shall be subject to the following penalties:

- (i) First violation: \$50.00 fine; \$50.00 per day thereafter
- (ii) Second violation: \$100.00; \$50.00 per day thereafter
- (iii) Third violation: Fine not to exceed \$500.00 and/or imprisonment in the County jail not to exceed sixty (60) days.

6.14-6.02 Each violation of this Ordinance shall constitute a separate offense. In the initial stages and implementation of this Ordinance, code enforcement officials may provide violators with no more than one (1) written warning.

6.14-6.03 The County shall have resource to such civil and criminal remedies in law and equity as may be necessary to ensure compliance with the provisions of the section of this ordinance, including but not limited to injunctive relief to rejoin and restrain any person from violating the provisions of this section of this Ordinance and to recover such damages as may be incurred by the implementation of specific corrective actions.

6.15 Appeals to the Board of County Commissioners. Whenever it is alleged that there has been an error in any order, action, decision, determination, or requirement by an administrative official in the enforcement and application of any provision contained within this section (including any allegation that an administrative official has failed to act within applicable time frames), the aggrieved party shall file a written appeal or request of hearing before the County Planning Development and Review Board for review and recommendation to the Board of County Commissioners. The appellate decisions of the Board of County Commissioners shall be deemed final, subject to judicial review as provided by law.

6.16 Violations and penalties. Any person, firm or corporation who shall violate, disobey, omit, neglect or refuse to comply with any provision of this section shall be liable to all of the penalties set forth in the Land Development Regulations and the general penalty provisions of County Ordinance.

6.17 Transition rules. Any permit issued prior to the effective date of the adoption of the sign regulations that comprise this section shall remain valid until the earlier of (a) the date that said permit expires by its own terms or (b) ninety (90) days after the effective date of the adoption of this article.

6.18 Severability.

6.18-1 Generally; Severability where less speech results. If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this article is declared or held to be invalid or unconstitutional by any court of competent jurisdiction, such declaration or holding shall not affect any other part, section, subsection, paragraph,

subparagraph, sentence, phrase, clause, term, or word of this article, even if such severability would result in less speech, whether by subjecting previously exempt signs to this article's permitting requirements, or otherwise.

6.18-2 Severability of provisions pertaining to billboards and other prohibited signs and sign-types. Without diminishing or limiting in any way the declaration of severability set forth above or elsewhere in this article, this Ordinance or in any adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this article or any other law is declared or held to be unconstitutional or invalid by any court of competent jurisdiction, such declaration or holding shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this article that pertains to prohibited signs, including specifically the prohibition on billboards and those signs and sign-types prohibited and not allowed under section 6.03 of this article.

Section 3. Repealer. All ordinances and resolutions or parts thereof inconsistent with this ordinance are hereby repealed.

Section 4. Effective Date. This ordinance shall take effect upon final adoption and publication in accordance with the law.

The foregoing Ordinance was offered by Commissioner Yeager, who moved its adoption. The motion was seconded by Commissioner Smiley and, being put to vote, the vote as follows:

Commissioner Williams	<u>Yes</u>
Commissioner Yeager	<u>Yes</u>
Commissioner McLemore	<u>Yes</u>
Commissioner Smiley	<u>Yes</u>
Commissioner McDaniel	<u>Yes</u>

DULY PASSED AND ADOPTED THIS 26th day of June, 2012

ATTEST: REBECCA NORRIS
CLERK OF COURTS

BY: Kari Summers
DEPUTY CLERK

BOARD OF COUNTY COMMISSIONERS
OF GULF COUNTY

BY: William C. Williams, III
CHAIRMAN WILLIAM C. WILLIAMS, III

APPROVED AS TO FORM:

BY: [Signature]
COUNTY ATTORNEY