

ORDINANCE NO. 3109-18

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CERTAIN PROVISIONS OF ARTICLE IV, SIGN REGULATIONS OF THE CITY OF WINTER PARK LAND DEVELOPMENT CODE TO REVISE THE REGULATIONS FOR TEMPORARY AND PROHIBITED SIGNS, REVISING THE DEFINITIONS FOR SIGNS, PROVIDE MORE SPECIFICITY AND CLARITY TO EXISTING SIGN REGULATIONS; AND AMENDING SECTION 1-24, SCHEDULE OF VIOLATIONS AND PENALTIES, RELATING TO SNIPE SIGNS; AND PROVIDING FOR SEVERABILITY, CODIFICATION, CONFLICTS AND AN EFFECTIVE DATE.

**WHEREAS**, the City Commission of the City of Winter Park has determined the need to update and revise its Land Development Code relative to signs;

**WHEREAS**, the City Commission finds and determines that certain types of signs, particularly signs with lighted and/or changing information, and human signs, create a safety hazard by distracting motorists, pedestrians, and others;

**WHEREAS**, the City Commission wishes to protect the safety of motorists, pedestrians, and others from distraction caused by signs;

**WHEREAS**, the Future Land Use Element of the City's Comprehensive Plan provides that the City shall regulate signage;

**WHEREAS**, the City Commission finds and determines that the City adopted the Land Development Code in order to implement its comprehensive plan, and to comply with the minimum requirements in the State of Florida's Growth Management Act, at Section 163.3202, Florida Statutes, including the regulation of signage and future land use;

**WHEREAS**, the City Commission finds and determines that pursuant to the policy of the City's Comprehensive Plan, the City's Land Development Code is required to regulate signage;

**WHEREAS**, the City Commission finds and determines that this ordinance will lessen hazardous situations, as well as confusion and visual clutter otherwise caused by the proliferation, improper placement, excessive height, excessive size, and distracting characteristics of signs which compete for the attention of pedestrian and vehicular traffic;

**WHEREAS**, the City Commission hereby finds and determines that anything beside the road which tends to distract the driver of a motor vehicle directly affects traffic safety, and that signs which divert the attention of the driver and occupants of

motor vehicles from the highway to objects away from it, may reasonably be found to increase the danger of accidents, and agrees with the courts that have reached the same determination [see *In re Opinion of the Justices*, 103 N.H. 268, 169 A.2d 762 (1961); *Newman Signs, Inv. C. Hjelle*, 268 N.W. 2d 741 (N.D. 1978); *Naser Jewelers, Inc. v. City of Concord, New Hampshire*, 513 F.3d 27 (1st Cir. 2008)];

**WHEREAS**, the City Commission has determined that the purpose and intent provisions of its signage regulations should be more detailed so as to further describe the beneficial, aesthetic, and other effects of the City's sign regulations, and to reaffirm that the sign regulations are concerned with the secondary effects of speech and are not designed to censor speech or regulate the viewpoint of the speaker;

**WHEREAS**, the City Commission wishes to continue to assure that animated signs and flashing signs are effectively prohibited as sign-types within the City;

**WHEREAS**, the City of Winter Park finds and determines that the regulation of signage for purposes of aesthetics has long been recognized as advancing the public welfare;

**WHEREAS**, the City of Winter Park finds and determines that as far back as 1954 the United States Supreme Court recognized that "the concept of the public welfare is broad and inclusive," that the values it represents are "spiritual as well as physical, aesthetic as well as monetary," and that it is within the power of the legislature "to determine that the community should be beautiful as well as healthy, spacious as well as clean, well balanced as well as carefully patrolled" [Justice Douglas in *Berman v. Parker*, 348 U.S. 26, 33 (1954)];

**WHEREAS**, the City of Winter Park finds and determines that aesthetics is a valid basis for zoning, and that the regulation of the size of signs and the prohibition of certain types of signs can be based upon aesthetic grounds alone as promoting the general welfare [see *Merritt v. Peters*, 65 So. 2d 861 (Fla. 1953); *Dade Town v. Gould*, 99 So. 2d 236 (Fla. 1957); *E.B. Elliott Advertising Co. v. Metropolitan Dade Town*, 425 F.2d 1141 (5th Cir. 1970), *cert. dismissed*, 400 U.S. 805 (1970)];

**WHEREAS**, the City of Winter Park finds and determines that the enhancement of the visual environment is critical to a community's image and its continued presence as a tourist destination;

**WHEREAS**, the City of Winter Park finds and determines that the sign control principles set forth herein create a sense of character and ambiance that distinguishes the City as one with a commitment to maintaining and improving an attractive environment;

**WHEREAS**, the City of Winter Park finds and determines that the sign regulations are intended to permit signs that are compatible with their surroundings and



aid orientation, and to preclude placement of signs in a manner that devalue adjacent properties and land uses;

**WHEREAS**, the City of Winter Park finds and determines that the regulation of signage was originally mandated by Florida's Local Government Comprehensive Planning and Land Development Regulation Act in 1985 (see Chapter 85-55, §14, Laws of Florida), and this requirement continues to apply to the City of Winter Park through Section 163.3202(2)(f), Florida Statutes;

**WHEREAS**, the City of Winter Park finds and determines that the definition of "sign" should be revised so as to provide more specificity;

**WHEREAS**, the City of Winter Park finds and determines that there should be a more detailed definition for "animated sign" and that animated signs should continue to be included among signs prohibited in the City;

**WHEREAS**, the City of Winter Park finds and determines that the size restrictions on all temporary signs should be consistent;

**WHEREAS**, the City of Winter Park finds and determines that the regulations on election signs should be modified to comport with case law;

**WHEREAS**, the City of Winter Park finds and determines that "snipe signs" as defined in the sign code are abandoned property and anyone should be empowered to remove them;

**WHEREAS**, the City of Winter Park finds and determines that the amendments, as set forth herein, are consistent with all applicable policies of the City's adopted Comprehensive Plan;

**WHEREAS**, the City of Winter Park finds and determines that one of the City's goals under its comprehensive plan and included within the future land use element is to promote, protect, and improve the public health, safety and welfare of the City's residents through the provision of appropriate land uses;

**NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF WINTER PARK:**

**SECTION 1.** The above recitals are hereby adopted as the legislative purpose of this Ordinance and as the City Commission's legislative findings.

**SECTION 2.** Portions of Chapter 58, Land Development Code, Article IV, Sign Regulations, are hereby amended to read as shown on Exhibit "A" attached hereto, and words with single underlined type shall constitute additions to the original text and ~~strike through~~ shall constitute deletions to the original text.

**SECTION 3.** All real estate signs not in conformance with any provisions of these regulations must be removed, changed or altered to conform to the provisions of these regulations and amendments within six (6) months after such sign becomes nonconforming.

**SECTION 4.** Section 1-24, Schedule of violations and penalties, of Article II, Code Enforcement Citations, of the City of Winter Park Code of Ordinances, is hereby amended by changing the violation for Snipe signs to a Class II violation as follows:

Class	Violation	Ord. No.
* * *		
II	Snipe signs	<del>§ 31-19(15)(b)</del> 58-135(3)
* * *		

**SECTION 5. SEVERABILITY.** If any Section or portion of a Section of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Ordinance.

**SECTION 6. CODIFICATION.** It is the intention of the City Commission of the City of Winter Park, Florida, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinance of the City of Winter Park, Florida;

**SECTION 7. CONFLICTS.** All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

**SECTION 8. EFFECTIVE DATE.** This Ordinance shall become effective immediately upon its passage and adoption.

**ADOPTED** at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this 14th day of May, 2018.

  
\_\_\_\_\_  
Mayor Steve Leary

ATTEST:

  
\_\_\_\_\_  
City Clerk, Cynthia S. Bonham

## EXHIBIT "A"

### Sec. 58-123. - Definitions.

For the purposes of this article, certain terms or words used herein shall be interpreted as follows:

*Animated sign* means ~~any sign or part of a sign which changes physical position by movement or rotation~~ a sign which includes action, motion, or color changes, or the optical illusion of action, motion, or color changes, including a sign set in motion by movement of the atmosphere, or made up of a series of sections that turn, whether such movement or rotation is by human energy, mechanical or electronic means.

*Electronic sign* means ~~a sign for presentation of information for visual reception, acquired, stored or transmitted in various forms where the input information is supplied as an electrical signal and uses a light source, LED (light emitting diodes), bare electric bulbs, luminous tubes, fiber optic or any other combination of light sources to create the message. Also, signs that appear projected or are intermittently or intensely illuminated or of a traveling, tracing, scrolling or sequential light type, or contain or are illuminated by animated or flashing light, on which the copy changes automatically on a lamp bank or in a similar fashion, including but not limited to LED (light emitting diodes), LCD (liquid crystal displays), CEVMS (commercial electronic variable message signs), plasma displays, dynamic displays, projected images, or any other functionally equivalent technology, and which is capable of automated, remote or computer control to change the image, or through any electronically illuminated, scrolling or moving text, symbols or other images, utilizing LED, LCD, CEVMS, or other digital or electronic technology, commonly known as electronic message or reader boards, electronic marquees, message centers, moving message displays, or digital signs.~~

*Flashing sign* means any directly or indirectly illuminated sign which exhibits intermittent or flashing natural or artificial light or color effects by any means whatsoever. ~~Automatic changing signs such as public service time, temperature and date signs or electronically controlled message centers are classed as changing signs, not flashing signs.~~

*Ground sign* means a sign affixed to the ground and supported by poles, uprights, or braces extending from the ground or a permanently mounted object on the ground but not attached to any part of any building. Ground signs are also referred to as pole signs, pylon signs and monument signs.

*Murals* means art work or painting on the wall, façade, awning or other part of a building.

*Sign* means any object or device visible from the right-of-way of a street or highway, or internal parking lot, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business product, service, event or location by any means including words, letters, figures, designs, symbols, fixtures, colors, motion, illumination, or projected images. "Sign" also includes a human sign, which is a sign that is carried, waved, or otherwise displayed by a person, including a sign worn as an article of clothing, while outside, for the purpose of advertising a business, service or product.



Signs do not include the following:

- (1) Window displays of merchandise, pictures or models of products or services;
- (2) Time and temperature devices not related to a product;
- (3) Symbols or crests of political subdivisions and religious, fraternal, professional or civic organizations;
- (4) Works of art, such as sculpture, statutes, fountains which in no way identify a product;
- (5) Directional signs four ~~six~~ square feet in area or less and no higher than thirty (30) inches in height, so as not to block visibility at points of ingress and egress which direct and guide traffic and parking ~~but bear no advertising matter~~ which are limited to directional text/symbols and logo;
- (6) Coin-operated vending machines, gasoline pumps, telephone booths, and ice vending equipment.
- (7) Banners, used by the city or a museum to support a city commission-approved event or activity, excluding those used to identify a political cause or statement.
- ~~(8) Up to three balloons 12 inches or less in diameter on one property or premises.~~
- ~~(9) Murals painted on walls that bear no advertising matter.~~

**Sec. 58-134. - Temporary signs.**

(b) Subdivision development signs shall be permitted to identify subdivisions where an active building and development program is underway. Such signs shall be permitted on a temporary permit basis only for a maximum of two years or until the subdivision is completed, whichever shall occur first. Such signs shall be limited to one per street frontage and shall not exceed 32 square feet in size or eight feet in height. For construction projects of multi-family or non-residential buildings, the wind screen coverings on construction fences may contain pictures and perspective elevations of the exterior of the project on up to fifty (50%) percent of the wind screen area but the area of text, words, logos, and other project information shall not cover more than 32 square feet of the fence wind screen materials per street frontage.

(c) On site development signs shall be permitted on property where there is an active building program underway to identify the project, the developer, architect, contractor, realtor and others involved in the design, construction and financing. Such signs shall be permitted on a temporary basis and shall not be erected more than five days prior to the start of construction. Signs shall be removed upon issuance of a certificate of occupancy or when there has been no construction activity on the property for 60 days or more. Such signs shall be limited to one per street frontage and shall not exceed eight square feet in size or six feet in height for single family and duplex building projects; 32 square feet in size and eight feet in height for multifamily building projects and 32 square feet ~~no larger or higher than the size that is permitted for permanent ground signs~~ for nonresidential building projects. For construction projects of multi-family or non-residential buildings, the wind screen coverings on construction fences may contain pictures and perspective elevations of the project but the area of text, words, logos, and other project

information shall not cover more than 32 square feet of the fence wind screen materials per street frontage.

(d) One temporary real estate sign offering real property for sale or lease shall be permitted on each street frontage of properties where an owner is actively attempting to sell or lease such property, either personally or through an agent. Such sign shall not exceed four square feet in area nor six feet in height in residential zones for one or two-family dwellings and shall not exceed 12 square feet in area for multifamily dwellings or nonresidential buildings. All such temporary real estate signs shall be located behind the sidewalk or ten feet behind the curb or edge of pavement, whichever is greater. Additionally, a maximum of two "open house" signs may be used to direct interested persons to the location of an open house, in addition to the "open house" sign placed at the site of the real property offered for sale. The two directional signs are limited in size to two square feet and may be placed in the public right-of-way subject to not blocking visibility for traffic and are subject to allowing-removal by the abutting property owner if that owner does not consent to the placement of the sign. Such "open house" signs shall be posted only during the hours of 9:00 a.m. to 6:00 p.m. and shall be removed immediately following the close of the open house event. Open house signage shall not be posted more than two days per week.

(f) One temporary sign, A-frame sign, sandwich board sign, portable sign or menu board per business may be located outside of a commercial business, zoned C-2 or C-3, exclusive of beautification elements such as plants. The sign must be located within two (2) feet of the street front wall or window of the building, unless specifically approved for an alternate location by the City due to factors involving pedestrian circulation. One such sign per business may also be permitted within shopping centers, zoned C-1, provided that such signs are located on pedestrian walkways under a building canopy and not interfering with pedestrian and handicapped accessibility and provided that such signs are not visible from a public street. The sign must not block or impede pedestrian traffic or be placed on the public sidewalk and at least six feet of clear sidewalk width must remain for pedestrian traffic. The minimum criteria for all temporary signs in this paragraph (or section) are as follows:

- 1) Per above, the sign must be located within two (2) feet of the front wall or window of the building, unless specifically approved by the City due to pedestrian circulation.
- 2) The sign must be no more than six feet in height and not more than ~~two feet in width~~ six square feet.
- 3) Sign placement must comply with the Florida ADA and shall not be located in the public sidewalk or within the right-of-way.
- 4) At least five (5) feet of clear sidewalk space must be provided between the sign and the curb or other obstruction.
- 5) Placement of signs in landscaped areas in the road right-of-way is prohibited.
- 6) Signs may only be placed immediately in front of the business they are advertising.
- 7) Signs shall not be secured, tethered, or installed on traffic devices, utility equipment, trees, furniture, poles, or any other fixture.
- 8) Signs shall not be located within sight triangles or in a manner that obstructs visibility to vehicular traffic.
- 9) Signs must be safely secured and removed in windy conditions and removed when the business is not open.



- 10) Signs must have a static message and there shall be no illumination of any kind on the sign or within the sign.
- 11) Signs shall not have a computer screen or TV monitor of any kind to display messages, images or information.
- 12) Such signs provided to the business by a product, brand or service which identify the product, brand or service as an integral part of the sign shall not be permitted. Such signs should identify the business and not function as off-site advertising for a particular product, brand or service.

~~The sign must be no more than six feet in height and not more than two feet in width. The signs must be decorative, with the name/logo of the business included. The sign must be safely secured and removed under windy conditions. The sign must be removed when the business is not open.~~ A temporary sign, portable sign or menu sign is not permitted if the business chooses to place an outdoor display of merchandise as permitted by this Code, section 58-82(aa). ~~Failure to locate said sign in the permitted location and placement in an unauthorized location within the city sidewalk, street side landscape area or other portion of the public right-of-way, shall permit the City to deem said sign as abandoned property and said sign shall be subject to removal by the City. In addition, failure to remove such signs when the business is closed shall also subject the sign to removal by the City.~~

~~(g) Portable signs. One portable advertising sign may be placed in front of active businesses in General Commercial (C-3) zoning districts at or near the front lot line of the property. The sign shall not obstruct traffic visibility for vehicles exiting or interfere with traffic circulation within the property and shall not exceed two feet in width or six feet in height. Multi tenant properties with several businesses within a single building shall be limited to one portable sign to serve one or all of the businesses within the building. The sign shall be removed when the business is not open and shall be removed during high wind conditions. In addition, the sign shall not interfere with required landscaping for a property. Businesses with existing ground, pole or roof signs shall not be permitted an additional portable sign under this paragraph.~~

#### **Sec. 58-124. Signs permitted in zoning districts of the city.**

(a) Residential, parks and recreation, and public and quasi-public districts.

(1) For each single family home or duplex, one identification sign for each dwelling unit not exceeding an area of one and one-third square feet. Such identification sign shall not be subject to the permit requirements of this chapter.

(2) For multiple family uses, rooming and boarding houses, one identification sign for each developed parcel, not exceeding 12 square feet in area.

(3) For nonresidential uses, one identification sign and one bulletin board for each developed parcel not exceeding a total of 18 square feet in area for all signs.

(4) All signs shall be either wall signs or ground signs. Grounds signs shall not exceed a height of six feet. No height limit is specified for wall signs. All signs shall be placed on private property behind the lot line. These signs shall also comply with the applicable provisions of sections 58-125 and 58-126.

(5) Such signs may not have interior illumination. Backlit halo-type opaque sign lettering is permitted, however, the light color must be white or subdued and muted such as a pastel shade. Sign faces and sides may not be translucent and must be an opaque material such as metal or wood.



(b) *Office (O-1) and (O-2) districts.*

(3) Office district properties located within the boundaries of the area subject to the Central Business District Facade Design Guidelines, the Morse Boulevard Plan Facade Design Guidelines area from New York Avenue to Denning Drive or within the boundaries of the Hannibal Square Neighborhood Commercial District may not have digital, electronic, and/or internally illuminated signs, such as backlit plastic, acrylic or glass. Front lighting of signs is encouraged. External illumination must be provided by a light source that is installed to prevent direct light from shining onto the street or adjacent properties. Flashing or moving lights are not permitted. Backlit halo-type opaque sign lettering is permitted, however, the light color must be white or subdued or muted such as a pastel shade. Sign faces and sides may not be translucent and must be an opaque material such as metal or wood.

(d) *Central business (C-2) district.*

(6) Commercial (C-2) district properties may not have digital, electronic, and/or internally-illuminated signs, such as backlit plastic, acrylic or glass. Front lighting of signs is encouraged. External illumination must be provided by a light source that is installed to prevent direct light from shining onto the street or adjacent properties. Flashing or moving lights are not permitted. Backlit halo-type opaque sign lettering is permitted, however, the light color must be white or subdued and muted such as a pastel shade. Sign faces and sides may not be translucent and must be an opaque material such as metal or wood.

(e) *General commercial (C-3), limited commercial (C-3A) and light industrial (I-1) districts.*

(4) Commercial district properties located within the boundaries of the area subject to the Central Business District Facade Design Guidelines, the Morse Boulevard Plan Facade Design Guidelines area from New York Avenue to Denning Drive or within the Hannibal Square Neighborhood Commercial District may not have digital, electronic, and/or internally illuminated signs, such as backlit plastic, acrylic or glass. Front lighting of signs is encouraged. External illumination must be provided by a light source that is installed to prevent direct light from shining onto the street or adjacent properties. Flashing or moving lights are not permitted. Backlit halo-type opaque sign lettering is permitted, however, the light color must be white or subdued and muted such as a pastel shade. Sign faces and sides may not be translucent and must be an opaque material such as metal or wood.

**Sec. 58-129. - Signs on awnings.** In addition to other permitted signs, a sign consisting of letters not exceeding an average height of 12 inches placed within an area width not exceeding 18 inches may be painted, placed, or installed upon the front and sides of any awning erected and maintained in accordance with the city's building code. An identification emblem, insignia, initial or other similar feature not exceeding an area of eight square feet may be painted, placed or installed elsewhere on any awning. Awnings in areas subject to the Central Business Façade Design Guidelines and Morse Boulevard Plan Design Façade Design Guidelines may not have a shiny surface and must have a matte, fabric texture finish.

#### **Sec. 58-130. - Other signs.**

(d) Window signs. The total area of all window signs on any side of a building shall not cover more than 25 percent of the window area. In addition, there shall not be permitted any neon or LED lighting in a window as highlighting, bordering or drawing attention to other signage or merchandise in a window or business or as part of such signage or as stand-alone lighting, other than an "Open" sign which must be non-flashing and non-scrolling. "Open" signs shall be turned off when the business is closed.

(e) Mural signs. Art work painted or afixed to building walls, facades or other exterior surfaces shall be limited to one single façade only on the first floor on each side directly facing a street and shall not cover more than forty-five (45%) percent of the first floor of that wall or signable area. The City Commission may approve larger murals on a case by case basis, at a public hearing after notice to adjacent property owners, if such mural art works are exclusively non-commercial in nature and deemed to provide artistic value and benefit to the surrounding area and not just of benefit to the building or business proposing the mural.

(f) Flags. No more than three flags of a national, religious, fraternal or civic organization shall be displayed and the total permitted size of all individual flag(s) shall not exceed 32 square feet.

#### **Sec. 58-133. - Nonconforming signs.**

~~(a) All signs not in conformance with any provisions of these regulations, with the exception of the maximum height and area limitations, must be removed, changed, or altered to conform to the provisions of these regulations within two years after such sign becomes nonconforming.~~

~~(1) Any sign not in conformance with the provisions of these regulations becomes nonconforming on July 14, 1998.~~

~~(2) Any sign not in conformance with the provisions of an amendment to these regulations becomes nonconforming on the effective date of such amendment.~~

~~(3) Any projecting sign which is nonconforming due solely to its location over a public right-of-way shall also be exempt from the conformance provisions of this chapter.~~

(a) ~~(b)~~ Whenever the occupancy of a premises with nonconforming signs changes, the new occupant shall be required to remove, change or alter such signs to conform to the provisions of these regulations. This requirement is not intended to apply to changes in ownership where the same type of business, continues to occupy the premises. Whenever a building is demolished and removed for redevelopment, the existing ground signs shall also be required to be demolished and removed at the same time as the demolition of the building(s) and new signage shall be required to conform to the provisions of these regulations.

(b) ~~(c)~~ All wind signs, animated signs, and nonconforming flashing signs shall be removed or converted to non-flashing, non-animated signs. All portable and temporary signs not in conformance with this section shall be removed or altered to meet the requirements of this section.



~~(c)~~ (d) No nonconforming sign shall be enlarged or increased in size or altered in any fashion or extended to occupy a greater amount of land. No nonconforming sign shall be reconstructed if the sign pole(s) or structural elements of the sign face(s) are damaged, destroyed or removed to an extent of more than 50 percent of the replacement cost at the time of destruction. Nonconforming signs may undergo reasonable repair and maintenance including change of advertising message. Reasonable repair and maintenance means the work necessary to keep the sign structure in a good state of repair, including the replacement in kind of materials in the sign structure. When such replacement of materials is involved, such replacement may not exceed 50 percent of the structural materials in the sign within any 24-month period.

#### **Sec. 58-135. - Prohibited signs.**

The following types of signs are expressly prohibited in all districts, except as otherwise provided by this article:

(1) Animated signs, flashing signs, automatic changing signs, electronic and inflatable signs are prohibited. Also, any interior or exterior blinking mechanism or flashing window signs of any size are prohibited. This is not intended to prohibit public service information signs and other electronic message centers where different copy changes are shown on the same lamp bank as long as such messages are limited to time, temperature, date and other public service non-advertising copy.

(2) *Snipe signs.* The tacking, pasting or otherwise affixing of signs of a miscellaneous character to any vacant or developed property or to walls of buildings, on poles, trees, fences or other structures is prohibited. Any snipe sign unlawfully placed on or affixed to private or public property or placed in the right-of-way, including but not limited to public property and rights-of-way along or adjoining any roadway, in violation of this Code, is hereby declared to be abandoned property and is subject to being removed by the City, so long as such removal is accomplished in a safe and peaceful manner. Nothing herein shall be construed to permit any City staff person who removes such abandoned property to do so in a manner that endangers any person or the safety of any other person traveling on such roadway. Such prohibition on snipe signs shall not apply to temporary real estate open house signs if displayed in accordance with the provisions of this code.

(4) *Banner and wind signs.* Banner and wind signs shall be prohibited. In addition no more than three flags of a national, religious, fraternal or civic organization shall be displayed and no individual flag shall exceed 32 square feet. Government facilities displaying the banners in the public interest for community events and signs authorized under a special event permit are exempt from this provision.

(10) Balloons whether inflated or permanent. More than three balloons over 12 inches in diameter on any one property or any one balloon over 18 inches in diameter.

(11) Neon or LED lighting in a window as highlighting, bordering or otherwise drawing attention to other signage or merchandise in a window or as part of such signage or as stand-alone lighting, other than an "open" sign, all of which must be non-flashing and non-scrolling.

(12) Any sign not expressly permitted in Article IV, Sign Regulations, is prohibited.

**Section 58-137. Severability.**

(a) *Generally.* If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this section is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this section.

(b) *Severability where less speech results.* Without diminishing or limiting in any way the declaration of severability set forth elsewhere in this section, this Code, or any adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this section is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this section, even if such severability would result in a situation where there would be less speech, whether by subjecting previously exempt signs to permitting or otherwise.

(c) *Severability of provisions pertaining to prohibited signs.* Without diminishing or limiting in any way the declaration of severability set forth elsewhere in this section, this Code, or any adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this section or any other law is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this section that pertains to prohibited signs, including specifically those signs and sign-types prohibited and not allowed under Section 58-135 of this section. Furthermore, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of Section is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of Section 58-135.

(d) *Severability of prohibition on off-site signs.* If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this section and/or any other Code provisions and/or laws as declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect the prohibition on off-site signs as contained in this section and Code.