# HASTINGS BOARD OF ADJUSTMENT

A meeting of the Hastings Board of Adjustment has been scheduled for Wednesday, October 5, 2022 at 7:30 AM in the City Building, 220 North Hastings Avenue.

**AGENDA:**

1. Call to Order

2. Roll Call

3. Public Notice Notice by the Chair of the Board of Adjustment that the Open Meetings Act is posted on the southeast wall of the City Council Chambers and that prior to this meeting a notice was posted on the bulletin boards in the City Building, that each member and the Chairman received a copy of the proposed agenda and that an agenda for such meeting, kept continuously current, is available fo public inspection and that said meeting is held in open session.

4. Communications and Appearance Request

5. Unfinished Business

    a. Continued Appeals or Requests
    b. Tabled Appeals or Requests
    c. Postponed Appeals or Requests
    d. Unfinished Items

6. New Appeals or Requests

    a. Public hearing for a request for an appeal of Hastings City Code, Section 34-309.4(B) for a projecting sign on a property commonly known as 306 West 2nd Street, Hastings, Nebraska

        Motion for approval of an appeal of Hastings City Code, Section 34-309.4(B) for a projecting sign on a property commonly known as 306 West 2nd Street, Hastings, Nebraska

7. Miscellaneous

    a. Other Items
        i. Approval of Minutes from 6-14-22 meeting
    b. Committee Reports

c. <u>Chair's Report</u>

    d. Staff Report
    e. Audience Participation

8. Adjournment

Department: Development Services
Staff Contact: Brian Hurskainen
Board of Adjustment Meeting Date: 10/5/2022
File No: 2022-2022022
Prepared By: Brian Hurskainen, City Planner

# AGENDA ITEM SUMMARY SHEET

**Description of Item:**

Public hearing for a request for an appeal of Hastings City Code, Section 34-309.4(B) for a projecting sign on a property commonly known as 306 West 2nd Street, Hastings, Nebraska

Motion for approval of an appeal of Hastings City Code, Section 34-309.4(B) for a projecting sign on a property commonly known as 306 West 2nd Street, Hastings, Nebraska

**Names of People/Business affected by this action:**

The applicant, the people of Hastings, and the City.

**Why Board of Adjustment action is required:**

Neb. Rev. Stat. 19-910 (1) The board of adjustment appointed pursuant to section 19-907 shall, subject to such appropriate conditions and safeguards as may be established by the city council or village board of trustees, have only the following powers: (a) To hear and decide appeals when it is alleged there is error in any order, requirement, decision, or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures, except that the authority to hear and decide appeals shall not apply to decisions made under subsection (3) of section 19-929; (b) to hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any map; and (c) when by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation under this section and sections 19-901, 19-903 to 19-904.01, and 19-908 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any zoning regulation.

**Type of action requested:**

Motion

**Suggested motion:**

Motion for approval for an appeal of Hastings City Code, Section 34-309.4(B) for a projecting sign on a property commonly known as 306 West 2nd Street, Hastings, Nebraska

**Deadlines associated with action:**

Not Applicable

**Department head comments:**

The applicant is appealing the denial of a building permit to build a projecting sign

A Building Permit Application, dated June 17, 2022, (Exhibit B) is included in the information packet (attached). There was a letter sent by the Building Inspector (Exhibit C) on August 8, 2022 noting that:

"Unfortunately, your project does not meet the criteria as set forth in Hastings City Code and has been denied." (Hastings City Code Section 34-309.4)

The current zoning of the property is C-2, Central Business District and projecting signs are allowed in that district. Per code, projecting signs may project out 4 feet and be a maximum of 10 square feet. The applicant is requesting a sign that projects out 6 feet with an area of 18 square feet. The code was changed in 2019; the previous code from 2012 states that "Over public sidewalks 12 feet or more in width, the maximum projection may be within 5 feet of the vertical plane of the inside curb line." Exhibit D shows approximately how wide the sidewalk is at that location.

Exhibit A shows the sign dimensions as well as where the sign will go on the building.

Variances must meet all 4 requirements found in Neb Rev Statue 19-910 (2): No such variance shall be authorized by the board of adjustment unless it finds that: (a) The strict application of the zoning regulation would produce undue hardship; (b) such hardship is not shared generally by other properties in the same zoning district and the same vicinity; (c) the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and (d) the granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice. No variance shall be authorized unless the board of adjustment finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.

(a) The strict application of the zoning regulation would produce undue hardship:
They are allowed to build the requested sign within the size parameters set out by the code, they want to go beyond what the code allows for.

(b) Such hardship is not shared generally by other properties in the same zoning district and the same vicinity:
Every property in that area is able to build a sign that meets the size parameters of the code, all properties within the City limits are under the same sign code. The hardship is not about this

specific building or lot, it is in a similar position to all buildings wanting to do a projection sign.

(c) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance
This is one of the oldest parts of town with structures dating back to the 1800's. Codes have changed over the years and so there is a variety of signage in the downtown area. There are other properties along 2nd Street that appear to have larger signs than what would not be allowed by today's code with their size.

(d) The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.
They are allowed to build the requested sign within the size parameters set out by the code, having a smaller sign does not reduce their use of their property. There are several businesses downtown that do not have projecting signs.

**Recommendation:**

Staff recommends a motion of disapproval for an appeal of Hastings City Code, Section 34-309.4(B) for a projecting sign on a property commonly known as 306 West 2nd Street, Hastings, Nebraska

# Exhibit A

72"

36"

PLATTE RIVER

FOOT & ANKLE SURGEONS

FOOT & ANKLE SOLUTIONS FOR YOU

# Exhibit B

HASTINGS
Nebraska

**Permit #:** 20220985
**Permit Date:** 06/17/22
**Permit Type:**
**Issue Date:**
**Permit Type:** Sign
**Type of Work:** New
**Building Used As:** Commercial
**Basement:**
**Location of Work:** 306 W. 2nd Street
**Secondary Location:**
**Applicant Name:** Terence Miller dba SIGN DOCTOR
**Applicant Address:** 141 N. Laird Ave. - Suite 12
**City:** Hastings
**State:** NE
**Zip:** 68901
**Phone Number:** [redacted]
**Email:** [redacted]
**Description of Work:** projecting wall mounted sign
**Fence Type:**
**Fence Materials:**
**Fence Height:**
**# of Gates:** 0
**Special Conditions:**
**Project Cost:** 0
**Square Feet:** 0
**Number of Stories:** 0
**Ground Area:** 0
**Total Fixtures:** 0
**Roof Type:**
**Insulation Type:**
**Sign Type:** Projecting
**Illuminated:** No
**Sprinklers:**
**Air Conditioning:** 0
**Meter Needed:**
**Phase:**
**Voltage:**
**Amps:**

**Water Meter Quantity :** 0
**Water Meter:**
**Water Tap:**
**Sewer Tap:**
**Garage:**
**Geothermal Well:**
**Name:**
**fee:** 0.00
**Primary Occupancy:**
**Status:** Denied
**Assigned To:** Trevor Terwey

## Property

| Parcel # | Address | Legal Description | Owner Name | Owner Phone | Zoning |
|---|---|---|---|---|---|
| 010006131 | 306 W 2ND ST | | DAVALWAT PROPERTIES LLC | | -- |

## Contractors

| License Applied Date | License Issued Date | Type of License | Business Name | License Type |
|---|---|---|---|---|
| | | Business | Sign Doctor | |

## Plan Reviews

| Date | Review Type | Description | Assigned To | Review Status |
|---|---|---|---|---|
| 07/22/2022 | Sign | Permit says a 6ft project, code says it can be a maximum of 4ft. Sign code section attached | Brian Hurskainen | Fail |

## Fees

| Fee | Description | Notes | Amount |
|---|---|---|---|
| General Permit Fee | | | $30.00 |
| | | **Total** | **$30.00** |

## Payments

| Date | Paid By | Description | Payment Type | Accepted By | Amount |
|---|---|---|---|---|---|
| 06/17/2022 | sign doctor | 404577 | | | $30.00 |
| | | | | **Outstanding Balance** | **$0.00** |

## Notes

| Date | Note | Created By: |
|---|---|---|
| 06/22/2022 | Spoke with contractor about limits on sign size. Waiting to hear back. | Trevor Terwey |

## Uploaded Files

| Date | File Name |
|---|---|
| 07/22/2022 | 12350486-Sign Code.pdf |
| 06/17/2022 | 0c1f47074891a64b6f48946265c18a5d_wall_projection_sign.pdf |
| 06/17/2022 | 25008f1ab672a3ee04edf963b88fc811_building_front_-_sign_projecting.pdf |

# Exhibit C

HASTINGS
DEVELOPMENT SERVICES

August 8, 2022

Terence Miller/dba Sign Doctor
141 N. Laird
Hastings, NE 68901

Re: Application for a Sign Permit to construct a projecting sign.

Dear Applicant:

The application for the permit at 306 W. 2nd has been carefully reviewed. Unfortunately, your project does not meet the criteria as set forth in Hastings City Code and has been denied. Please review the following information regarding your addition.

Hastings City Code Sec. 34-309.04. - Sign type and district requirements.

Maximum projection is 4 feet.
Maximum area per face is 10 sq. ft.

If you have any questions or concerns about these conditions, or if you have alternatives to any of the above conditions that you would like to discuss, please contact me at your earliest convenience.

Sincerely,
Trevor Terwey
Building Inspector

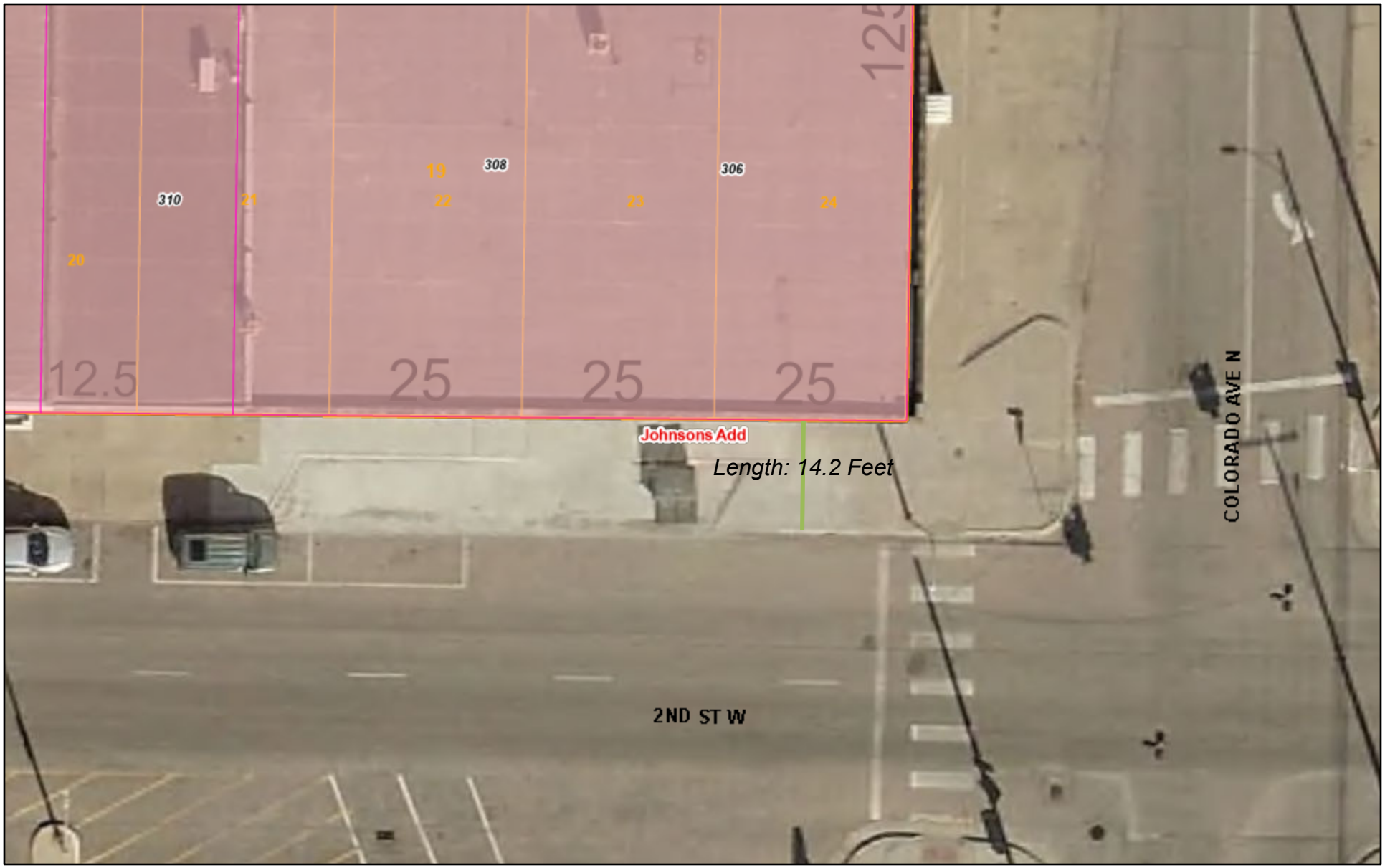
220 North Hastings Avenue
Inspection: (402) 461-2302

Hastings, Nebraska 68901
Planning: (402) 461-2302
Fax: (402) 461-2304

www.cityofhastings.org

# Exhibit D

# ArcGIS Web AppBuilder




9/23/2022, 10:43:27 AM

1:282

0 0 0 0.01 mi

0 0 0.01 0.01 km

Parcels

Addresses

LOTS

TwoMile

Zoning

BLOCKS

Subdivisions

Limits

C-2

Adams County, City of Hastings & Hastings Utilities GIS Mapping - This map is not to be used for precise location.

| Sign Type | Maximum Number Allowed | Max. # of Sign Faces | Maximum Height (ft.) | Minimum Clearance (ft.) | Maximum Projection (ft.) | Maximum Area per face (sq. ft.) | Min. Setback (Ft.) | |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | Right-of-Way (ROW) | Project Boundary or Property Line |
| **Banner** | 1 per frontage | 1 | 6 ft.* | 6′8″ | N/A | 32 sq. ft. | N/A | N/A |
| | Notes: A banner sign is intended to be temporary in nature and used as an interim measure for a) new businesses awaiting permanent sign approval or b) additional signage announcing an event or activity. Banners falling into category (a) are allowed on premise for up to 90 days; banners falling into category (b) are allowed on premise for up to 30 days, 4 times per year. *Applies to height of a ground-mounted banner sign. | | | | | | | |
| **Billboard** | 2 per mile * | 2 | 35 ft. | 12 ft. | N/A | 378 sq. ft. | 25 ft. ** | 25 ft. |
| | Notes: * Measured section line to section line, regardless which side of the road the billboard is on. ** No part of a billboard shall extend more than 5 ft. into the setback from a public right-of-way line. | | | | | | | |
| | Existing billboards shall be regulated according to provisions found in Section 34-610 regarding legal nonconforming signs. New billboards are prohibited. | | | | | | | |
| **Blade** | 3 signs per frontage | 2 | 15 ft. | N/A | N/A | 32 sq. ft. | Setback shall be equal to the height of the sign wherever possible. | |
| | Notes: Signs should be securely anchored into the ground or secured in a portable base designed for such function. Blade signs may be allowed on premise for up to 30 days, 4 times per year. | | | | | | | |
| **Building Marker** | 1 per frontage | 1 | N/A | N/A | 6 in. | 10 sq. ft. | N/A | N/A |
| | Notes: None | | | | | | | |
| **Canopy/Awning** | 2 per canopy/awning | 2 | 12 ft. ** | 6′8″ | 6 ft. * | 10 sq. ft. (canopy)/20% of face (awning) copy | May extend into setback. | |

| Sign Type | Maximum Number Allowed | Max. # of Sign Faces | Maximum Height (ft.) | Minimum Clearance (ft.) | Maximum Projection (ft.) | Maximum Area per face (sq. ft.) | Min. Setback (Ft.) | |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | Right-of-Way (ROW) | Project Boundary or Property Line |
| | Notes: * Maximum projection does not apply when canopy is freestanding, such as at a service station.<br>**For freestanding canopies the maximum height is 18 ft. | | | | | | | |
| **Creative Sign** | 1 per lot | N/A | N/A | N/A | N/A | N/A | Setback shall meet the requirements of the district. | |
| | Requires review and approval by the City Council following the process set forth in 34.309.05(4). | | | | | | | |
| **Drive-thru** | 2 per lane | 1 | 12 ft. | 12 ft. * | 12 in. ** | 36 sq. ft. | N/A | N/A |
| | Notes: * Minimum clearance only applies to drive-thru signs spanning a lane; signs placed adjacent to lanes have no minimum clearance requirement. ** Maximum projection only applies to drive through signs placed adjacent to lanes. | | | | | | | |
| **Electronic Message** | See notes | See notes | See notes | See notes | See notes | See notes | See notes | See notes |
| | Notes: Follow district requirements and design standards pursuant to pole or monument signs, and all other applicable guidance found within these regulations. | | | | | | | |
| **Flag** | 1 per frontage | 2 | 30 ft. * | 6′8″ | 6 ft. | 15 sq. ft. | N/A | N/A |
| | Notes: * Height restriction applies to freestanding poles; flags attached to a building or structure shall not extend higher than 12 ft. | | | | | | | |
| **Ground** | 1 per parcel | 1 | 12 in. | N/A | N/A | 10 sq. ft. | N/A | N/A |
| | Notes: None | | | | | | | |
| **Hanging** | 1 sign per public entrance | 2 | 12 ft. | 6′8″ | N/A | 10 sq. ft. | N/A | N/A |
| | | | | | | | | |

| Sign Type | Maximum Number Allowed | Max. # of Sign Faces | Maximum Height (ft.) | Minimum Clearance (ft.) | Maximum Projection (ft.) | Maximum Area per face (sq. ft.) | Min. Setback (Ft.) | |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | Right-of-Way (ROW) | Project Boundary or Property Line |
| | Notes: Hanging signs shall be suspended from the underside of a structure, such as a canopy or marquee. | | | | | | | |
| **Iconic/Historic** | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
| | Notes: Requires a recommendation from the Adams County Historical Society, review and approval by the Planning Commission following the procedure and criteria outlined in Section 34.309.05(4)(a)(i). | | | | | | | |
| **Marquee** | 2 per marquee | 2 | 15 ft. | 12 ft. | 5 ft. | 10 sq. ft./face | 5 ft. | 3 ft. |
| | Notes: None | | | | | | | |
| **Monument** | 1 per frontage | 2 | See notes * | N/A * | N/A | See notes * | 5 ft. | 5 ft. |
| | Notes: See chart for lot frontage, height, and area. * Maximum clearance permitted is 12 in. measured between ground and bottom of sign, if supported by a frame or structure. | | | | | | | |
| **Pole** | 1 per frontage | 2 | See notes * | 6′8″ | N/A | See notes * | 5 ft. | 5 ft. |
| | Notes: See chart for lot frontage, height, and area. | | | | | | | |
| **Poster** | N/A | 2 | 3 ft. | N/A | N/A | 8 sq. ft. * | 5 ft. | 3 ft. |
| | Notes: Signs shall be temporary and allowed on premise for up to 30 days, 4 times per year. * Maximum sign area is 4 sq. ft. in residential and agricultural districts | | | | | | | |
| **Projecting** | 1 per public entrance | 2 | 12 ft. | 6'8" | 4 ft. | 10 sq. ft. | N/A | N/A |
| | Notes: None | | | | | | | |
| **Sidewalk** | 1 per business | 2 | 5 ft. | N/A | N/A | 15 sq. ft. | N/A | N/A |
| | | | | | | | | |

| Sign Type | Maximum Number Allowed | Max. # of Sign Faces | Maximum Height (ft.) | Minimum Clearance (ft.) | Maximum Projection (ft.) | Maximum Area per face (sq. ft.) | Min. Setback (Ft.) | |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | Right-of-Way (ROW) | Project Boundary or Property Line |
| | Notes: Signs must be placed to accommodate a minimum 5-foot pedestrian clear zone on the sidewalk. Sidewalk signs are not permitted if there is no sidewalk. Signs may only be displayed during business hours. | | | | | | | |
| **Street Banner** | N/A | 2 | 24 ft. | 18 ft. | N/A | 144 sq. ft. | N/A | N/A |
| | Notes: A street banner may be permitted temporarily for up to 15 consecutive days per event. | | | | | | | |
| **Wall** | 75% of total # allowed | 1 | N/A | N/A | 12 in. | See notes * | N/A | N/A |
| | Notes: Wall signs shall be attached to a wall and shall not extend above the parapet or eave of the building. Wall signs shall be of non-combustible materials, unless the building is constructed as a Type II-B building, as defined in the building code adopted by the City of Hastings, except that sign faces may be of combustible plastics. * Maximum sign area is limited to 6 sq. ft. in all residential districts, 50 sf in C-O, 60 sf in C-1, 10% of building facade in A, and 20% in C-2 through I-2 inclusive. | | | | | | | |
| **Wayfinding** | 1 per access; 1 per critical decision point | 2 | 3 ft. | 6'8" | 3 ft. | 6 sq. ft. | N/A | N/A |
| | Notes: None | | | | | | | |
| **Window** | 1 sign per window pane | 1 | N/A | N/A | N/A | 30% coverage of total window area | N/A | N/A |
| | Notes: Limited to the first floor of any building. Signs must be of a permanent nature, otherwise they will be regulated as a poster sign (see above). | | | | | | | |

**ORDINANCE NO. 4334**

**AN ORDINANCE OF THE CITY OF HASTINGS, NEBRASKA, AMENDING HASTINGS CITY CODE CHAPTER 34; ESTABLISHING AN EFFECTIVE DATE; AND REPEALING ANY ORDINANCES OR OTHER PROVISIONS IN CONFLICT HEREWITH.**

**BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF HASTINGS, NEBRASKA:**

**SECTION 1.** That Hastings City Code 34-309 is amended to read as follows:

See attached exhibit "A".

**SECTION 2.** That all other ordinances or provisions in conflict with this ordinance are hereby repealed.

**SECTION 3.** Nothing in this ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 3 in this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this ordinance.

**SECTION 4.** The provisions of this ordinance are separable and the invalidity of any phrase, clause or part of this ordinance shall not affect the validity or effectiveness of the remainder of this ordinance.

**SECTION 5.** This ordinance shall take effect and be in full force from and after its passage, approval and publication or posting as required by law, in its entirety, or in pamphlet form, as the case may be, said effective date being **December 25, 2012**, and this ordinance shall be included in the Hastings City Code Book.

PASSED and APPROVED this **10th day of December, 2012**.

CITY OF HASTINGS, NEBRASKA CORPORATE SEAL APRIL 21, 1874

(SEAL)

Mayor

City Clerk

Approved by City Attorney:

City Attorney

EXHIBIT "A"

**34-309. Signs; permits; general regulations.**

Each sign or part of a sign erected within the zoning jurisdiction of the City of Hastings must comply with the provisions of this chapter, other relevant provisions of the City of Hastings' Municipal Code, and applicable building codes.

(1) Nonconformance and amortization of non-conforming signs. Where a sign exists at the effective date of adoption or amendment of the ordinance codified in this title that could not be built under the terms of this title by reason of restrictions on area, use, height, setback, or other characteristics of the sign or its location on the lot, such sign may be continued so long as it remains otherwise lawful, subject to the following provisions:

(a) No such sign may be enlarged or altered in a way which increases its nonconformity; however, reasonable repairs and alterations may be permitted.

(b) Should such a sign be destroyed by any means to an extent of sixty (60) percent or more of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this title.

(2) Resolution of conflicting regulations. This chapter is not meant to repeal or interfere with enforcement of other sections of the City of Hastings' Municipal Code. In cases of conflicts between Code sections, State or Federal Regulations, the more restrictive regulations shall apply.

(3) Vision-clearance area. Except in the C-2 District, no structure shall be built to a height of more than two (2) feet above the established curb grade on the part of the lot within a vision clearance zone. The vision clearance zone shall be as defined in Hastings City Code Section 34-305(4) (d). No landscaping shall be planted in such area which will materially obstruct the view of drivers approaching the street intersection.

(4) Maintenance. All signs shall be maintained in a good state of repair, including, but not limited to, the structural components, the lighting, if any, the portion attaching the sign to the ground or structure, and the surface features.

(5) General regulations: Other design elements.

(a) Illumination. Lighting, when installed, must be positioned in such a manner that light is not directed onto an adjoining property or onto a public street or highway, and in accordance with the Lighting provisions of Section 34-305(5).

(b) Marquees and marquee signs. Signs placed on, attached to, or constructed on a marquee are subject to the maximum projection and clearance regulations of projecting signs.

(c) Permanent banners.

(i) A banner sign projecting from a building may not exceed the wall height of the building.

(ii) Maximum projection for any banner is five (5) feet from the building with a minimum clearance of ten (10) feet.

(iii) Flag signs and banner signs count against the sign area permitted a premise.

(d) Clocks. For the purposes of this chapter, clocks, thermometers, time and temperature only displays, and religious symbols are not considered signs.

(6) General permit procedures.

(a) Applicability.

(i) A sign permit, approved by the Building Official, shall be required before the erection, construction, alteration, placing, or locating of all signs conforming with this title.

(ii) Except as otherwise provided in this Chapter, it shall be unlawful for any person to erect any sign in the city or it's two-mile extraterritorial jurisdiction without first obtaining a sign permit for each sign. The regulations set forth in this section shall not be construed to require any permit for a change of copy on any

sign, repair or repainting, cleaning and other normal maintenance or repair of a sign or sign structure for which a permit has previously been issued, so long as the sign or sign structure is not modified in any way.

(b) Plans submittal. A copy of plans and specifications shall be submitted to the Building Official for each sign regulated by this title. Such plans shall show sufficient details about size of the sign, location and materials to be used and such other data as may be required for the Building Official to determine compliance with this title. When requested by the Building Official, the applicant shall furnish a certification of the structural integrity of the sign and its installation by a registered professional engineer with specialization in structures. An application for an illuminated sign shall disclose the luminous intensity of the sign for both day and night illumination.

(c) Appeals. Any person or persons aggrieved by the decision of the Building Official to approve or disapprove a sign permit, as provided by this title, may appeal such decision to the Board of Adjustment as provided by Section 34-701 et seq.

(d) Application Fees. Each application for a sign permit shall be accompanied by any applicable fees, which shall be established by the City Council.

(7) Method of measurement for regulators.

(a) Maximum Permitted Sign Area. Maximum permitted sign area for a premise is set forth as a numerical limit or as a function of the frontage of the premises on a street or private way. For properties with frontage on more than one (1) public street or private street (excluding alleys), the total frontage shall be calculated as the longest frontage plus one-half the length of all additional frontages. A premise with a lawful billboard shall not include the area of the billboard in the maximum sign area for the premise.

(b) Sign area.

(i) Sign area includes the entire area within the perimeter enclosing the extreme limits of the sign, excluding any structure essential for support or service of the sign, or architectural elements of the building.

(ii) The area of double-faced signs is calculated on the largest face only.

(iii) The sign area for ground signs, monument signs, and architectural sign bands is calculated as the area enclosing the extreme limits of the copy only.

(iv) In the case of individual letters mounted to a wall, the area of the extreme limits of the copy is considered to be the sign area.

(c) Height. The height of a sign is measured from the average grade level below the sign to the topmost point of the sign or sign structure.

(d) Setback. The setback of a sign is measured from the property line to the line projected to the ground plane of the nearest portion of the sign.

**34-309.01. Prohibited signs.**

The following signs are prohibited in all zoning districts:

(1) Signs or sign structures which resemble, imitate, simulate, or conflict with traffic control signs or devices included in the Manual of Uniform Traffic Control Devices, which otherwise mislead or confuse persons traveling on public streets, which create a traffic hazard, or which violate any of the provisions of Section 60-6,127 or Section 60-6,128 of the *Nebraska Rules of the Road* or any other applicable State statutes.

(2) Signs which create a safety hazard by obstructing the clear view of pedestrians or vehicles, or which obscure official signs or signals.

(3) Off-premise Signs on Public Property. Off-premise signs located on public property which is being used for public purposes shall be prohibited. This restriction also applies to hand-held signs carried by persons and persons dressed in costumes or as character actors for the purposes of advertising a service or product.

(4) Flashing Signs. No flashing, blinking, or rotating lights shall be permitted for either permanent or temporary signs. Illumination levels controlling brightness and minimum required hold time for electronic information signs shall comply with Section 309 (4) of this Chapter.

(5) Moving Signs. No sign shall be permitted, any part of which moves by motorized or similar mechanical means.

(6) Painted Wall Signs. Off-premise signs painted on building walls unless specifically approved as an element of a Historic Neighborhood Conservation District plan.

(7) All roof signs.

**34-309.02. Exempt signs.**

The following signs are permitted in any zoning district and are exempt from other provisions of this chapter:

(1) Real Estate Signs. Signs advertising the sale, rental, or lease of the premises or part of the premises on which the signs are displayed. One (1) non-illuminated sign, not to exceed six (6) square feet in residential districts and thirty-two (32) square feet in commercial or industrial districts, shall be permitted on each premises in residential districts. Such signs shall not extend higher than three (3) feet above grade level or closer than ten (10) feet from any property line unless located on the wall of a building. Such signs shall be removed within seven (7) days after the disposition of the premises.

(2) Construction Signs. Signs identifying the architect, engineer, contractor or other individuals involved in the construction of a building and such signs announcing the character of the building enterprise or the purpose for which the building is intended but not including product advertising. One (1) non-illuminated sign not to exceed fifty (50) square feet shall be permitted per street frontage. Such sign shall not extend higher than ten (10) feet above grade level and meet the front yard requirement for a principal structure unless located on the wall of a building on the premises or on a protective barricade surrounding the construction. Such signs shall be removed within one (1) week following completion of construction.

(3) Political Signs. A sign that announces candidates seeking public political office or pertinent political issues. Political signs are not permanent both in terms of duration of display and in the manner of construction, which allows easy removal of the sign. Political signs are subject to the following regulations:

(a) Neither the width nor the height of the sign may exceed three (3) feet.

(b) Signs shall be placed not less than six (6) feet from the back of the curb, or edge 3. of the pavement if no curbs exist.

(c) Signs must be placed at least fifty (50) feet from a corner.

(d) Permission must be obtained from the property owner abutting the City right-of-way prior to installing any sign.

(e) Signs shall not be installed more than three (3) weeks in advance of any primary, 7. regular, or special election and shall be removed the day after election day.

(f) The provisions of this section shall apply only to right-of-way owned by the City and shall not apply to City-owned parking lots or other City-owned real estate.

(g) Political signs placed on City-owned right-of-way that do not conform to the foregoing terms and conditions shall be removed by the Hastings Police Department.

(4) Street Banners. Signs advertising a public event and meeting the following criteria:

(a) Street banners shall be permitted for public events which are solely for the benefit of a non-profit organization and shall only be located on commercially zoned property, OR on industrially zoned property, OR on property owned or controlled by a public entity.

(b) Street banners shall not exceed 3 feet in height and shall not exceed 20 feet in length.

(c) Street banners not attached to a building shall have an overall height less than 4 feet.

(d) Street banners shall not be placed in the public right-of-way.

(e) Street banners shall not be placed in a vision sight triangle as set forth in Hastings City Code 34-305(4)(d); and shall not interfere with traffic at driveways.

(f) Street banners shall not be attached to fences, light poles or utility poles.

(g) Street banners shall not be placed more than 2 weeks prior the event which they advertise.

(h) Only one street banner is permitted per premise, and not more than four street banners may be installed for any one public event.

(5) Seasonal Decorations. Signs pertaining to recognized national holidays and national observances.

(6) Public Signs. Signs of a noncommercial nature and in the public interest, erected by or upon the order of a public officer in the performance of his public duty, such as safety signs, danger signs, trespassing signs, traffic signs, memorial plaques, signs of historical interest and other similar signs, including signs designating hospitals, libraries, schools and other institutions or places of public interest or concern.

(7) Integral Signs. Signs for churches or temples, or names of buildings, dates of erection, monumental citations, commemorative tablets and other similar signs when carved into stone, concrete or other building material or made of bronze, aluminum, or other permanent type of construction and made an integral part of the structure to which they are attached.

(8) Window Signs. Such signs which are displayed inside of a window or within a building provided, however, that neon window signs shall be permitted only in those districts where neon signs are permitted. Window signs shall not be installed in any window above the first story.

(9) Works of graphic art painted or applied to building walls which contain no advertising or business identification messages.

(10) Residential signs under four (4) square feet in size.

(11) Neighborhood or subdivision identification signs under fifty (50) square feet.

(12) Signs, which are not visible from a public right-of-way, private way, or court or from a property other than that on which the sign is installed.

(13) Directional signs provided that such signs:

(a) Do not exceed six (6) square feet in maximum area or three (3) feet in maximum height.

(b) Are limited to one (1) sign at each driveway or access point with a public street; and one (1) sign at any critical decision point internal to the project.

(14) Hand-Held Signs. Hand-held signs carried by persons and persons dressed in costumes or as character actors for the purposes of advertising a service or product, provided that such advertisement is limited to the lot or lots where the service or product is offered.

**34-309.03. Temporary commercial signs.**

(1) Detached temporary commercial signs.

(a) No permit or fee is required.

(b) Size. Except for posters, the maximum size of detached temporary signs or portable signs shall be fifty (50) square feet in area. Posters shall not exceed four (4) square feet in area and three (3) feet in height. Posters shall be limited to one per each fifty (50) linear feet of lot frontage.

(c) Location Requirements for Detached Temporary Commercial Signs.

(i) Detached Temporary Commercial Signs are prohibited in any public right-of-way or property, including streets, sidewalks, parks, and public facilities, except that in the C-2 district, self-supporting easel style or A-frame style signs may be placed on the sidewalk, provided a minimum 5' wide sidewalk area is maintained free and unobstructed for pedestrian use. Such temporary signs shall not be permanently attached to the sidewalk and shall be removed when the business is not open for business. Such signs may only be placed immediately in front of the business they advertise.

(ii) Detached Temporary Commercial Signs shall not be located within the Vision Clearance Triangle defined by Section 34-305(4) (d).

(iii) Detached Temporary Commercial Signs shall not interfere with any public right-of-way, driveway or access way, or any means of access or egress to any building.

(iv) Pennants, ribbons, inflatable balloons, streamers, flags, spinners, and other similar moving devices, intended to attract attention, shall be limited to one such device for each 50 linear feet of street frontage. In all cases, such displays shall not be attached to any temporary or permanent pole or structure on the public right-of-way, nor shall any such sign display encroach upon the public right-of way or neighboring property, including air space.

(d) Roadside readerboards shall require a $25.00 permit and be limited to placement and display for a maximum of two (2) thirty day periods annually and be maintained in a structurally sound condition. Roadside readerboards shall be limited to one roadside readerboard for each 100 feet of street frontage.

(2) Attached temporary commercial signs.

(a) No permit or permit fee is required.

(b) Duration of Sign Display. An Attached Temporary Commercial Sign shall have no time limit for the duration of display of any sign that meets the following criteria:

(i) The total amount of attached temporary commercial signage permitted on any premise shall be limited to a total of two (2) Attached Temporary Commercial Signs that do not exceed sixty-four (64) square feet in area on any street façade (including any building facades adjacent to public streets. Alleys are not streets.)

(ii) Attached Temporary Commercial Signs shall not be attached to any sign pole or light pole on public or private property; or public utility poles, trees, or wooden or metal fence posts on either public or private property.

(iii) Any Attached Temporary Commercial Sign shall be attached only to vertical facades of the primary building and shall not be attached to roofs, roof extensions, cornices, overhangs, or other building extensions.

(3) Condition of temporary signs.

(a) All temporary signs shall be maintained in sound condition. Any sign that exhibits deterioration of structure or materials may be removed subject to the provisions of this section.

(b) The Director of Development Services and his/her authorized officers shall order the removal of any sign not in compliance with any provisions of this section. If the owner of the premise on which such sign is located, or the owner of the sign if unlawfully located on public property, fails to remove such sign, the Director of Development Services and his/her authorized officers shall be authorized to remove the sign. Any costs of removal of a sign on private property shall be assessed to the owner of the property. Any such removal shall also result in the immediate cancellation of any outstanding temporary sign permit.

(c) All temporary signs with time-specific content shall be removed within 48 hours of the end of the event which they advertise.

**34-309.04. District requirements.**

(1) Signs in Districts R-1, R-1A and R-1S shall be permitted as follows:

(a) Residential signs are limited to one per premise, not to exceed 4 sq ft. Residential signs shall not be illuminated, either directly or indirectly.

(b) Civic uses which are either permitted or conditional uses in these districts shall be limited to a total of two ground, pole or monument signs per frontage.

(c) Ground signs are permitted only for civic uses that are either permitted or conditional uses in these districts and are subject to the following:

(i) Ground signs shall not exceed 200 sq ft in area.

(ii) Ground signs shall not exceed 25 feet in height.

(iii) Ground signs shall be set back a minimum of 5 feet from the right-of-way, measured from the right-of-way line to the leading edge of the sign. Ground signs shall be set back a minimum of 3 feet from any other property lines.

(d) Pole signs are permitted only for civic uses that are either permitted or conditional uses in these districts and are subject to the following:

(i) Pole signs shall not exceed 200 sq ft in area.

(ii) Pole signs shall not exceed 25 feet in height.

(iii) Pole signs shall be set back a minimum of 5 feet from the right-of-way, measured from the right-of-way line to the leading edge of the sign. Pole signs shall be set back a minimum of 3 feet from any other property lines.

(e) Monument signs are permitted only for civic uses that are either permitted or conditional uses in these districts and are subject to the following:

(i) Monument signs shall not exceed 200 sq ft in area.

(ii) Monument signs shall not exceed 10 feet in height.

(iii) Monument signs shall be set back a minimum of 5 feet from the right-of-way, measured from the right-of-way line to the leading edge of the sign. Monument signs shall be set back a minimum of 3 feet from any other property lines.

(f) Drive thru signs are prohibited in these districts.

(g) Permanent Banner signs are permitted only for civic uses that are either permitted or conditional uses in these districts. The area of any Permanent Banner sign shall count toward the wall sign limit below.

(h) Building Marker signs are permitted in these districts, provided they do not exceed 10 sq ft in area, limited to one per street frontage.

(i) Canopy and Awning signs are permitted only for civic uses that are either permitted or conditional uses in these districts. The area of any Canopy or Awning sign shall count toward the wall sign limit below.

(j) Marquee signs and Projecting signs are prohibited in these districts.

(k) Wall signs are permitted only for civic uses that are either permitted or conditional uses in these districts and are subject to the following:

(i) Wall signs shall be limited to the first floor of the building.

(ii) Wall signs shall be attached to the face of the building and shall not project more than 12 inches from the wall.

(iii) Wall signs shall not extend above the parapet or eave of the building.

(iv) Wall signs shall be of non-combustible materials, unless the building is constructed as a Type II-B building, as defined in the building code adopted by the City of Hastings, except that sign faces may be of combustible plastics.

(v) Wall signs are limited to 10% of the area of the building façade which faces a street. Building walls and favades that do not face a public street may have wall signs, but the area is limited to 10% of street-facing walls and façades.

(l) Flag signs are prohibited in these districts.

(m) Electronic information signs are permitted only for civic uses that are either permitted or conditional uses in these districts and are subject to the following:

(i) Electronic information signs are limited to one per premise.

(ii) Electronic information signs shall not exceed 200 sq ft in area.

(iii) Electronic information signs shall be classified as either a monument, ground or pole sign and constructed and located accordingly.

(iv) Electronic information signs shall not be programmed in a way that suggests or resembles a traffic control device.

(v) Electronic information signs shall be programmed in a way that no sign shall flash or blink and the image, message or lighting pattern shall hold for a minimum of four (4) seconds, however, full animation video is allowable provided such video does not flash or blink.

(vi) The surface/face illumination of any sign shall not exceed one thousand two hundred fifty (1,250) Nits after dusk or seven thousand five hundred (7,500) Nits during daylight hours. Such illuminated sign shall be equipped with a sensor and/or timer or other device to automatically adjust the day/night light intensity levels in accordance with the standard set herein.

(2) Signs in the Agriculture district shall be permitted as follows:

(a) Residential signs are limited to one per premise, not to exceed 4 sq ft. Residential signs shall not be illuminated, either directly or indirectly.

(b) Civic uses which are either permitted or conditional uses in these districts shall be limited to a total of two ground, pole or monument signs per frontage.

(c) Ground signs are permitted only for civic uses that are either permitted or conditional uses in these districts and are subject to the following:

(i) Ground signs shall not exceed 200 sq ft in area.

(ii) Ground signs shall not exceed 25 feet in height.

(iii) Ground signs shall be set back a minimum of 5 feet from the right-of-way, measured from the right-of-way line to the leading edge of the sign. Ground signs shall be set back a minimum of 3 feet from any other property lines.

(d) Pole signs are permitted only for civic uses that are either permitted or conditional uses in these districts and are subject to the following:

(i) Pole signs shall not exceed 200 sq ft in area.

(ii) Pole signs shall not exceed 25 feet in height.

(iii) Pole signs shall be set back a minimum of 5 feet from the right-of-way, measured from the right-of-way line to the leading edge of the sign. Pole signs shall be set back a minimum of 3 feet from any other property lines.

(e) Monument signs are permitted only for civic uses that are either permitted or conditional uses in these districts and are subject to the following:

(i) Monument signs shall not exceed 200 sq ft in area.

(ii) Monument signs shall not exceed 10 feet in height.

(iii) Monument signs shall be set back a minimum of 5 feet from the right-of-way, measured from the right-of-way line to the leading edge of the sign. Monument signs shall be set back a minimum of 3 feet from any other property lines.

(f) Drive thru signs are prohibited in these districts.

(g) Permanent Banner signs are permitted only for civic uses that are either permitted or conditional uses in these districts. The area of any Permanent Banner sign shall count toward the wall sign limit below.

(h) Building Marker signs are permitted in these districts, provided they do not exceed 10 sq ft in area, limited to one per street frontage.

(i) Canopy and Awning signs are permitted only for civic uses that are either permitted or conditional uses in these districts. The area of any Canopy or Awning sign shall count toward the wall sign limit below.

(j) Marquee signs and Projecting are signs prohibited in these districts.

(k)Wall signs are permitted only for civic uses that are either permitted or conditional uses in these districts and are subject to the following:

(i) Wall signs shall be limited to the first floor of the building.

(ii) Wall signs shall be attached to the face of the building and shall not project more than 12 inches from the wall.

(iii) Wall signs shall not extend above the parapet or eave of the building.

(iv) Wall signs shall be of non-combustible materials, unless the building is constructed as a Type II-B building, as defined in the building code adopted by the City of Hastings, except that sign faces may be of combustible plastics.

(v) Wall signs are limited to 10% of the area of the building façade which faces a street. Building walls and façades that do not face a public street may have wall signs, but the area is limited to 10% of street-facing walls and façades.

(l) Flag signs are prohibited in these districts.

(m) Electronic information signs are permitted only for civic uses that are either permitted or conditional uses in these districts and are subject to the following:

(i) Electronic information signs are limited to one per premise.

(ii) Electronic information signs shall not exceed 200 sq ft in area.

(iii) Electronic information signs shall be classified as either a monument, ground or pole sign and constructed and located accordingly.

(iv) Electronic information signs shall not be programmed in a way that suggests or resembles a traffic control device.

(v) Electronic information signs shall be programmed in a way that no sign shall flash or blink and the image, message or lighting pattern shall hold for a minimum of four (4) seconds, however, full animation video is allowable provided such video does not flash or blink.

(vi) The surface/face illumination of any sign shall not exceed one thousand two hundred fifty (1,250) Nits after dusk or seven thousand five hundred (7,500) Nits during daylight hours. Such illuminated sign shall be equipped with a sensor and/or timer or other device to automatically adjust the day/night light intensity levels in accordance with the standard set herein.

(n) Two non-illuminated ground, pole or monument signs are permitted for any permitted use in this district, with each sign limited to 50 sq ft in area. Maximum height for shall be 25 feet.

(3) Signs in the Districts R-2, R-3 and R-4 shall be permitted as follows:

(a) Residential signs are limited to one per premise, not to exceed 4 sq ft. Residential signs shall not be illuminated, either directly or indirectly.

(b) Civic uses which are either permitted or conditional uses in these districts shall be limited to a total of two ground, pole or monument signs per frontage.

(c) Ground signs are permitted only for civic uses that are either permitted or conditional uses in these districts and are subject to the following:

(i) Ground signs shall not exceed 200 sq ft in area.

(ii) Ground signs shall not exceed 25 feet in height.

(iii) Ground signs shall be set back a minimum of 5 feet from the right-of-way, measured from the right-of-way line to the leading edge of the sign. Ground signs shall be set back a minimum of 3 feet from any other property lines.

(d) Pole signs are permitted only for civic uses that are either permitted or conditional uses in these districts and are subject to the following:

(i) Pole signs shall not exceed 200 sq ft in area.

(ii) Pole signs shall not exceed 25 feet in height.

(iii) Pole signs shall be set back a minimum of 5 feet from the right-of-way, measured from the right-of-way line to the leading edge of the sign. Pole signs shall be set back a minimum of 3 feet from any other property lines.

(e) Monument signs are permitted only for civic uses that are either permitted or conditional uses in these districts and are subject to the following:

(i) Monument signs shall not exceed 200 sq ft in area.

(ii) Monument signs shall not exceed 10 feet in height.

(iii) Monument signs shall be set back a minimum of 5 feet from the right-of-way, measured from the right-of-way line to the leading edge of the sign. Monument signs shall be set back a minimum of 3 feet from any other property lines.

(f) Drive thru signs are prohibited in these districts.

(g) Permanent Banner signs are permitted only for civic uses that are either permitted or conditional uses in these districts. The area of any Permanent Banner sign shall count toward the wall sign limit below.

(h) Building Marker signs are permitted in these districts, provided they do not exceed 10 sq ft in area, limited to one per street frontage.

(i) Canopy and Awning signs are permitted only for civic uses that are either permitted or conditional uses in these districts. The area of any Canopy or Awning sign shall count toward the wall sign limit below.

(j) Marquee signs and Projecting signs prohibited in these districts.

(k) Wall signs are permitted only for civic uses that are either permitted or conditional uses in these districts and are subject to the following:

(i) Wall signs shall be limited to the first floor of the building.

(ii) Wall signs shall be attached to the face of the building and shall not project more than 12 inches from the wall.

(iii) Wall signs shall not extend above the parapet or eave of the building.

(iv) Wall signs shall be of non-combustible materials, unless the building is constructed as a Type II-B building, as defined in the building code adopted by the City of Hastings, except that sign faces may be of combustible plastics.

(v) Wall signs are limited to 10% of the area of the building façade which faces a street. Building walls and façades that do not face a public street may have wall signs, but the area is limited to 10% of street-facing walls and façades.

(l) Flag signs are prohibited in these districts.

(m) Electronic information signs are permitted only for civic uses that are either permitted or conditional uses in these districts and are subject to the following:

(i) Electronic information signs are limited to one per premise.

(ii) Electronic information signs shall not exceed 200 sq ft in area.

(iii) Electronic information signs shall be classified as either a monument, ground or pole sign and constructed and located accordingly.

(iv) Electronic information signs shall not be programmed in a way that suggests or resembles a traffic control device.

(v) Electronic information signs shall be programmed in a way that no sign shall flash or blink and the image, message or lighting pattern shall hold for a minimum of four (4) seconds, however, full animation video is allowable provided such video does not flash or blink.

(vi) The surface/face illumination of any sign shall not exceed one thousand two hundred fifty (1,250) Nits after dusk or seven thousand five hundred (7,500) Nits during daylight hours. Such illuminated sign shall be equipped with a sensor and/or timer or other device to automatically adjust the day/night light intensity levels in accordance with the standard set herein.

(n) Multi-family dwellings are permitted one detached sign per premise, up to 30 sq ft in area. Such signs may be indirectly illuminated. Such signs shall be set back 5 feet from the front property line and 3 feet from any other property line. Additionally, each major building entrance is permitted one wall sign up to 4 sq ft in area.

(4) CMP:

(a) For projects with an overall site area in excess of six (6) acres, or zoned CMP, an applicant may submit a Sign Master Plan, detailing the size, location, and design of all signs on the site. The Sign Master Plan may adjust the strict application of these standards, but must clarify the exact nature of the adjustments. Such a Sign Master Plan shall be approved by the City Council after review and recommendation by the Planning Commission. This review follows the same process as review of a PD District or as part of a rezone to the CMP District.

(b) Signs in the Campus Institutional Districts shall be as permitted for the C-O, Commercial Office District, or according to an approved sign program as set out in the specific Master Development Plan or Sign Master Plan for the development under consideration.

(5) Signs in the C-O, Commercial Office District, shall be permitted as follows:

(a) Residential uses are permitted one residential sign per premise, not to exceed 4 sq ft. Residential signs shall not be illuminated, either directly or indirectly.

(b) Civic uses which are either permitted or conditional uses in these districts shall be limited to a total of two ground or monument signs per frontage.

(c) Other permitted uses are limited to one ground or monument sign per street frontage.

(d) Ground signs are permitted in this district, subject to the following:

(i) Ground signs shall not exceed 200 sq ft in area.

(ii) Ground signs shall not exceed 25 feet in height.

(iii) Ground signs shall be set back a minimum of 5 feet from the right-of-way, measured from the right-of-way line to the leading edge of the sign. Ground signs shall be set back a minimum of 3 feet from any other property lines.

(e) Pole signs are prohibited in this district.

(f) Monument signs are permitted in this district, subject to the following:

(i) Monument signs shall not exceed 200 sq ft in area.

(ii) Monument signs shall not exceed 10 feet in height.

(iii) Monument signs shall be set back a minimum of 5 feet from the right-of-way, measured from the right-of-way line to the leading edge of the sign. Monument signs shall be set back a minimum of 3 feet from any other property lines.

(g) Drive thru signs are prohibited in these districts.

(h) Permanent Banner signs are permitted only for civic uses that are either permitted or conditional uses in these districts. The area of any Permanent Banner sign shall count toward the wall sign limit below.

(i) Building Marker signs are permitted in these districts, provided they do not exceed 10 sq ft in area, limited to one per street frontage.

(j) Canopy and Awning signs are permitted only for civic uses that are either permitted or conditional uses in these districts. The area of any Canopy or Awning sign shall count toward the wall sign limit below.

(k) Marquee signs and Projecting signs are prohibited in these districts.

(l) Wall signs are permitted, subject to the following:

(i) Wall signs shall be limited to the first floor of the building.

(ii) Wall signs shall be attached to the face of the building and shall not project more than 12 inches from the wall.

(iii) Wall signs shall not extend above the parapet or eave of the building.

(iv) Wall signs shall be of non-combustible materials, unless the building is constructed as a Type II-B building, as defined in the building code adopted by the City of Hastings, except that sign faces may be of combustible plastics.

(v) Wall signs are limited to 50 sq ft each, and are limited to one per street-facing wall.

(m) Flag signs are prohibited in these districts.

(n) Electronic information signs are permitted only for civic uses that are either permitted or conditional uses in these districts and are subject to the following:

(i) Electronic information signs are limited to one per premise.

(ii) Electronic information signs shall not exceed 200 sq ft in area.

(iii) Electronic information signs shall be classified as either a monument, ground or pole sign and constructed and located accordingly.

(iv) Electronic information signs shall not be programmed in a way that suggests or resembles a traffic control device.

(v) Electronic information signs shall be programmed in a way that no sign shall flash or blink and the image, message or lighting pattern shall hold for a minimum of four (4) seconds, however, full animation video is allowable provided such video does not flash or blink.

(vi) The surface/face illumination of any sign shall not exceed one thousand two hundred fifty (1,250) Nits after dusk or seven thousand five hundred (7,500) Nits during daylight hours. Such illuminated sign shall be equipped with a sensor and/or timer or other device to automatically adjust the day/night light intensity levels in accordance with the standard set herein.

(o) Multi-family dwellings are permitted one detached sign per premise, up to 30 sq ft in area. Such signs may be indirectly illuminated. Such signs shall be set back 5 feet from the front property line and 3 feet from any other property line. Additionally, each major building entrance is permitted one wall sign up to 4 sq ft in area.

(6) Signs in the C-1, Commercial Local Business District, shall be permitted as follows:

(a) Residential uses are permitted one residential sign per premise, not to exceed 4 sq ft. Residential signs shall not be illuminated, either directly or indirectly.

(b) Civic uses which are either permitted or conditional uses in these districts shall be limited to a total of two ground, pole or monument signs per frontage.

(c) Other permitted uses are limited to one ground, pole or monument sign per street frontage.

(d) Ground signs are permitted in this district, subject to the following:

(i) Ground signs shall not exceed 200 sq ft in area.

(ii) Ground signs shall not exceed 25 feet in height.

(iii) Ground signs shall be set back a minimum of 5 feet from the right-of-way, measured from the right-of-way line to the leading edge of the sign. Ground signs shall be set back a minimum of 3 feet from any other property lines.

(e) Pole signs are permitted in this district, subject to the following:

(i) Pole signs shall not exceed 200 sq ft in area.

(ii) Pole signs shall not exceed 25 feet in height.

(iii) Pole signs shall be set back a minimum of 5 feet from the right-of-way, measured from the right-of-way line to the leading edge of the sign. Pole signs shall be set back a minimum of 3 feet from any other property lines.

(f) Monument signs are permitted in this district, subject to the following:

(i) Monument signs shall not exceed 200 sq ft in area.

(ii) Monument signs shall not exceed 10 feet in height.

(iii) Monument signs shall be set back a minimum of 5 feet from the right-of-way, measured from the right-of-way line to the leading edge of the sign. Monument signs shall be set back a minimum of 3 feet from any other property lines.

(g) Drive thru signs are prohibited in these districts.

(h) Permanent Banner signs are permitted in this district. The area of any Permanent Banner sign shall count toward the wall sign limit below.

(i) Building Marker signs are permitted in this district, provided they do not exceed 10 sq ft in area, limited to one per street frontage.

(j) Canopy and Awning signs are permitted in this district. The area of any Canopy or Awning sign shall count toward the wall sign limit below.

(k) Marquee signs and Projecting signs are prohibited in these districts.

(l) Wall signs are permitted, subject to the following:

(i) Wall signs shall be limited to the first floor of the building.

(ii) Wall signs shall be attached to the face of the building and shall not project more than 12 inches from the wall.

(iii) Wall signs shall not extend above the parapet or eave of the building.

(iv) Wall signs shall be of non-combustible materials, unless the building is constructed as a Type II-B building, as defined in the building code adopted by the City of Hastings, except that sign faces may be of combustible plastics.

(v) Wall signs are limited to 60 sq ft each, and are limited to one per street-facing wall.

(m) Flag signs are prohibited in these districts.

(n) Electronic information signs are permitted only for civic uses that are either permitted or conditional uses in these districts and are subject to the following:

(i) Electronic information signs are limited to one per premise.

(ii) Electronic information signs shall not exceed 200 sq ft in area.

(iii) Electronic information signs shall be classified as either a monument, ground or pole sign and constructed and located accordingly.

(iv) Electronic information signs shall not be programmed in a way that suggests or resembles a traffic control device.

(v) Electronic information signs shall be programmed in a way that no sign shall flash or blink and the image, message or lighting pattern shall hold for a minimum of four (4) seconds, however, full animation video is allowable provided such video does not flash or blink.

(vi) The surface/face illumination of any sign shall not exceed one thousand two hundred fifty (1,250) Nits after dusk or seven thousand five hundred (7,500) Nits during daylight hours. Such illuminated sign shall be equipped with a sensor and/or timer or other device to automatically adjust the day/night light intensity levels in accordance with the standard set herein.

(o) Multi-family dwellings are permitted one detached sign per premise, up to 30 sq ft in area. Such signs may be indirectly illuminated. Such signs shall be set back 5 feet from the front property line and 3 feet from any other property line. Additionally, each major building entrance is permitted one wall sign up to 4 sq ft in area.

(7) Signs in the C-2, Central Business District, shall be permitted as follows:

(a) Ground signs are permitted, subject to the following:

(i) Ground signs shall not exceed 300 sq ft in area.

(ii) Ground signs shall not exceed 25 feet in height.

(iii) Ground signs shall be set back a minimum of 5 feet from the right-of-way, measured from the right-of-way line to the leading edge of the sign. Ground signs shall be set back a minimum of 3 feet from any other property lines.

(b) Pole signs are permitted, subject to the following:

(i) Pole signs shall not exceed 300 sq ft in area.

(ii) Pole signs shall not exceed 35 feet in height.

(iii) Pole signs shall be set back a minimum of 5 feet from the right-of-way, measured from the right-of-way line to the leading edge of the sign. Pole signs shall be set back a minimum of 3 feet from any other property lines.

(c) Monument signs are permitted, subject to the following:

(i) Monument signs shall not exceed 300 sq ft in area.

(ii) Monument signs shall not exceed 10 feet in height.

(iii)Monument signs shall be set back a minimum of 5 feet from the right-of-way, measured from the right-of-way line to the leading edge of the sign. Monument signs shall be set back a minimum of 3 feet from any other property lines.

(d) Drive thru signs are permitted, subject to the following:

(i) Shall not exceed 12 feet in height.

(ii) Shall be limited to 100 sq ft each.

(iii) Shall be limited to 2 per drive-through lane.

(e) Permanent Banner signs are permitted and shall count toward the wall area allowed below.

(f) Building Marker signs are permitted in this district, provided they do not exceed 10 sq ft in area, limited to one per street frontage.

(g) Canopy and Awning signs are permitted, subject to the following:

(i) Shall provide a minimum clearance of 6 feet, 8 inches over any walking surface.

(ii) Shall count toward the wall sign area limit below, but such area shall only include the sign, graphic, lettering or advertising on the canopy or awning.

(iii) Canopies and awnings shall not extend above the eave or parapet of the building wall and shall not extend over any area utilized by motor vehicles.

(iv) Canopies and awnings extending more than 6 feet from a wall shall be designed by a licensed engineer or architect and shall have plans stamped by a licensed engineer or architect.

(v) Canopies and awnings shall not extend more than 9 feet from the building façade to which they are mounted.

(h) The area of any Marquee or Projecting sign shall count toward the wall sign limit below. Marquee signs and Projecting signs permitted in this district, subject to the following:

(i) Maximum projection shall be 3 feet over public sidewalks less than 12 feet in width.

(ii) Over public sidewalks 12 feet or more in width, the maximum projection may be within 5 feet of the vertical plane of the inside of the curb line.

(iii) A vertical clearance of 12 feet shall be provided over public sidewalks.

(iv) A vertical clearance of 15 feet over parking lots.

(v) A vertical clearance of 18 feet over driveways.

(i) Wall signs are permitted, subject to the following:

(i) Wall signs shall be limited to the first floor of the building.

(ii) Wall signs shall be attached to the face of the building and shall not project more than 12 inches from the wall.

(iii) Wall signs shall not extend above the parapet or eave of the building.

(iv) Wall signs shall be of non-combustible materials, unless the building is constructed as a Type II-B building, as defined in the building code adopted by the City of Hastings, except that sign faces may be of combustible plastics.

(v) Wall signs are limited to 20% of the area of the building façade which faces a street. Building walls and façades that do not face a public street may have wall signs, but the area is limited to 20% of street-facing walls and façades.

(j) Flag signs are permitted. No more than two flag sigs are allowed per premise. Flag signs are limited to 15 sq ft each.

(k) Electronic information signs are permitted, subject to the following:

(i) Electronic information signs are limited to one per premise.

(ii) Electronic information signs shall not exceed 300 sq ft in area.

(iii) Electronic information signs shall be classified as either a monument, ground or pole sign and constructed and located accordingly.

(iv) Electronic information signs shall not be programmed in a way that suggests or resembles a traffic control device.

(v) Electronic information signs shall be programmed in a way that no sign shall flash or blink and the image, message or lighting pattern shall hold for a minimum of four (4) seconds, however, full animation video is allowable provided such video does not flash or blink.

(vi) The surface/face illumination of any sign shall not exceed one thousand two hundred fifty (1,250) Nits after dusk or seven thousand five hundred (7,500) Nits during daylight hours. Such illuminated sign shall be equipped with a sensor and/or timer or other device to automatically adjust the day/night light intensity levels in accordance with the standard set herein.

(8) Signs in the C-3, Commercial Business District, I-1, Light Industrial District, and I-2 Heavy Industrial District, shall be permitted as follows:

(a) Ground signs are permitted, subject to the following:

(i) Ground signs shall not exceed 400 sq ft in area.

(ii) Ground signs shall not exceed 25 feet in height.

(iii) Ground signs shall be set back a minimum of 5 feet from the right-of-way, measured from the right-of-way line to the leading edge of the sign. Ground signs shall be set back a minimum of 3 feet from any other property lines.

(b) Pole signs are permitted, subject to the following:

(i) Pole signs shall not exceed 400 sq ft in area.

(ii) Pole signs shall not exceed 35 feet in height.

(iii) Pole signs shall be set back a minimum of 5 feet from the right-of-way, measured from the right-of-way line to the leading edge of the sign. Pole signs shall be set back a minimum of 3 feet from any other property lines.

(c) Monument signs are permitted, subject to the following:

(i) Monument signs shall not exceed 400 sq ft in area.

(ii) Monument signs shall not exceed 10 feet in height.

(iii) Monument signs shall be set back a minimum of 5 feet from the right-of-way, measured from the right-of-way line to the leading edge of the sign. Monument signs shall be set back a minimum of 3 feet from any other property lines.

(d) Drive thru signs are permitted, subject to the following:

(i) Shall not exceed 12 feet in height.

(ii) Shall be limited to 100 sq ft each.

(iii) Shall be limited to 2 per drive-through lane.

(e) Permanent Banner signs are permitted and shall count toward the wall area allowed below.

(f) Building Marker signs are permitted in this district, provided they do not exceed 10 sq ft in area, limited to one per street frontage.

(g) Canopy and Awning signs are permitted, subject to the following:

(i) Shall provide a minimum clearance of 6 feet, 8 inches over any walking surface.

(ii) Shall count toward the wall sign area limit below, but such area shall only include the sign, graphic, lettering or advertising on the canopy or awning.

(iii) Canopies and awnings shall not extend above the eave or parapet of the building wall and shall not extend over any area utilized by motor vehicles.

(iv) Canopies and awnings extending more than 6 feet from a wall shall be designed by a licensed engineer or architect and shall have plans stamped by a licensed engineer or architect.

(v) Canopies and awnings shall not extend more than 9 feet from the building façade to which they are mounted.

(h) The area of any Marquee or Projecting sign shall count toward the wall sign limit below. Marquee signs and Projecting signs permitted in this district, subject to the following:

(i) Maximum projection shall be 3 feet over public sidewalks less than 12 feet in width.

(ii) Over public sidewalks 12 feet or more in width, the maximum projection may be within 5 feet of the vertical plane of the inside of the curb line.

(iii) A vertical clearance of 12 feet shall be provided over public sidewalks.

(iv) A vertical clearance of 15 feet over parking lots.

(v) A vertical clearance of 18 feet over driveways.

(i) Wall signs are permitted, subject to the following:

(i) Wall signs shall be limited to the first floor of the building.

(ii) Wall signs shall be attached to the face of the building and shall not project more than 12 inches from the wall.

(iii) Wall signs shall not extend above the parapet or eave of the building.

(iv) Wall signs shall be of non-combustible materials, unless the building is constructed as a Type II-B building, as defined in the building code adopted by the City of Hastings, except that sign faces may be of combustible plastics.

(v) Wall signs are limited to 20% of the area of the building façade which faces a street. Building walls and façades that do not face a public street may have wall signs, but the area is limited to 20% of street-facing walls and façades.

(j) Flag signs are permitted. No more than two flag sigs are allowed per premise. Flag signs are limited to 15 sq ft each.

(k) Electronic information signs are permitted, subject to the following:

(i) Electronic information signs are limited to one per premise.

(ii) Electronic information signs shall not exceed 300 sq ft in area.

(iii) Electronic information signs shall be classified as either a monument, ground or pole sign and constructed and located accordingly.

(iv) Electronic information signs shall not be programmed in a way that suggests or resembles a traffic control device.

(v) Electronic information signs shall be programmed in a way that no sign shall flash or blink and the image, message or lighting pattern shall hold for a minimum of four (4) seconds, however, full animation video is allowable provided such video does not flash or blink.

(vi) The surface/face illumination of any sign shall not exceed one thousand two hundred fifty (1,250) Nits after dusk or seven thousand five hundred (7,500) Nits during daylight hours. Such illuminated sign shall be equipped with a sensor and/or timer or other device to automatically adjust the day/night light intensity levels in accordance with the standard set herein.

**34-309.05. Billboard signs.**

Billboards shall be allowed in Districts C-3, I-1 and I-2 provided that no billboard will be allowed within 300' of any residential zoning district. Billboards in these districts shall be subject to the following provisions:

(1) A billboard shall be defined as any sign that directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

(2) Each billboard shall be setback at least 25' from the street right-of-way line. No part of the sign shall extend more than 5 feet into the setback from the public right-of-way line.

(3) No billboard in the City limits shall be located within 150' from the right-of-way line of any road intersection measured in any direction from the right-of-way line. No billboard in the City's extra-territorial jurisdiction shall be located within 250' from the right-of-way line of any road intersection measured in any direction from the right-of-way line provided this restriction shall not apply to the intersection of frontage roads with state highways.

(4) There shall be no more than two (2) billboards per mile, measured from section line to section line regardless of which side of the roadway the billboards are located.

(5) No billboard in the City limits shall be located within a 750' radius of another billboard. No billboard in the extra-territorial jurisdiction shall be located within a 1500' radius of another billboard.

(6) No billboard within the City limits shall be located within 500' of the property line of: a National Register historic site; school; church; hospital; care facility; cemetery; public building, park or playground.

(7) No billboard within the City's extra-territorial jurisdiction shall be located within 1000' of the property line of: a National Register historic site; school; church; hospital; care facility; cemetery; public building, park or playground.

(8) No billboard shall be allowed whenever property zoned A, Residential, C-O, C-1 or C-2 is located between the billboard and the roadway to which said billboard is oriented.

(9) No billboard shall be erected or maintained upon or immediately above the roof of any building.

(10) Billboards may be single- or double-faced but no billboard shall have more than one face per side of the structure and the sign face shall not exceed 378 square feet. Double-stack billboards are prohibited.

(11) Billboards shall have either a monopole or pedestal support.

(12) No billboard shall exceed 35' in height measured from the average grade of the surrounding area to the highest point of the billboard.

(13) Lighting on any billboard shall be shielded to light the sign face only. Light trespass from the sign face is prohibited.

(14) Attention attracting devices are prohibited except for lighted message signs displaying time, date, temperature or weather or alert information. Lighted message sign displaying other information or advertising shall be prohibited.

(15) Any billboard structure existing as of the effective date of this ordinance may be restored at its current location provided that any restored billboard shall not exceed the size, height, and other limits of the existing structure. Any billboard existing as of the effective date of this ordinance may be replaced at the same location. Such replacement shall comply with the requirements of paragraphs (8) – (13).

(16) Any billboard that is allowed to deteriorate to the point of being a public nuisance or a threat to the public safety, health or welfare because it has become so damaged, decayed, dilapidated, structurally unsafe or of such unstable condition that partial or complete collapse is possible, shall be caused to be removed. The owner shall remove the billboard and structure within 30 days of receiving notice that the City has declared the billboard a public nuisance or dangerous structure. Failure to so remove shall result in a monetary fine of up to $100.00 per day that the billboard and structure remain on-site. After 60 days from the notice mentioned in this section, the City may cause the demolition and removal of the billboard and structure. If the City causes the removal, it shall assess all costs of the removal and disposal to the owner of the property personally, and/or assess the costs against the real estate.

**4-309.06. Definition of terms.**

The following definitions shall be used for terms contained in this chapter that are not otherwise defined in the Hastings City Code which includes the Comprehensive Land Use Plan.

(1) *Abandoned Sign*: A sign, including sign face and supporting structure, which refers to a discontinued business, profession, commodity, service, or other activity or use formerly occupying the site; or which contains no sign copy on all sign faces for a continuous period of six (6) months.

(2) *Attached Sign:* A sign which is structurally connected to a building or depends upon that building for support.

(3) *Auxiliary Design Elements*: Terms which describe secondary characteristics of a sign, including its method of illumination and other features within the bounds of its basic shape.

(4) *Awning and Awning Sign*: A shelter supported entirely from the exterior wall of a building and composed a supporting framework covered with fabric, plastic or sheet metal. An awning sign is a message printed on such a shelter. For the purpose of this section, awning signs shall be treated as canopy signs.

(5) *Banner*: Material exceeding four (4) square feet in size with a printed message or graphic secured or mounted to the primary building.

(6) *Building Marker*: An historic or commemorative plaque, or a building name or cornerstone carved into a masonry surface.

(7) *Business Center Identification Sign*: A sign which identifies a building or group of commercial buildings in single ownership or control, sharing parking and access.

(8) *Canopy (or arcade) Sign*: A sign which is attached or made an integral part of a canopy.

(9) *City of Hastings Outdoor Advertising Sign Registry:* A list of all outdoor advertising signs shall be maintained by the Building Services Division, detailing location, ownership, and size of all billboard signs.

(10) *Clearance*: The distance from the bottom of a sign face elevated above grade and the grade below.

(11) *Detached Sign*: A sign which is self-supporting and structurally independent from any building.

(12) *Directional Sign*: A sign which serves only to designate the location or direction of any area or place.

(13) *Double-Faced Sign*: A sign consisting of no more than two (2) parallel or near parallel faces supported by a single structure. The angle created by the two (2) faces of a double-faced sign shall not exceed fifteen (15) degrees.

(14) *Drive-through Service Sign:* A sign designed to give information that facilitates a business transaction at a drive-through service location.

(15) *Electronic Information Signs*: On-Premise signs which use an array of electrically illuminated lights, generally controlled by a computer or other electronic programming device, to display information or supporting graphics. Information may include news, events, or information about businesses or attractions.

(16) *Electronic Changeable Message Sign (ECMS):* An outdoor advertising sign that changes the message, advertisement, or copy on the sign face by electronic or mechanical device or process, either automated or remote, regardless of the process used. Blinking, flashing, rotating, revolving, spinning, fluttering lighting or animation is not allowed. Transition between messages is permitted, but such transitions may only fade, scroll, travel or reveal.

(17) *Flag Sign*: Signs which are emblazoned on a flag and are intended to be displayed in a free-flowing manner. Flags of the United States, the State of Nebraska, local government, and any educational institution shall not be considered flag signs for the purpose of this Ordinance.

(18) *Flashing Sign*: A sign which has a lighting source or lighting element that periodically illuminates or is not maintained stationary or constant in intensity and/or color at all times when the sign is in use, usually in a manner as to draw the attention of the viewer.

(19) *Frontage*: The length of a property line of any one (1) premises abutting and parallel to a public street, private way, or court.

(20) *Ground Sign*: A detached on-premise sign built on a freestanding frame, mast, or pole(s) with a clearance no greater than three (3) feet.

(21) *Illumination*: Lighting sources installed for the primary purpose of lighting a specific sign or group of signs.

(22) *Large Retail Establishment:* A business whose primary use is retail, automotive or similar sales and operates in a building with at least 30,000 sq ft of gross floor area.

(23) *Marquee*: A permanent roofed structure attached to and supported by a building and extending over public right-of-way.

(24) *Maximum Permitted Sign Area*: The maximum permitted combined area of all signs allowed on a specific property.

(25)*Monument Sign*: A detached on-premise freestanding sign with the appearance of a solid base.

(26) *Moving Sign*: A sign which conveys its message through rotating, changing, or animated elements.

(27) *Nit*: A unit of luminous intensity equal to one candela per square meter (1 $cd/m^2$)

(28) *Nonconforming Sign*: A sign that was legally erected prior to the adoption of this chapter but which violates the regulations of this chapter.

(29) *Numeric Display Signs:* On premise signs which display numeric information only. Typical examples include time and temperature displays and fuel price displays. The numeric information may be changed electronically or manually.

(30) *Billboard:* A panel for the display of information relating to a business, product, event, or other subject of advertising or publicity. Billboard signs may advertise on-premise or off-premise businesses or products. Special regulations and permissions apply to Billboard signs within the City of Hastings and its jurisdiction.

(31) *Pole Sign*: An on-premise sign built on a freestanding frame, mast, or pole(s) with a clearance greater than three (3) feet.

(32) *Political Sign*: A sign that announces candidates seeking public political office or pertinent political issues. Political signs are not permanent both in terms of duration of display and in the manner of construction, which allows easy removal of the sign.

(33) *Portable Sign*: Any sign supported by frames or posts rigidly attached to bases not permanently attached to the ground or a building and capable of being moved from place to place.

(34) *Poster*: A temporary sign, not exceeding four (4) square feet in area and three (3) feet in height, mounted on stakes or spikes intended to be stuck into the ground and used as a detached temporary sign.

(35) *Premises*: A tract of one (1) or more lots or sites which are contiguous and under common ownership or control.

(36) *Projecting Signs*: A sign other than a wall sign that is attached to and projects from a building face.

(37) *Residential Sign*: A small detached or attached sign located on a residential premise, conveying a message communicated by the owner of the property.

(38) *Roadside Readerboard*: Also known as Arrow Signs, Flashing or Flashing Arrow Signs, Custom head Portable Readerboards, Readerboards, Non Digital Changeable Copy Signs or any and all temporary signs not permanently affixed to the ground, with or without wheels, containing non digitally placed letters/numbers and changeable copy which can be changed on site.

(39) *Roof Sign*: Any sign or part of sign erected upon, against, or directly above a roof or on top of or above the parapet or cornice of a building.

(a) *Integral Roof Sign*: A roof sign positioned between an eave line and the peak or highest point on a roof, substantially parallel to the face of a building.

(b) *Above-peak Roof Sign*: A roof sign positioned above the peak of a roof or above a parapet or cornice.

(40) *Sign*: A symbolic, visual device fixed upon a building, vehicle, structure, or parcel of land which is intended to convey information about a product, business, activity, place, person, institution, candidate, or political idea.

(41) *Sign Type*: A functional description of the use of an individual sign. Includes owner identification, advertising, directional, electronic message, and temporary.

(42) *Street Facade*: Any separate external face of a building, including parapet walls and omitted wall lines, oriented to and facing a public street, a private street, or court (excluding alleys). Separate faces oriented in the same direction or within forty-five (45) degrees of one (1) another are considered part of the same street facade.

(43) *Temporary Signs*: Any sign designed or fabricated of materials that advertise or communicate messages that change frequently or that become outdated; are made of materials of relatively low durability; are intended to be removed or replaced within a period of six (6) months or less; or are portable. Temporary signs generally fall into two (2) categories: temporary civic signs and temporary commercial signs. Temporary Commercial Signs shall fall into two (2) categories: (a) attached temporary commercial sign, and (b) detached temporary commercial sign.

(44) *Wall Sign*: A sign attached to and parallel with the side of a building.

(45) *Window Sign*: A sign painted on or installed inside a window for the purpose of viewing from outside the premises.

(46) *Zone Lot*: A parcel of land in single ownership that is large enough to meet the minimum zoning requirements of its zoning district and can provide such yards and other open spaces that are required by the site development regulations.

Department: Development Services
Staff Contact: Brian Hurskainen
Board of Adjustment Meeting Date: 10/5/2022
File No: 2022-2022030
Prepared By: Brian Hurskainen, City Planner

# AGENDA ITEM SUMMARY SHEET

**Description of Item:**

Approval of Minutes from 6-14-22 meeting

**Names of People/Business affected by this action:**

Board of Adjustment

**Why Board of Adjustment action is required:**

The rules of procedure require the approval of the last meeting minutes.

**Type of action requested:**

Motion

**Suggested motion:**

**Deadlines associated with action:**

**Department head comments:**

**Recommendation:**

Staff recommends approval of minutes from 6-14-22 meeting

CITY OF HASTINGS, NEBRASKA
MINUTES OF BOARD OF ADJUSTMENT
Tuesday, June 14, 2022

Pursuant to due call and notice thereof, a meeting of the Hastings Board of Adjustment was conducted in the City Building, 220 North Hastings Avenue, on June 14, 2022.

Call to Order: The meeting was called to order at 7:30 a.m. by Chair Krueger with the following members present: Hinton, Krueger, Schwartzkopf, Myers, Northrop.

2. Roll Call

Roll call: Hinton, Krueger, Schwartzkopf, Myers, Northrop.

3. Public Notice: Notice by the Chair of the Board of Adjustment that the Open Meetings Act is posted on the southeast wall of the City Council Chambers and that prior to this meeting a notice was posted on the bulletin boards in the City Building, that each member and the Chairman received a copy of the proposed agenda and that an agenda for such meeting, kept continuously current, is available for public inspection and that said meeting is held in open session.

4. Communications and Appearance Request

5. Unfinished Business

a. Continued Appeals or Requests
b. Tabled Appeals or Requests

i. Public hearing for a request for an appeal of Hastings City Code, Section 34-202(4) and Section 34-604(1) for an attached garage addition on a property commonly known as 403 Lakeside Drive Hastings, Nebraska

Motion to approve an appeal of Hastings City Code, Section 34-202(4) and Section 34-604(1) for an attached garage addition on a property commonly known as 403 Lakeside Drive Hastings, Nebraska
Roll call: Hinton, Krueger, Schwartzkopf, Myers, Northrop.

Brian Hurskainen explained the agenda item.

The applicant is appealing the denial of a building permit to build an attached garage at 403 Lakeside Drive.

A Building Permit Application, dated February 28, 2022, (Exhibit E) is included in the information packet There was a letter sent by the Building Inspector (Exhibit F) on March 18, 2022 noting that:

“[T]he addition may not reduce the distance between the lot line and the building line” (Hastings City Code Section 34-604)

The current zoning of the property is R-1, Urban Single Family and must meet the setbacks of the zone except for nonconformities listed in Section 34-604. The setbacks are based off of the

south lot line being the front per the definition of Lot, corner in City Code; “A lot abutting upon two or more streets, at their intersection. A corner lot shall be deemed to front on that street on which it has its least dimension, unless otherwise specified by the Building Inspector.” Per the R-1 code, with this being a corner lot, a minimum of 15 feet along the street side. Exhibit ‘A’ shows that the Assessor’s Office has the home being built in 1946, which was well before the nonconformities section of the code was written in 2009. Per Section 34-604 “Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful.” With the house being older than the code section they would be allowed to add onto the structure as long it didn’t make the nonconformity worse.

Exhibit ‘B’ is a site plan of the subject property, showing the proposed addition. The plan shows the current line of the building at 10’ while the addition increases the nonconformity to 6.5’.

Variances must meet all 4 requirements found in Neb Rev Statue 19-910 (2): No such variance shall be authorized by the board of adjustment unless it finds that: (a) The strict application of the zoning regulation would produce undue hardship; (b) such hardship is not shared generally by other properties in the same zoning district and the same vicinity; (c) the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and (d) the granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice. No variance shall be authorized unless the board of adjustment finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.

(a) The strict application of the zoning regulation would produce undue hardship:
There is a slight slope on the driveway from the street that I noticed from driving by the site and shown on Exhibit ‘C’, a picture from Google Maps. It is unclear how the additional garage space would fix the problem of an icy driveway or vehicles bottoming out. The driveway and slope could be altered without the garage.

(b) Such hardship is not shared generally by other properties in the same zoning district and the same vicinity:
A similar slope is shared with all properties along Lakeside drive as shown on Exhibit ‘D’, the floodplain map. The slope is designed on purpose to have water flow into Heartwell Park.

(c) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance
This is an older area of town that has most of the homes built in the 1940’s. There are several that don’t meet the setbacks of today and that’s why we have the nonconformity section to allow them to be legal in the eyes of the code. The goal of that section is to maintain what is already there and let people use those structures, but also establish limits to not make things worse.

(d) The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.
Exhibit ‘A’ shows that the driveway as it sits was constructed in 1946; over the decades the house has still been usable with everything as it sits. This request appears to be a request of convenience rather than necessity. If the applicant would like to change the driveway to be a little flatter or less curved, a garage is not required to accomplish fixing this problem.

Speakers: Greg Allan-Pickett (applicant) 403 Lakeside Drive
There are four criteria to authorize a variance. I will address each one with my site plan. For the first point, the steep angle of the curved driveway causes damage to cars. I have two small sedans that are low to the ground. Every time I back out of my driveway, I scrape it. It produces an undue hardship for me as someone who drives a small sedan. Also, the steep angle of the current driveway renders it unusable when there is snow. Cars cannot drive and must park on the street. The steep angle and curve of the driveway are dangerous so close to the intersection corner of Lakeside and California. It's dangerous for when I am backing out of the driveway and someone is potentially coming around the corner. There has been an increase in traffic due to the closing of the overpass. The new layout shifts the driveway 10 feet further away from the intersection which would allow us more room for us to see as we are backing out. It removes the curve and minimizes the slope by lowering the garage. These things will make it safer for me to be able to back out of the driveway and safer for people who are coming around the corner. There is no way to reconfigure the driveway in its current location to minimize the steep angle and still provide access to the current garage.

For the second point, the property is surrounded by city right of way. There is more right of way than there is actual lot. Building in the setbacks is different on this property than the properties on either side. Building in the setbacks toward city right of way will not give the appearance of encroaching on someone else's property or encroaching on the street. The section that runs north-south, which is where we're proposing the garage, that's city right of way. This is a unique property and this is a hardship that is not shared by other properties in the same zoning district and same vicinity.

For the third point, the majority of adjacent properties on Lakeside Drive have two-car garages. It will not be altering the character of the neighborhood by adding a two-car garage. The request to build into the setback is towards the right of way and the street so it will not impact adjacent properties. The amount of city right of way will help maintain the appearance and character of the district. It won't look like the garage is encroaching on the street.

For the fourth point, I did read the minutes from the last time this board met and one of the notes from there said the hardship cannot be from a person. It must be a hardship with the property. That is what the Board is charged with determining. To begin with, there's a demonstratable hardship of accessibility of the property. The steep slope of the driveway causes damages to cars and the new driveway will remove that steep slope and not damage vehicles. If we tried to make the driveway flatter or less curved, we would no longer be able to access the existing garage or parking area. Another demonstratable hardship is accessibility: the driveway is rendered unusable on snowy/icy conditions due to steep slope. The new driveway removes slope to improve access in snowy/icy conditions. Another demonstrable hardship is safety: Proximity to intersection of California and Lakeside. The new driveway would be 10 feet further north on California. Finally, a demonstrable hardship is safety: the steep slope and curve of the driveway diminishes visibility when exiting the driveway. It's particularly dangerous near the intersection with cars coming around the corner. The new driveway removes the curve and slope, and is farther from the intersection. Also, the steep slope and curve of the driveway make it dangerous to enter and exit on snowy or icy days or cause homeowners to park cars on the street which is dangerous near the intersection and could hamper snow removal. The new driveway removes the curve and slope making entry, exit, and parking in snowy/icy conditions safer for homeowners and for traffic.

Dan Schwartzkopf: There's a fairly large tree to the north of you on the west side. Will that tree remain or will that be removed?

Greg Allan-Pickett: The new driveway doesn't encroach on that existing tree. There's one tree that will have to be removed, but the large tree doesn't encroach in any way.

Albert Boner 405 Lakeside Drive: I've been there 18 years. I have no issues with the garage being built there.

Darrell Bonar 319 Lakeside Drive: I live right across California from Greg. We've been there since 1966. In the winters the street fills up with slush and freezes, it's hard to drive across, cars may end up on the grass, and there have been complaints about steepness. The garage will look better with the addition.

Jessica Allen-Pickett 403 Lakeside (applicant): The other safety piece is the children and pedestrians. That is a very heavily walked area. With the new park, more and more families are walking up California. The driveway improvement would be a safety factor for pedestrians.

Tom Krueger: We need to look at the conditions. We will start with the first condition. Any comments?

John Northrop: I think it's already produced undue hardship for the applicant just hearing the testimony from the applicant and Darrell Bonar regarding trying to get in and out of the driveway, the damage it's done to the driveway, and to the vehicles I think that alone would qualify for undue hardship.

Tom Krueger: There were a lot of comments on the safety, and that I view as very important—safety of pedestrians, safety of traffic, and it's a narrow street. Anyone who's driven down a street even 36 feet wide, if you've got cars parked on both sides, everyone's going to have to wait for the other traffic to come through, delivery trucks and emergency vehicles. I could see where this would be a real improvement for the applicant, the traffic and pedestrians.

Ann Hinton: I'm having a problem separating what we're talking about from the actual garage encroachment. We're not granting a variance for a change in the driveway, we're granting a variance for a change in the garage. I haven't looked at this enough to know what other options there might be for changing the driveway without the garage, but a lot of people have single-car garages, and some don't have garages at all.

Robert Myers: For the building, the plan shows the current line of the building at 10 feet. The addition increases the non-conformity to 6.5 feet. According to the city, all he needs is 3 feet, he's going to have 3.5.

Ann Hinton: No they're making it worse by 3.5 feet. It's supposed to be 15 feet. He's already 5 feet into it at 10 and he's going to make it 3.5 feet more.

Robert Myers: I'm not reading this right, then?

Brian Hurskainen: For the non-conformities code, additions to such structure may be constructed in conformance with all of the following restrictions:

1. Such addition must be in addition to a single-family dwelling, which it is.
2. The addition may continue along the existing building line of the structure as it existed at the time of the application for building permit for said addition, provided that the addition may not reduce the distance between the lot line and the building line from which existed at the time of the application for a building permit for said addition, which it is, it's increasing, so it doesn't meet number 2.
3. The addition may not encroach under any required side, front or back yard setback

where there was no such encroachment by the original structure at the time of the application for a building permit for said addition.

4. The addition may not be constructed closer than 3 feet to any lot line.

Lisa Parnell-Rowe: Originally this was built at less than the 15 feet that is required in the code, but because it was considered legal nonconforming, that was allowable but now because we're going to build further into that by another 3.5 feet that's going against the setback even further which violates number two. That's where staff has issue.

Brian Hurskainen: That's the whole reason that we're here. If there wasn't that issue, we wouldn't even be here.

Tom Krueger: Let's look at number two. Comments?

John Northrop: I don't think this is generally shared with other properties.

Robert Myers: Every house up there has their own driveway and I don't think two are alike.

Tom Krueger: I can see other properties on Lakeside don't have a slope like this one. The topography of this is lot is different from the adjacent lots. It's unique to the neighborhood. Let's go on to the next condition.

Robert Myers: The adjacent property is a city street. He's got enough area there.

John Northrop: We've heard from the neighbors on the east and the west. They have no problem with it and think it would be a good thing.

Tom Krueger: Let's move on to the next one.

John Northrop: I don't think this application meets any of the conditions for convenience. It's probably a necessity. You can see how the driveway has been damaged and how the vehicles have been damaged, and I don't think this is for convenience whatsoever. When you improve a property like this, the valuation goes up and the amount of city tax will go up. I would think this is something the city would be behind.

Lisa Parnell-Rowe: Our department is in charge of making sure the codes are administered.

Tom Krueger: It seems to me condition one is the one we struggle with. This 3.5 feet is that going to be enough.

Robert Myers: You've got to have a point where you go by code and you go by common sense.

John Northrop: He's taking care of city property, and I don't see where 3.5 feet is going to make much difference.

Moved by Robert Myers, seconded by Tom Krueger to approve an appeal of Hastings City Code, Section 34-202(4) and Section 34-604(1) for an attached garage addition on a property commonly known as 403 Lakeside Drive Hastings, Nebraska.
Roll Call: Ayes: Northrop, Myers, Krueger, Schwartzkopf. Nays: Hinton.

c. Postponed Appeals or Requests
d. Unfinished Items

6. New Appeals or Requests

7. Miscellaneous

a. Other Items

i. Approval of updated City of Hastings Board of Adjustment Rules and Procedures, Revision dated 6/14/2022

ii.

Lisa Parnell-Rowe explained the agenda item.

Based on our discussion at the last meeting we made a few changes to the rules and procedures and we gave you the redlines in your packets. Those are the ones that we all discussed and we're just asking you to approve the changes to the rules and procedures. We did a couple of extra ones beyond what we talked about last time. One of those was the Robert's Rules had an edition 11. At the recommendation of Clint, our city attorney, just said the latest version, that way we would only have to continually update that because they are constantly updating their Robert's Rules editions. We have also added a provision for two alternates. Also, we did put a provision to meet once a year. The state does not define how often you meet so we just matched to what the state definition was for Board of Adjustment as far as timing.

Clint Schukei: Also, if you have comments from the public they weren't supposed to be part of the record. If you've got somebody who responds to a public hearing and shows up you obviously want their comments to be part of the record.

Moved by John Northrop, seconded by Robert Myers, to Approve updated City of Hastings Board of Adjustment Rules and Procedures, Revision dated 6/14/2022.
Roll call: Ayes: Hinton, Krueger, Schwartzkopf, Myers, Northrop.Nays: None.

ii. Election of Officers: Chair; Vice-Chair
Moved by Ann Hinton, seconded by John Northrop, to nominate Tom Kreuger as chair.
Roll call: Ayes: Hinton, Krueger, Schwartzkopf, Myers, Northrop.
Nays: None.

Moved by Robert Myers, seconded by John Northrop, to nominate Dan Schwartzkopf as vice-chair.
Roll call: Ayes: Hinton, Krueger, Schwartzkopf, Myers, Northrop.
Nays: None.

iii. Approval of Minutes from 1-17-18 and 5-19-22 meetings
Moved by Ann Hinton, seconded by John Northrop to approve minutes of 5-19-22 meeting.
Roll call: Ayes: Hinton, Krueger, Schwartzkopf, Myers, Northrop.
Nays: None

Moved by John Northrop, seconded by Robert Myers, to approve minutes of 1-17-18 meeting.
Roll call: Ayes: Krueger, Myers, Northrop. Abstain: Schwartzkopf,Hinton.
Nays: None

b. Committee Reports
c. Chair's Report
d. Staff Report

Lisa Parnell-Rowe: We are putting together several events as part of the kickoff of the Comprehensive Plan, the update to the Zoning Code, and the Subdivision Codes. You will be seeing some emails from us regarding some of those events. We will want you involved in that, particularly the updates to the codes.

e. Audience Participation

8. Adjournment

Moved by Ann Hinton, seconded by John Northrop to adjourn.

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Chairman