

ORDINANCE NO. 2010-43

**AN ORDINANCE AMENDING ARTICLE 801 SIGNS AND BILLBOARDS
OF CHAPTER 14 ZONING CODE TO
REGULATE DIGITAL BILLBOARD SIGNS**

WHEREAS, the regulation of signs is necessary to protect the public health, safety and welfare; and

WHEREAS, electronic digital changeable message technology is a new and significant component of outdoor advertising; and

WHEREAS, an outdoor advertising company, Clear Channel Outdoor, has approach the City regarding defining and regulating new digital technology for signs; and

WHEREAS, the City supports the reduction in the number of off-premise signs, many of which are nonconforming structures and/or uses under the City Code; and

WHEREAS, digital signs provide an efficient and economic manner of advertising because the technology allows multiple advertisers on one sign thereby reducing the need for large numbers of off-premise signs; and

WHEREAS, the removal of certain existing billboards and providing for regulation of new materials an technology in the sign industry promotes economic growth, sustainable business practices, promotes tourist oriented business and thereby benefits the public health, safety and welfare; and

WHEREAS, the City of Bentonville General Plan Policy Number CD-17 states “The City shall regularly review its sign ordinances to remain current with changing sign technology and address sign trends”; and

WHEREAS, the City desires to reduce the total number of billboards in the City and allow the new digital technology to be presented safely and aesthetically

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BENTONVILLE, ARKANSAS:

Section 1. That Article 201 Definitions of Chapter 14 Zoning Code be hereby amended by adding the following definition:

Digital Billboard or Smartboard: A type of off-site sign utilizing digital message technology, capable of changing the static message or copy on the sign electronically. A digital billboard may be internally or externally illuminated. Digital Billboards shall contain static messages only and shall not have animation, movement, or the appearance or optical illusion of movement, of any

part of the sign structure. Each static message shall not include flashing, scintillating lighting or the varying of light intensity.

Section 2. That Article 201 Definitions of Chapter 14 Zoning Code be hereby amended by amending the definition of electronic changeable copy sign by adding the following text: *Shall not include 'digital billboards', which is separately defined.*

Section 3. That Sec. 1100.11 Outdoor Lighting, C. Exemptions of Chapter 15 Subdivision Code be hereby amended with the following:

7. The outdoor illumination of digital billboards in compliance with Sec. 801.9 of the Zoning Code.

Section 4. That the Bentonville Municipal Code, Title 14 Zoning Code, *Article 801 Signs and Billboards* should be and the same is hereby amended with Attachment "A", an electronic copy and paper copy of which is on file with the City Clerk, and is hereby adopted by reference as though it were copied herein fully.

Section 5. This Ordinance shall be in full force and effect 30 days from the date of its passage and approval.

PASSED and APPROVED this 22nd day of June, 2010.

Approved:

Mayor Bob McCaslin

Attest: Suzanne Grider, City Clerk
ATTEST:

City Clerk

ATTACHMENT "A"

SEC. 801.12 DIGITAL BILLBOARDS

Digital billboards (smartboards) shall be permitted subject to acquiring a conditional use permit as set forth in Art. 301.4 Conditional Uses and meeting the following regulations.

- A. Replacement Ratio.** Digital billboards shall only be permitted to replace existing legally nonconforming off-site signs at a ratio of one digital billboard face for every four (4) existing legally nonconforming sign faces removed. The existing off-site signs shall be removed prior to installation of the digital billboard that is replacing the off-site signs being removed.
- B. Existing Double-deckers.** Owners wishing to seek a conditional use for a digital billboard shall first remove any double-deckers they own within the city limits, prior to using single boards, to meet the removal ratio.
- C. Location.**

 - a. **Signs per Lot.** Only one (1) digital billboard sign structure shall be permitted per lot. Double sided signs shall be permitted.
 - b. **Zoning.** Digital billboards shall only be permitted in A-1, C-1, C-2, I-1 and I-2 districts.
 - c. **Setback.** Digital billboards shall be placed behind the front, side and rear setback of the district.
 - d. **Anchoring.** Digital billboards shall be independent of support from any building and shall be structural erected as a pole/pylon sign, unless proposed anchoring is approved by Planning Commission.
- D. Dimensions.**

 - a. **Maximum Height.** Digital billboards shall not exceed 30' in height when adjacent to arterials and shall not exceed 45' in height when adjacent to Hwy 71/I-540. Digital billboard height is measured from the street grade that the sign is oriented toward.
 - b. **Maximum Sign Area.** Digital billboards shall not exceed 300 sq. ft. in sign area when adjacent to arterials and shall not exceed 480 sq. ft. when adjacent to Hwy 71/I-540. The size of the replacement digital billboard may not exceed the size of the smallest existing off-site sign removed.
- E. Display.**

 - a. **Static Messages.** Such displays shall contain static messages only, and shall not have movement, or the appearance or optical illusion of movement, during the static display period, of any part of the sign structure, design, or pictorial segment of the sign, including the movement or appearance of movement of any illumination or the flashing, scintillating or the varying of light intensity during the static display period.
 - b. **Dwell time and transition time.** Messages on digital billboards shall be displayed for a minimum dwell time of eight (8) seconds and maximum transition time between messages shall not exceed one (1) second.
- F. Lighting.**

 - a. **Maximum brightness.** Digital billboards shall not operate at brightness levels of more than 0.3 foot candles above ambient light, as measured using a foot candle meter at a distance of 200' for a 10'6" X 36' board and 150' for a 12' X 24' board. Documentation shall be provided to the City at time of permit issuance certifying the digital billboard has been set to be incapable of exceeding .3 foot candles above ambient light.

- b. **Light sensing device.** Each display must have a light sensing device that will adjust the brightness as ambient light conditions change.

G. Separation Requirements.

- a. **Distance from residential.** Digital billboards shall be prohibited within 250 feet of a residentially zoned property.
- b. **Distance from intersection.** Digital billboards shall be prohibited within 150 feet of an intersection with a traffic signal, measured from the centerline of the intersection.
- c. **Distance from other off-site signs.** Digital billboards shall be located such that it meets the following minimum spacing requirements from other digital billboards and off-site signs.

	Same Side of Street		Opposite Side of Street	
	Existing Digital Billboard	Existing Off-site Sign	Existing Digital Billboard	Other Off-site Sign
New Digital Billboard	2,500 ft	1,000 ft	1,000 ft	500 ft

- H. **Landscaping.** All digital billboards shall be landscaped in accordance with Sec. 801.9.D.3 Freestanding Signs – Nonresidential District, Sign Landscaping and meet the following requirement: Trees and shrubs shall be selected such that the mature height of the selected species is tall enough to reach the base of the sign face. For monument style boards, low lying shrubs may be used in place of tree requirements at a ratio of 1:1.
- I. **Malfunction default.** Each digital billboard shall have a default mechanism built in to either turn the display off or show “full black” on the display in the event of a malfunction.
- J. **Display technology.** The technology currently being deployed for digital billboards is LED (light emitting diode), but there may be alternate, preferred and superior technology available in the future. Any other technology that operates under the maximum brightness stated in F(a) above shall not require an ordinance change for approval.
- K. **Display of emergency information.** Owners of digital billboards are encouraged to coordinate with the local authorities to display, when appropriate, emergency information important to the traveling public including, but not limited to Amber Alerts or emergency management information.
- L. **Tree cutting.** Vegetation cutting in the public rights-of-way for the purpose of clearing views for signs shall be prohibited unless approved by the Community Development Director. Cutting of any tress required by the Landscape Regulations that are located in the setback on any property for the purpose of clearing views for signs is also prohibited. Routine tree trimming and maintenance is permitted.
- M. **Maintenance.** The maintenance, repair, cleaning and replacements of parts of the digital component shall be expressly allowed regardless of the conformity of the structure or site. This also applies should the sign and/or digital components become damaged.