

**TOWN OF CLAYTON, NEW MEXICO
ORDINANCE NO. 612**

AN ORDINANCE REGULATING THE ERECTION, CONSTRUCTION, EXPANSION AND CHANGE OF LOCATION OF SIGNS AND BILLBOARDS, WITHIN THE TOWN OF CLAYTON, PROVIDING FOR EXCEPTIONS AND PROVIDING PENALTIES FOR VIOLATION THEREOF.

WHEREAS, it is determined that Clayton is a unique and culturally rich community, and, it is desired to preserve these characteristics; and

WHEREAS, it is determined that certain signs are necessary to inform the public as to regulations, hazards, identification of local businesses, locations and activities; and

WHEREAS, uncontrolled signs and billboards or proliferation of signs and billboards can create hazards, confusion, diminished aesthetic quality, loss of business, clutter and garishness, and a general lessening of the historical and cultural identification of our town; and

WHEREAS, it is desired to maintain a quality community by regulating the erection, construction, expansion and change of location of signs and billboards in Clayton.

BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF CLAYTON, NEW MEXICO:

Section 1. Definitions. For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein:

Banner: Any sign printed or displayed upon cloth or other flexible material, with or without frames.

Display surface area: The net geometric area enclosed by the display surface of the sign including the outer extremities of all letters, characters, and delineations; provided, however, display surface area shall not include the structural supports for freestanding signs; provided further, that each face of a double faced sign as defined shall be considered in determining the display surface area.

Erect: To build, construct, attach, hang, place, paint, suspend, or affix, a sign.

Flashing sign: An illuminated sign on which artificial or reflected light is not maintained stationary and constant in intensity and color at all times when in use.

Free-standing sign: A sign which is attached to or a part of a completely self-supporting structure including a billboard which is so constructed. The supporting structure shall be firmly in or below the ground surface and not attached to any building or any other structure whether portable or stationary.

Identification and informational signs: Signs of an identificational or of informational nature bearing no advertising.

Joint identification sign: A sign which serves as common or collective identification for a group of persons or businesses operating on the same zone lot (e.g., shopping center, office complex, etc.). Such sign may name the persons, or businesses, included but carry no other advertising matter.

Nonconforming sign: A sign existing at the effective date of the adoption of this ordinance which could not be built under the terms of this ordinance.

Off-site sign: A sign other than an on-site sign.

On-site sign: A sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises.

Portable temporary attraction sign board: A single or double surface painted or poster panel type sign or some variation thereof, which is temporary in nature, usually mounted on wheels, easily movable, not permanently attached thereto.

Real estate sign: A temporary sign placed upon property for the purpose of advertising to the public the sale or lease of said property.

Roof sign: Any sign wholly erected, constructed or maintained on the roof structure or parapet wall of any building.

Sign: The term "sign" shall mean and include every device, frame, letter, figure, character, mark, plane, point, design, picture, stroke, stripe, trademark or reading matter, which is used or intended to be used to attract attention or convey information when the same is placed out of doors in view of the general public. For the purpose of determining number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship to elements, or where there is reasonable doubt as to the relationship of elements, each element shall be considered to be a single sign.

Wall sign: Any sign that shall be affixed parallel to the wall or printed on the wall of any building; provided, however, said wall sign shall not project above the top of the wall or beyond the end of the building. For the purpose of this ordinance, any surface of a mansard roof shall be considered a wall sign. Any sign that is affixed to the face of a building marquee, building awning, or a building canopy shall be considered a wall sign.

Section 2. Sign permits. It shall be unlawful for any person to erect, repair, alter, relocate or keep within the Town any sign or other advertising structure as defined in this ordinance without first obtaining a sign permit from the Town Manager and paying the fee required by this section.

(a) **Application for initial sign permit:** Application for initial sign permits shall be in writing addressed to the Town Manager and shall contain or have attached thereto the following information:

- (1) Name, address, and telephone number of the applicant.
- (2) Location of building, structure, or lot to which or upon which the sign or other advertising structure is to be attached or erected.
- (3) Position of the sign or other advertising structure in relation to nearby building or structures.
- (4) Two blueprints or ink drawings of the plans and specifications and method of construction and attachment to the building or in the ground.
- (5) Name of person, firm, corporation or association erecting structure and applicable contractor's license numbers.
- (6) Written consent of the owner of the building, structure or land to which or on which the structure is to be erected.
- (7) Any permit required and issued for said sign by any other governmental agency.

(b) **Sign permit fees:** Every applicant, before being granted a permit hereunder, shall pay to the Town office a permit fee of twenty-two dollars plus fifty cents per square foot of sign face for each sign or other advertising structure regulated by this ordinance.

(c) **Issuance of sign permit:** It shall be the duty of the Town Manager, upon the filing

of an application for an erection permit to examine such plans and specifications and other data and the premises upon which it is proposed to erect the sign or other advertising structure, and if it shall appear that the proposed structure is in compliance with all the requirements of this ordinance and all other laws and ordinances of the Town, he shall then issue the erection permit. If the work authorized under an erection permit has not been completed within six months after date of issuance, the said permit shall become null and void.

Section 3. Sign maintenance. (a) Sign identification: Every sign hereafter registered shall show in a conspicuous place thereon which is visible to the inspector and is readable by the inspector from the ground, the permit number.

(b) Premises maintenance: All free-standing signs and the premises surrounding the same shall be maintained by the owner thereof in a clean, sanitary, and inoffensive condition, and free and clear of all noxious substances, rubbish and weeds.

(c) Unsafe and unlawful signs: If the Town Manager shall find that any sign or other advertising structure regulated herein is unsafe or insecure, or is a menace to the public, or is abandoned or is maintained in a dilapidated condition, or has been constructed or erected or is being maintained in violation of the provisions of this ordinance, he shall give written notice to the permittee or property owner thereof. If the permittee or property owner fails to remove or alter the structure so as to comply with the standards here set forth within ten days after such notice, such sign or other advertising structure may be removed or altered to comply, at the expense of the permittee or owner of the property upon which it is located. The Town Manager shall refuse to issue a permit to any permittee or owner who refuses to pay costs so assessed.

Section 4. Nonconforming signs. (a) For the purpose of this section, a nonconforming sign shall be defined as a sign which does not conform with the provisions of this ordinance or which does not conform with the Town zoning ordinance; such sign shall be removed within a period of three years from the effective date of the adoption of this ordinance, except that:

(1) On-site nonconforming signs: All nonconforming signs not otherwise prohibited by the provisions of this ordinance, relating to a place of business and located on the same premises as such place of business, may be continued until:

(i) The nature of the business conducted on the premises changes in such a manner as to occasion a change in the existing sign; or

(ii) the name of the business changes and the sign is changed or modified either in shape, size or legend.

(2) Off-site nonconforming signs: Where an off-site non-conforming sign is located off the premises of the place of business to which the sign pertains and exists at effective date of the adoption of this ordinance and could not be built under the terms of this ordinance by reason of restrictions on sign area, height, its location on the lot, or other requirements, the owner of the sign shall remove the sign within three years from the effective date of the adoption of this ordinance.

(b) No nonconforming sign may be enlarged or altered in a way from which would increase its nonconformity.

(c) Should any nonconforming sign be damaged by any means to an extent of more than fifty percent of its replacement cost at time of damage, it shall not be reconstructed except in conformity with provisions of this ordinance.

Section 5. Exemptions. Exemptions shall not be construed as relieving the owner of such signs from the responsibility of complying with applicable provisions of this ordinance. The exemptions shall apply to the requirement for sign permit only and no sign permit shall be required for the erection of the following signs:

(a) Professional name plates erected flat on walls of building and not exceeding four square feet of display surface area.

(b) Building construction signs: One on-site building construction sign on each construction site provided that the maximum display surface are shall not exceed eight square feet.

(c) Real estate signs: On a lot there may be erected on each street frontage one unanimated real estate sign not more than eight square feet in surface area.

(d) Memorial signs or tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other noncombustible materials.

(e) Traffic or other municipal signs, legal notices, railroad crossing signs, danger, and such temporary, emergency or nonadvertising signs required by law.

(f) Election campaign signs: Election campaign signs are permitted but only for the period 90 days prior to the elections to which it applies, and it shall be removed within 10 days following the final election that is held.

(g) Street banners which advertise upcoming community events in the Town of Clayton or Union County.

(h) All signs located within a building that are not visible to the public outside said building.

(I) Signs painted on, or affixed to, glass surfaces of windows or doors pertaining to the lawful business conducted therein.

(j) Temporary holiday decorations.

Section 6. General regulations. (a) Removal of certain signs: Any sign now or hereafter existing which no longer advertises a bona fide business conducted, or a product sold, shall be taken down, or removed by the owner, agent, or person having the beneficial use of the building or structure upon which such sign may be found within ten days after written notification from the Town Manager, and, upon failure to comply with such notice within the time specified in such order, the Town Manager is hereby authorized to cause removal of such sign, and any expense incident thereto shall be paid by the owner of the property, building, or structure to which such sign is attached or affixed.

(b) Signs not to constitute traffic hazard: No sign or other advertising structure as regulated by this ordinance shall be erected or continued to be displayed at the intersection of any street in such a manner as to obstruct free and clear vision; or at any location where, by reason of the position, shape, or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device; or which makes use of the words, "stop," "look," "drive-in," "danger," or any other word, phrase, symbol or character in such manner as to interfere with, mislead, or confuse traffic.

(c) No obstructions to view shall be placed or maintained between three (3) and eight (8) feet above the street level within the triangular space at the street corner of a corner lot as defined by the street rights-of-way bordering the corner lot and a line connecting two points each located twenty-five (25) feet distant along such street rights-of-way from the intersection or projected intersection of the street right-of-way lines. In addition, on Highway 87 (First Street), no objects greater than 2.5 feet in height above street level, shall be placed or maintained within the area located ten (10) feet back from the street right-of-way.

(d) A parked vehicle carrying advertising shall be considered a sign unless in operable condition and carrying a current, valid license tag.

Section 7. Off-site roof signs. Off-site roof signs shall be prohibited. All off-site roof signs existing on the date of adoption of this ordinance are nonconforming signs.

Section 8. Free standing off-site signs. It shall be unlawful to erect any free-standing off-site signs. All free-standing off-site signs existing on the date of the adoption of this ordinance are

nonconforming signs.

Section 9. Projecting signs. It shall be unlawful to erect any projecting sign that projects more than two feet from the wall of the building upon which it is erected or which projects beyond the end or top of the wall to which it is attached. Display surface area of projecting signs shall not exceed sixteen square feet. Only one projecting sign per business shall be permitted and a projecting sign shall not be permitted on property which has a free-standing sign.

Section 10. Variances. The Town's Planning and Zoning Commission may grant a variance from the strict application of the requirements of this ordinance owing to conditions peculiar to the property and not the result of actions of the applicant where the strict application of the requirements of this ordinance would result in unnecessary or undue hardship that would deprive the owner of the reasonable use of land or building, so long as such variance is not contrary to the public interest. A variance shall be good for the time specified by the Planning and Zoning Commission but no longer than three years. Successive variances may be granted but must be independently applied for and granted and the previous granting of a variance shall in no way obligate the Commission to grant a subsequent variance. There shall be a presumption that locating a free-standing off-site sign, such as a bill board, within 500 feet of another free-standing off-site sign is contrary to the public interest and such presumption can be over come by only clear and convincing evidence and a unanimous vote of the Commission. The procedures for applying for a variance, fees, notice, publication, deadlines, hearings, conditions of variances and appeals shall be the same as those set out in Ordinance 558 governing zoning.

Section 11. Penalties. Any person who violates the prohibition of this ordinance shall be subject to a fine form \$100 to \$500 or imprisoned for up to 90 days or shall receive both such fine and such imprisonment. Each day that a sign or billboard which was erected, constructed, or expanded or the location of which was changed in violation of this ordinance is not removed, shall constitute a separate offense. Further, such sign or billboard shall constitute a menace to the public safety and welfare and may be removed as such by the Town of Clayton and the costs of such removal shall constitute a municipal lien upon the real estate upon which the sign or billboard was located and such lien may be foreclosed pursuant to the statutes, and the Town of Clayton shall be entitled to recover the costs of such removal and interest at the statutory rate for municipal liens and attorney's fees incurred. The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, or maintains such violation may be found guilty of a separate offense and suffer the penalties herein provided.

Section 12. Where effective. This ordinance shall be effective within the municipal boundaries of the Town of Clayton and in that territory in the planning and platting jurisdiction of the Town of Clayton which is all that territory outside the municipal boundaries of the Town of Clayton but within three miles of those boundaries.


This Ordinance shall become effective upon adoption and publication as provided by law.

PASSED, APPROVED, AND ADOPTED this 9th day of February, 1998.

(SEAL) ---
ATTEST: ---



Mayor



Municipal Clerk