

ARTICLE 802 SIGNS ON CITY PROPERTY AND PUBLIC RIGHT-OF-WAY

Sec. 802.01 Title.

This Article shall be known as Signs on City Property and Public Right-of-Way for the City of Bentonville, Arkansas.

(Ord. No. 2016-117, § 3, 08-23-2016)

Sec. 802.02 Authority.

This Article is adopted under the authority conferred on the City of Bentonville by the General Assembly of the State of Arkansas by A.C.A. §14-56-402 through §14-56-426. In adopting this Article, the City acts in its proprietary capacity as to City property, as defined herein, and pursuant to its police powers as to portions of the public right-of-way in which the fee title is not held by the City.

(Ord. No. 2016-117, § 3, 08-23-2016)

Sec. 802.03 Applicability.

The intent, rules, regulations and procedures of this Article apply to the placement of signs on city property.

(Ord. No. 2016-117, § 3, 08-23-2016)

Sec. 802.04 Purpose and intent.

The purposes and intent of this Article include, but are not limited to:

- (a) To accommodate the need for orderly expression in traditional public forum areas, such as streets, parks and sidewalks;
- (b) To preserve and enhance the aesthetic appearance and natural beauty of the City;
- (c) To serve the public interest in safety, both pedestrian and traffic;
- (d) To safeguard and protect the public health, safety, and welfare through appropriate prohibitions, regulations, and controls on the design, location and maintenance of signs on City property;
- (e) To enhance the visual attractiveness of the City, for residents and visitors;
- (f) To advance the goals, policies and programs of the General Plan; and,
- (g) To allow private parties to place signs on certain areas of City property, subject to the rules and policies stated herein.

(Ord. No. 2016-117, § 3, 08-23-2016)

Sec. 802.05 Compliance required.

As to private parties and governmental units other than the City, only signs authorized by this Article may be built, displayed, erected or maintained on City property. Authorization shall take the form of a permit or an exemption from the permit requirement as explicitly stated in this Article.

(Ord. No. 2016-117, § 3, 08-23-2016)

Sec. 802.06 Enforcement.

The Community and Economic Development Director, herein after referred to as Director, and his or her designee, is authorized and directed to administer and enforce this Article. Any private party sign placed on City property or in the public right-of-way in violation of this Article is trespass, and a public nuisance, and may be summarily abated by the City.

(Ord. No. 2016-117, § 3, 08-23-2016)

Sec. 802.07 Interpretations.

Interpretations of this policy shall be made initially by the Director in consultation with the City Attorney, whose decision may be appealed to City Council under the appeal procedures set forth in Article 301 Administration. All administrative interpretations of sign regulations may be appealed to the Board of Adjustment. Where necessary, the Board may consider not only the current or intended uses of a sign but also its past use, in light of the purposes of this Article and applicable legal principles. It shall be the obligation of the sign owner or permit applicant to furnish records concerning the past use, if requested by the Board.

(Ord. No. 2016-117, § 3, 08-23-2016)

Sec. 802.08 Signs allowed without a sign permit.

The following signs may be installed, mounted and displayed on or within public rights-of-way and City owned property without a sign permit, subject to the rules and conditions provided herein:

(a) *Official signs.* Nothing in this Article limits in any way the use of the following signs, which may be erected and displayed on City property without a sign permit:

- (1) *Traffic control and traffic directional signs* erected or authorized by the City or another governmental unit;
- (2) *Emergency and warning signs* erected by a government agency, utility company, or a contractor doing work in a public right-of-way;
- (3) *Official notices* required or authorized by law;
- (4) *Governmental messages* erected by the city, county, state or federal government, in furtherance of its governmental functions.

(b) *Wayfinding signs* erected or authorized by the City or another governmental unit.

(c) *Public events signs* used in connection with a community event, parade, protest, march or demonstration and does not exceed 32 square feet.

(d) *Noncommercial messages* that are within the protection of the First Amendment, subject to:

- (1) *Handheld*. The signs must be personally held by a person, or personally attended by one or more persons;
- (2) *Maximum area*. The maximum area of a single sign is 8 square feet, measured on one-side only.
- (3) *Inflatables*. The sign may not be inflatable or air-activated.
- (4) *Safety*. In order to serve the City's interests in traffic flow and safety, persons displaying signs pursuant to this section may not stand in any vehicular traffic lane when a roadway is open for use by vehicles. Persons displaying signs on public sidewalks must allow at least six (6) feet width clearance for pedestrians to pass by. Signs and persons holding signs may not block the free and clear vision of drivers, bicyclists and pedestrians;
- (5) *Unattended*. Inanimate signs which are unattended may not be displayed under this section, regardless of the type of message they may display.

(e) *Subdivision*. Signs identifying a recognized community, subdivision or development provided that such signs were lawfully erected pursuant to an encroachment agreement, and are consistent with an approved overall sign plan, site plan or subdivision plat. Must be included in preliminary plat or large-scale development plan.

(f) *Sidewalk signs*. Moveable signs, including A-frame and T-frame signs, located on sidewalks within the street right-of-way in pedestrian-oriented commercial areas within the R-O, C-1, C-3, DC, and DE Districts, provided that all the following criteria are met:

- (1) *Maximum area*. Six (6) square feet.
- (2) *Maximum height*. Four (4) feet.
- (3) *Illumination*. Such signs may not be artificially illuminated.
- (4) *Detached*. The sidewalk sign shall be moveable, shall not be attached in any way to the sidewalk, and shall not be chained or attached in any way to street furniture, other signs, street trees, other landscaping, or other fixtures or appurtenances on or in the sidewalk.
- (5) *Location*. Sidewalk signs shall also not be placed on any section of the sidewalk in a way that narrows the effective width of the sidewalk for pedestrian movement purposes at that point to less than six (6) feet.
- (6) *Removal*. Each sidewalk sign permitted under this section shall be removed each day by the close of business, and be replaced or removed when the appearance or condition of the sign deteriorates through damage, weathering, etc.

(Ord. No. 2016-117, § 3, 08-23-2016)

Sec. 802.09 Signs allowed with a sign permit.

The following signs may be installed, mounted, or placed on public right-of-way and City owned property only pursuant to a duly authorized and issued sign permit, subject to the regulations specified herein:

(a) *Vertical Streetscape Banners.* Vertical streetscape banners placed along thoroughfares to enhance the visual aesthetics of the streetscape typically attached to a street light pole are permitted, subject to the following regulations:

1. *Locations.* Vertical streetscape banners may be located within the Downtown Redevelopment District or other locations as approved by City Council.
2. *Applicants.* Eligible applicants include non-profit organizations, charitable, or civic organizations, to include but not limited Downtown Bentonville, Inc, Visit Bentonville, City of Bentonville, and Bentonville / Bella Vista Chamber of Commerce, and other organizations expressly made eligible by City Council.
3. *Subject.* Such signs shall be solely decorative, noncommercial or promote a special public or non-profit event and shall not display a logo, message, statement or expression relating to commercial interests. The City's logo shall be incorporated into the banner display.
4. *Size.* Each banner shall not exceed a maximum size of 2 ½' in width and 5' in length.
5. *Attachment.* Each banner shall be individually attached to an existing pole, mast arm or other permanent structure. Any vertical streetscape banners proposed to be attached to a city street light shall be installed by the Street Department, or by the fabricator of the sign if approved by the Director. No more than two banners, on opposing sides, may be mounted to each light pole.
6. *Display period.* Banners for events shall not be placed earlier than two weeks prior to the event and shall be removed within 3 days after the event. All other banners may remain in place for up to six (6) months if they do not become torn, faded, lose or otherwise in disrepair.
7. *Multiple banners.* An overall signage plan shall be approved when multiple vertical streetscape banners are placed on a lot or street section. All banners on the same street section shall have a standard visual theme, including graphic design elements (i.e. fonts) and color schemes

(Ord. No. 2016-117, § 3, 08-23-2016)

Sec. 802.10 Encroachments.

Signs that are mounted on private property but that project over the public right-of-way, or otherwise extend into or over City property, are authorized only when all of the following conditions are satisfied:

(a) *Compliance.* The sign must comply with all requirements of Article 801 Sign Ordinance – Private Property.

(b) *Encroachment agreement.* The sign owner must provide a fully-executed encroachment agreement to the Director. As part of the encroachment agreement approval, each individual merchant desiring to utilize such signs, or, alternatively, the merchants association or community development agency representing such merchants collectively, shall produce a form of surety (insurance) acceptable to the City Street Department for sidewalks in the City, which protects the City or State from any liability resulting from injury or property damage caused by any such sign.

(Ord. No. 2016-117, § 3, 08-23-2016)

Sec. 802.11 Prohibited signs.

Unless otherwise allowed in this Article, no private party signs, to include commercial mascots, may be mounted, erected, maintained or displayed on City property or the public right-of-way.

(Ord. No. 2016-117, § 3, 08-23-2016)

Sec. 802.12 Definitions.

(a) *Incorporation of sign ordinance definitions.* All definitions from Article 801 Sign Ordinance – Private Property are incorporated unless they are limited or modified by this Article.

(b) *Special Definitions.* The following definitions apply to this Article:

City property means real property over which the City (1) holds an interest, including without limitation, fee title ownership, easement, leasehold, and public street right-of-way; and (2) has the present right of possession and control.

Public events banners means a sign made of material similar to heavy canvas or reinforced plastic and used in connection with a community event, parade, protest march or demonstration.

Traditional public forum areas means the surfaces of City-owned streets, City-owned parks during the hours that they are normally open to the public, sidewalks that are connected to the City’s main pedestrian circulation system. In consultation with the City Attorney, the Director shall interpret this phrase for compliance with court decisions.

Wayfinding sign means signs that are graphically and thematically similar in design that assist in helping people orient themselves and navigate from place to place.

(Ord. No. 2016-117, § 3, 08-23-2016)

Sec. 802.13 Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The City Council declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

(Ord. No. 2016-117, § 3, 08-23-2016)