

ORDINANCE NO. 08-2014

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAPE CANAVERAL, FLORIDA, PROVIDING FOR THE REGULATION OF SIGNAGE; PROVIDING FOR COMPREHENSIVE AMENDMENTS TO CHAPTER 94, SIGNS, OF THE CODE OF ORDINANCES; AMENDING THE SIGNAGE REQUIREMENTS FOR THE A1A ECONOMIC OPPORTUNITY OVERLAY DISTRICT; PROVIDING FOR REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND EFFECTIVE DATE.

WHEREAS, the City is granted the authority, under Section 2(b), Article VIII, of the State Constitution, to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, the City Council desires to update the City's sign code regulations in accordance with the amendments contained herein; and

WHEREAS, through the enactment of this Ordinance, the City Council desires to preserve and improve the quality of urban life and aesthetics within the City of Cape Canaveral. *See Members of the City Council v. Taxpayers for Vincent*, 466 U.S. 789 (1984); *Metromedia, Inc. v. City of San Diego*, 453 U.S. 490 (1981); and

WHEREAS, the City Council finds that the regulation of signage within the City of Cape Canaveral, as provided herein, are unrelated to viewpoint and the content of any message, and will further the City's legitimate and substantial government interest in minimizing sight pollution and traffic and safety hazards to persons and property; and

WHEREAS, the City Council finds that the goals of this Ordinance are content neutral and unrelated to the suppression of free expression; and

WHEREAS, aesthetic interests are a legitimate basis for regulating signs. *See, e.g., Lake Wales v. Lamar Advertising Ass'n of Lakeland*, 414 So. 2d 1030 (Fla.); *Messer v. City of Douglasville, Ga.*, 975 F. 2d 1505 (11th Cir. 1992); and

WHEREAS, due to the its geographical location along the Atlantic Coast, the City of Cape Canaveral is exposed to salty ocean air, which contributes to accelerated corrosion and rusting of steel and other corrosive alloys; and

WHEREAS, many existing ground signs located in the City of Cape Canaveral are structurally supported by exposed vertical supports comprised of steel or other corrosive alloys which rust; and

WHEREAS, requiring that exposed vertical supports comprised of steel and other corrosive alloys be covered with a non-corrosive decorative cover, as required by the amendments contained herein, is intended to improve the aesthetic appearance of ground signs with exposed vertical supports; and

WHEREAS, the City desires, through adoption of this Ordinance, to provide for the modernization and beautification of pole signs to enhance the properties upon which such signs are located, to revitalize interest in local businesses, and to generally improve community aesthetics; and

WHEREAS, the City's Planning and Zoning Board reviewed this Ordinance at several public meetings and on October 9, 2013, recommended approval of this Ordinance to the City Council; and

WHEREAS, the City Council of the City of Cape Canaveral finds that this Ordinance is in the best interests of the public health, safety, and welfare of the residents and businesses of Cape Canaveral.

BE IT ORDAINED by the City Council of the City of Cape Canaveral, Brevard County, Florida, as follows:

Section 1. Recitals. The foregoing recitals are hereby fully incorporated herein by this reference as legislative findings and the intent and purpose of the City Council of the City of Cape Canaveral.

Section 2. Chapter 94 Code Amendment. Chapter 94, Signs, of the Code of Ordinances, City of Cape Canaveral, Florida, is hereby amended as follows (underlined type indicates additions and ~~strikeout~~ type indicates deletions, while asterisks (***) indicate a deletion from this Ordinance of text existing in Chapter 94. It is intended that the text in Chapter 94 denoted by the asterisks and set forth in this Ordinance shall remain unchanged from the language existing prior to adoption of this Ordinance):

CHAPTER 94. SIGNS

ARTICLE I. IN GENERAL

Sec. 94-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accent lighting means ~~electric discharge tubing attached as~~ any method of external illumination that is intended to draw attention to an integral decorative or architectural feature of the building and not connected or giving the appearance of any connection to the overall signage

of the project. Accent lighting shall be reviewed in accordance with Article III of Chapter 22 of this Code.

* * *

Banner sign means any sign having the characters, letters, illustrations or ornamentation applied to cloth, paper or fabric including animated, rotating and/or fluttering devices, feather signs, flags and pennants (which do not comply with the definition of flag or pennant under this chapter) but excluding government flags for the purposes of this chapter, designated to attract attention.

* * *

Discontinued sign shall mean any sign located on real property which has been vacant and unoccupied for a period of ninety (90) days or more; or any sign face which advertises a service no longer conducted or product no longer sold upon the premises where the sign is located. Such sign (face and/or structure) shall be considered nonconforming in accordance with Article IV of this Chapter.

* * *

Hazardous sign is any sign which constitutes a vehicular and/or pedestrian hazard or a detriment to traffic safety by reason of its size, location, movement, content, coloring, or method of illumination, or which obstructs the visibility of any official traffic-control device or which diverts or tends to divert the attention of drivers of moving vehicles from traffic movement on streets, roads, intersections, or access facilities. No sign shall be erected in such a manner as to obstruct the vision of pedestrians. The use of flashing, running, or revolving lights in any sign is prohibited. Any sign which by glare or method of illumination constitutes a hazard to traffic is prohibited. Any sign which displays or incorporates into the graphic display any depiction or simulation identical to or similar to those used for officially recognized traffic signalization, direction or control shall be prohibited.

* * *

Pole signs are signs that are supported by one or more exposed vertical supports of any shape which are comprised of steel or other corrosive alloys. Two examples of a pole sign are:

* * *

Pylon signs are signs that are supported by one or more exposed vertical supports which are encased within a single, non-corrosive decorative cover. Non-corrosive decorative cover shall mean any material(s) suitable for installation as a pole sign cover in accordance with industry standards of material and workmanship, applied over and attached to the supporting

poles(s), including all attachments and fasteners thereto, which shall contain no steel or other corrosive alloys. Such pole sign cover shall have a minimum width of not less than 1 and ½ times the depth of the cabinet, but not less than 12 inches, and maximum depth equal to the depth of the sign cabinet. One (1) example of a pylon sign is:

* * *

Scheduled event or occurrence means a singular preplanned, temporary happening during a particular interval of time on the site advertised. Examples of scheduled events or occurrences include a property for sale, a coming site development, a grand opening, a retail sale, an outdoor event, and other similar temporary events.

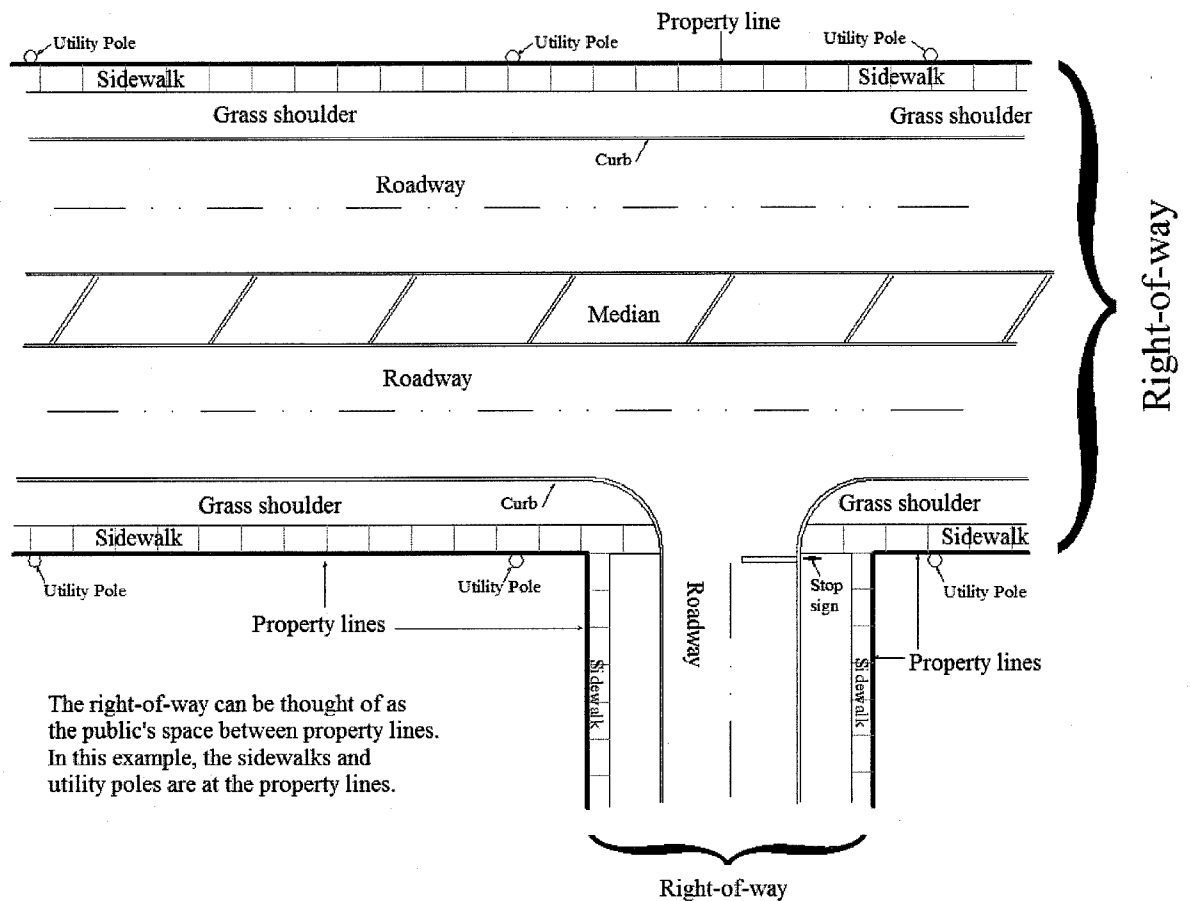
* * *

Sign means any object, surface, fabric, device or display, whether illuminated or nonilluminated, which is designed or intended to advertise, identify, announce, direct or inform the public, and which can be viewed by the public off-site placed out of doors in view of the general public. For purposes of this chapter, the term "sign" also includes all structural members.

* * *

Street ~~Right-of-way~~ means property which is committed for use as a public access route land used for pedestrian and vehicular roadway purposes including reserved, used or to be used as a street, alley, sidewalk, walkway, trail and trail heads, and related public areas such as medians, drainage facilities, and grass shoulders. One example of a right-of-way:

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Temporary signs means a sign displayed for a scheduled event or occurrence before, during or after an event or occurrence scheduled at a specific time and place or which is not designed or intended to be placed permanently inclusive for example, for rent signs, for sale signs, construction signs, real estate signs, management signs, social or special event signs. Temporary signs include only those signs expressly referenced in section 94-76 – Temporary Sign Table.

* * *

Warning sign means a sign required by law or intended to inform the viewer of dangerous and/or restrictive conditions on the premises.

Window lighting means any source of illumination intended to illuminate or draw attention to any display that is part of a window sign.

Window sign means ~~illuminated and nonilluminated~~ any signs affixed to, in contact with or placed in the interior or exterior windows of a structure, and which can be viewed from the outside of the structure.

* * *

Sec. 94-4. Exemptions.

The following signs may be erected without a permit, subject, however, to all remaining requirements of these regulations:

* * *

(6) Unless otherwise prohibited under this subsection for safety purposes, interior window signs shall be allowed provided they are located at or below fifteen (15) feet from pedestrian grade. Pedestrian grade shall be measured from the walking surface nearest the window of the subject building. Window signs above fifteen (15) feet from pedestrian grade shall be prohibited. Window signs permitted by this subsection shall not exceed twenty-five (25) percent of the total window glass area at or below fifteen feet from pedestrian grade for each side of the building or unit thereof unless permitted within a window display area allowed under Chapter 110, Article X. A1A Economic Opportunity Overlay District. that do not exceed 25 percent of the total window glass area for each side of the building or unit thereof and are placed in the upper or lower half of the window glass area. In addition, the total square footage of the window signs located above ten feet from grade, when added to the total existing signage for the building or unit thereof, does not cause the total signage copy area for the building or unit thereof to exceed the maximum total signage copy area allowed for the particular building or unit thereof. Further, all sales transaction and cash register areas, as well as any other areas that may be deemed as necessary for viewing for public safety purposes by a law enforcement agency, shall not be obstructed from view from the outside of the building by a window sign. and

(7) Temporary signs on residential property that do not exceed six square feet and on nonresidential property that do not exceed 12 square feet, provided the signs meet the requirements of this chapter. Temporary signs on nonresidential property that exceed 12 feet, but are less than 32 square feet, may be authorized by permit under this chapter.

* * *

(13) Signs erected entirely within the confines of a commercial establishment, provided they cannot be viewed from a public right-of-way.

(14) Warning signs.

(15) Temporary signs approved under an outdoor entertainment event permit.

(16) Any sign erected or temporarily placed by the city or other governmental body.

* * *

Sec. 94-6. Prohibited signs and features.

The following signs and features are strictly prohibited:

* * *

(d) *Portable signs.* Any sign, excluding vehicular signs, which is mobile or is not securely and permanently attached to the ground or a building is prohibited, except a sandwich board is permitted in accordance with section 94-76 ~~on commercial property provided it is only displayed outside during normal business hours of the business that is displaying the sandwich board.~~

* * *

(bb) Signs placed on fences or gates, other than warning signs.

(cc) Window lighting, except for window signs authorized by section 94-4(6).

(dd) Temporary signs, except permitted types and uses specified in section 94-76.

(ee) Any other sign, feature, or outdoor advertising display that does not comply with the provisions of this chapter.

* * *

ARTICLE II. PERMITS AND INSPECTIONS

Sec. 94-31. Permit Required.

(a) Except as otherwise provided in this chapter, it shall be unlawful for any person to change a sign face, change the name of a business displayed on a sign, alter, erect, construct, enlarge, move, or make structural alterations to any sign within the city, or cause such to be done without first obtaining a sign permit for each such sign from the administrator. This shall not be construed to require any permit for a change of moveable alphanumeric characters on a sign designed for such moveable characters or a change of display on an electronic sign ~~copy on a sign so long as the sign or sign structure is not modified in any way.~~ Any sign which is not specifically allowed by this chapter is prohibited.

* * *

Sec. 94-35. Fees.

Permit and inspection fees for the erection, alteration or relocation of a sign, exclusive of any costs for an electrical permit, shall be set forth in appendix B, schedule of fees, to this Code and shall include fees for the following:

* * *

(4) As an incentive to encourage the establishment of new businesses within the city, the administrator is authorized to waive sign permitting fees for any temporary signage application that is filed within 30 days after obtaining the businesses' initial Business Tax Receipt issued by the city ~~eliminate nonconforming signs, the city manager shall be authorized to waive sign permitting fees for any sign application that is filed for purposes of eliminating or modifying a nonconforming sign and making it in full compliance with the provisions of this chapter.~~

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ARTICLE III. SIZE, LOCATION AND CONSTRUCTION

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DIVISION 2. TYPES OF SIGNS

Sec. 94-76. Temporary on-premises signs.

(1) Temporary on-premise signs must comply with the temporary signage table below.

On-Premises Temporary signage table:

<u>Type and use</u>	<u>Conditions</u>
<u>Temporary sign – in general</u>	<u>a, b, c, d, e, f, g, h, i, j,</u>
<u>Temporary signage on gubernatorial, presidential, county, city, and any state and federal primary Election Day and during the 30 days prior to and five days after the Election Day.</u>	<u>c, d, e, f, g, h, i, j, k,</u>
<u>Banner Sign</u>	<u>e, g, h, l,</u>
<u>Bag Sign</u>	<u>a, e, m</u>
<u>Sandwich Board</u>	<u>e,g,h,i,j,n</u>

(2) The following conditions shall apply to any temporary sign unless otherwise provided in the temporary signage table set forth above.

a. The temporary signage shall: (i) not be posted more than fourteen (14) days prior to the commencement of the scheduled event or occurrence, unless a sooner time period is required by law, and (ii) be removed when the sign has fulfilled its purpose (e.g., the scheduled event or occurrence has concluded).

b. One temporary sign is allowed for every 150 linear feet of property frontage, or portion thereof unless additional signage is authorized and required by state or federal law. Individual tenant spaces shall be permitted one temporary sign for each tenant space or unit, regardless of property frontage.

c. On residential property, no temporary sign shall exceed six square feet.

d. On nonresidential property, no temporary sign shall exceed 32 square feet.

e. The temporary sign may be double-faced (back-to-back) and only one side of a double-faced sign shall be counted for sign area calculations.

f. The maximum height shall be four feet on residential property, or eight feet on any non-residential property.

g. Minimum setbacks for any part of the temporary sign structure shall be a minimum of two feet from any right-of-way.

h. No part of any temporary sign shall be placed within the right-of-way or within the visibility triangle or in any way which impedes pedestrian and/or vehicular traffic safety. No part of any temporary sign shall be located so as to reduce any required parking area. No part of any temporary sign shall be located in such a way that it restricts a pedestrian way and/or sidewalk to less than forty-four (44) inches in width. Temporary signs shall be removed and brought inside a building when there are storm warnings so as not to become a hazard during a storm event

i. Shall be freestanding and shall not rely on any support that is not a part of the sign.

j. The temporary sign shall be constructed of sturdy material such as wood, hard plastic, vinyl, hardboard or particle board of sufficient thickness so as to withstand the weather elements commonly experienced within the city. Cardboard and paper-faced temporary signs are strictly prohibited unless they are safely fastened, in their entirety, to a backing made of material set forth in this section.

k. With property owner's consent, during gubernatorial, primary, presidential, county and city election years, temporary signs may be placed on Election Day and during the 30 days prior to and five days after the Election Day.

l. A maximum of one banner sign may be erected on nonresidential property not to exceed 96 square feet, and on residential property not to exceed 12 square feet. A banner sign may be erected for a maximum of 30 consecutive days on nonresidential property and a maximum of 14 consecutive days on residential property one (1) time during any calendar year. A banner sign must be securely fastened in a manner to withstand weather elements commonly experienced in the city.

m. Bag signs shall be allowed for 180 days when the copy area of an existing ground sign has been damaged and is awaiting repair, when the business has vacated the property or when the copy area is being replaced to accommodate a new or renamed business. The administrator may grant an extension of time for good cause shown provided any extension shall not exceed 180 calendar days.

n. Sandwich Boards: One sandwich board is allowed for each business located in the C1, C2 and M1 zoning districts. Sandwich boards must comply with the following requirements:

(1) Shall not exceed five (5) feet overall height.

(2) Shall not exceed twelve (12) square feet in area.

(3) Shall not be displayed from dusk to daybreak.

(4) Shall be substantially secured or weighted to resist movement while on display.

(5) Shall not encroach into vehicular circulation areas or be located so as to reduce parking areas.

~~(a) Temporary on-premises signs shall be permitted under the following conditions:~~

~~(1) Provided the temporary sign satisfies all the requirements of this section, no permit shall be required under section 94-31.~~

~~(2) Temporary signs shall be freestanding signs.~~

~~(3) Temporary signs shall be removed within three days after the date upon which the sign has fulfilled its purpose (e.g., the scheduled event or occurrence has concluded).~~

~~(4) On residential property, no one temporary sign shall exceed six square feet and the total number of temporary signs installed on any one residential property shall not exceed three. However, during gubernatorial, presidential, and city election years, the three-sign limitation shall not apply on election day and during the 30 days prior to and five days after the election day.~~

~~(5) — On nonresidential property, no one temporary sign shall exceed 32 square feet and the total area of temporary signage installed on any nonresidential property shall not exceed 96 square feet, except more than 96 square feet of signage may be installed as provided in this section. However, during gubernatorial, presidential, and city election years, the 96 square foot limitation shall not apply on election day and during the 30 days prior to and five days after the election day.~~

~~(6) — Temporary signs may be double faced (back to back) and only one side of a double faced sign shall be counted for sign area calculations.~~

~~(7) — The maximum height of any temporary sign shall be four feet on residential property, or eight feet on any non-residential property.~~

~~(8) — Minimum setbacks for any part of the temporary sign structure shall be a minimum of two feet from any right of way.~~

~~(9) — No temporary sign shall be placed within the right of way. No temporary sign shall be placed within the visibility triangle.~~

~~(10) — The temporary sign shall be constructed of sturdy material such as wood, hard plastic, vinyl, masonite or particle board of sufficient thickness so as to withstand the weather elements commonly experienced within the city. Cardboard and paper faced temporary signs are strictly prohibited unless they are safely fastened, in their entirety, to a backing made of material set forth in this section.~~

~~(11) — If the temporary sign is promoting products or services available on the premises, the sign may only be displayed during the normal business hours of the business located on the premises.~~

~~(b) — In addition to the general requirements in subsection (a), the following requirements shall apply to the specific types of signs listed below:~~

~~(1) — Areas under development, such as shopping centers, apartments, condominiums and subdivisions, shall be permitted one sign not to exceed a sign area of 16 square feet on residential property and 32 square feet on nonresidential property after a building permit is issued or site plan has been approved. In addition, each subcontractor shall be allowed one sign not to exceed a sign area of nine square feet and four feet in height. Signs allowed hereunder shall be permitted for one year or until the building permits for the area under development have expired or been revoked or the applicable site plan approval~~

~~has expired. If the project is not completed within one year, the city manager may grant an appropriate extension(s) not to exceed the removal date set forth under this subsection. All signs must be removed from the property within seven days of the date on which the project is completed, suspended, or abandoned for at least three months. The primary contractor's licensing information shall be legibly displayed on at least one of the signs located on the area under development.~~

~~(2) — A maximum of one on premises banner sign may be erected on nonresidential property not to exceed 96 square feet, and on residential property not to exceed 12 square feet. A banner sign may be erected for a maximum of 30 days on nonresidential property and a maximum of 14 days on residential property during any calendar year. A banner sign is exempt from the freestanding requirement set forth in subsection (a)(2) above and the size restriction set forth in subsections (a)(4) and (5) above, provided it is securely fastened in a manner to withstand weather elements commonly experienced in the city.~~

~~(e) — Bag signs shall be temporarily permitted for 180 calendar day period of time in cases when the copy area of an existing sign has been damaged and is awaiting repair and when the copy area is being replaced to accommodate a new or renamed business. The administrator may grant an extension of time for good cause shown provided any extension shall not exceed 180 calendar days.~~

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Sec. 94-78. Electronic signs.

Electronic signs may be approved under this chapter provided the proposed electronic sign satisfies the following requirements:

(a) A maximum of one electronic sign may be incorporated into a monument sign ~~and shall not be part of any other kind of sign including, but not limited to, a pole or pylon sign. The electronic sign must be in compliance with all applicable provisions of this chapter. However, if the property cannot accommodate a monument sign due to physical size, building, and set back constraints of the property, an electronic sign may be incorporated into a pylon sign. Further, an electronic sign shall not be a portable or stand alone standalone sign and shall be mounted in a permanent cabinet.~~

~~(b) — The electronic sign shall not be installed higher than ten feet from grade level, unless incorporated in a pylon sign authorized by this chapter.~~

(eb) The size of the electronic sign shall be limited to a maximum size equal to 32 square feet. The maximum area of the sign shall not exceed 120 square feet. The electronic sign shall be fully incorporated within the outer perimeter of the sign. Further,

the size of the electronic sign shall be included in the calculation for the total signage allowed for the property and the overall size limitation for a particular sign.

(~~dc~~) The electronic sign shall be limited to display of ~~static~~ alphanumeric characters only. Nonstatic Moving graphic displays of non-alphanumeric characters (such as simulations of fireworks, bouncing hearts, lighthouses, human bodies, and cartoon characters) shall be prohibited.

(~~ed~~) The display time for each message containing alphanumeric characters shall be a minimum time period of ~~seven~~ four (4) consecutive seconds per display, ~~and the message shall change instantaneously.~~

(~~f~~) ~~Notwithstanding any contrary provision in this section, an existing pylon or pole sign which exceeds 15 feet in height may be modified to incorporate an electronic sign under the following conditions:~~

(1) ~~The pole or pylon sign shall be reduced in height to 15 feet or lower.~~

(2) ~~A pole sign shall be modified to a pylon sign.~~

(3) ~~The maximum area of the sign shall not exceed 120 square feet, and the size of the electronic sign shall be limited to a maximum size equal to 32 square feet.~~

(4) ~~The modified sign must be in compliance with all other applicable provisions of this chapter.~~

(~~ge~~) The electronic sign shall be set to a specific brightness level and shall electronically respond to changing light conditions (e.g., change from day to night or to darkness related to weather). Written certification shall be provided with the sign permit application from the sign manufacturer that the sign has been preset to not to exceed the following light level standard as measured in nits, as follows:

(1) Maximum daytime level at 6,000 nits.

(2) Maximum nighttime level at 500 nits.

Further, the preset light level shall be protected from end user manipulations by password protected software or other acceptable methods.

(~~hf~~) If the electronic sign malfunctions, the message, if displayed, shall be maintained at a maximum light level of 500 nits, or the sign shall be made inactive until the sign is repaired.

* * *

Sec. 94-81. Temporary off-premises signs.

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(a) Temporary off-premises signs may be erected upon issuance of a permit by the Administrator provided the temporary off-premises sign(s) meets the following conditions:

* * *

(3) The type, use, size, height, and placement of the sign shall comply with the requirements set forth in section 94-76 for temporary on-premises signs.

* * *

Sec. 94-85. Variances.

~~(a) The administrator may grant, upon request by the property owner, a variance to any set back requirements set forth in this chapter, provided the administrative variance does not cause a safety hazard to persons or property, cause a violation of other applicable provisions of the City Code, and exceed ten percent of the applicable set back.~~

~~(b) A variance may be granted for any height, location, or size requirement under this chapter pursuant to the variance procedures set forth in chapter 110, article II.~~

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DIVISION 3. DISTRICT REGULATIONS

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Table 94-96-1 District Restrictions

Type of Sign		R-1	R-2	R-3	C-1, C-2 & M-1
Temporary On-Premises Sign		Per Section 94-76	Per Section 94-76	Per Section 94-76	Per Section 94-76
Temporary Off-Premises Sign		Per Section 94-81	Per Section 94-81	Per Section 94-81	Per Section 94-81
	Max. area	6 s.f.	6 s.f.	6 s.f.	32 s.f.
	Max. height	4'	4'	4'	8'
Areas under development					

a. General					
	Max. no.	4	4	4	4
	Max. area	16 s.f.	16 s.f.	16 s.f.	32 s.f.
	Max. height	4'	4'	4'	8'
b. Per subcontractor					
	Max. area	9 s.f.	9 s.f.	9 s.f.	9 s.f.
	Max. height	4'	4'	4'	4'
Home occupation	Max. no.	1	1	1	1
	Max area	2 s.f.	2 s.f.	2 s.f.	2 s.f.
Ground	Max. no.	Prohibited	1 per street frontage/per access entrance Max. 2 signs	1 per street frontage/per access entrance max. 2 signs	1 per street frontage
	Max area		32 s.f.	32 s.f.	One s.f. per lineal ft. of property frontage up to a max. of 150 s.f.
	Max. height		8'	8'	20'
	Max. width		25'	25'	25'
Wall	Max. no.	Prohibited	1	1	2 per storefront or structure, provided each structure is a separate business.
	Max. area		One s.f. per lineal foot of building wall that the sign is on	One s.f. per lineal foot of building wall that the sign is on	Parallel to street 15% of wall height (x) wall width of wall that sign is located on: max. 160 s.f. Perpendicular to street, 15% of wall height (x) wall width of wall that sign

					is located on; max. 128 s.f.
Banner Signs	Max. no.	4	4	4	4
	Max. area	12 sq. ft.	12 sq. ft.	12 sq. ft.	96 sq. ft.
Electronic Signs	Max. no.	n/a	n/a	n/a	per Section 94-78
	Max. area.	n/a	n/a	n/a	32 sq. ft.
Wall mural		Prohibited	Prohibited unless approved per 94-6(g)	Prohibited unless approved per 94-6(g)	Prohibited unless approved per 94-6(g)

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ARTICLE IV. NONCONFORMING SIGNS

Sec. 94-121. Nonconforming signs.

All signs or outdoor displays which are lawfully in existence or are lawfully erected and which do not conform to the provisions of this chapter are declared nonconforming signs. It is the intent of this chapter to recognize that the eventual elimination of nonconforming signs as expeditiously and fairly as possible is as much a subject of health, safety, and welfare as is the prohibition of new signs that would violate the provisions of this chapter. No nonconforming sign shall be changed, expanded or altered in any manner which would increase the degree of its nonconformity, or be structurally altered to prolong its useful life, or be moved in whole or in part to any other location where it would remain nonconforming.

(a) *Termination by abandonment:* Any nonconforming sign structure, the use of which as a sign is discontinued for a period of ninety (90) consecutive days, regardless of any intent to resume or not to abandon such use, shall be presumed to be abandoned and shall not thereafter be reestablished except in full compliance with this chapter. Any period of such discontinuance caused by government actions, strikes, material shortages, or acts of God, and without any contributing fault by the nonconforming user, shall not be considered in calculating the length of discontinuance for purposes of this subsection.

(b) *Termination by damage or destruction:* Any nonconforming sign damaged or destroyed by any means, to the extent of fifty (50) percent of its replacement cost at the time of being damaged or destroyed, shall be terminated and shall not be restored.

(c) *Termination by redevelopment:* Whenever any revision or modification is made to a building or to site improvements, which revision or modification requires the submission of a new or substantially revised site plan or development plan, pursuant to the Land Development Code, all signs or sign structures on the parcel of land in question

shall be made to conform with the current requirements of this chapter, or shall be removed.

(d) *Pole Signs - Termination by amortization:* Any nonconforming pole sign existing on **September 16, 2014** and not terminated pursuant to any other provision of this section shall be permanently removed or modified into a pylon sign by **September 16, 2016**, by the installation of a non-corrosive decorative cover applied over and attached to the supporting pole(s) in accordance with industry standards of material and workmanship, except, however, pole signs located within the visibility triangle shall be permanently removed or relocated from the visibility triangle by said date in compliance with this chapter.

(e) *Signs of a Temporary Nature - amortization.* Any nonconforming sign which is designed to be temporary in nature or portable on **September 16, 2014** including, but not limited to, window signs, portable signs, banners, sandwich boards, and other types of signs which did not require a building permit to erect shall come into compliance with the provisions of this ordinance by **October 16, 2014**.

(f) *Repair and Maintenance.* Reasonable routine repair and maintenance of a nonconforming sign is permitted in accordance with the requirements of section 110-98 of the City Code.

(g) *Incentives.* As an incentive to eliminate nonconforming signs, the city manager shall be authorized to waive sign permitting fees for any sign application that is filed for purposes of eliminating or modifying a nonconforming sign and making it in full compliance with the provisions of this chapter.

Sec. 94-122. – Exceptions and appeals.

(a) Upon application filed with the Administrator, the Administrator may exempt legally existing nonconforming signs from the requirements of this chapter related only to height, sign area, and projection from the building, if the sign owner can demonstrate that the nonconformity is within twenty percent (20%) of each specific requirement. However, the sign must be brought into full compliance if it is substantially damaged.

(b) Freestanding signs that are nonconforming only with respect to the minimum required distance from any property lines, shall be allowed to remain in the existing location provided that no portion of the sign is located within any publicly owned right-of-way, visibility triangle, or utility easement and that no interference with clear sight distance exists, and further provided that such signs are otherwise in compliance with the terms of this chapter.

Section 3. Chapter 110, Article X. A1A Economic Opportunity Overlay District, **Amendment.** Chapter 110, Article X. A1A Economic Opportunity Overlay District of the Code of Ordinances, City of Cape Canaveral, Florida, is hereby amended to add the following new section as follows (underlined type indicates additions and ~~strikeout~~ type indicates deletions, while asterisks (***) indicate a deletion from this Ordinance of text existing in Chapter 94. It is intended that the text in Chapter 94 denoted by the asterisks and set forth in this Ordinance shall remain unchanged from the language existing prior to adoption of this Ordinance):

* * *

Sec. 110-592. Definitions.

Window sign: See Section 94-1 Definitions. ~~A type of illuminated or non-illuminated sign which consists of individual letters and/or logos painted, posted, displayed, etched or otherwise placed on the interior or exterior surface of the window and intended to be viewed from the outside.~~

* * *

Sec. 110-651. Windows and transparency.

(1) Add visual interest and create a feeling of openness by incorporating window display areas and windows with architectural defining features such as window frames, sashes, muntins, glazing, paneled or decorated jambs and moldings. For purposes of this section, a window display area shall be an interior storefront or shop window area which is visible from outside the storefront or shop and designed to display an arrangement of merchandise and other items for sale or otherwise designed to attract customers to the store or place of business. A window display area shall be oriented to create outside visual interest and shall have a minimum depth of at least three (3) feet measured from the interior surface of the storefront or shop window into the store or shop and a maximum height of fifteen (15) feet measured from pedestrian grade.

[PICTURE OMITTED]

Figure 7. Windows & Transparency

- a. A minimum percentage of transparency along a street or primary travel way for different levels of non-residential uses shall be achieved as follows:
 1. Ground level retail: 25% of surface area minimum;
 2. Ground level office or other commercial uses: 15% of surface area minimum;
 3. Ground level of commercial use over 25,000 SF: 10% of surface area minimum; and
 4. Upper levels of all uses: 15% of surface area minimum.
- b. Transparency of the ground level shall be calculated within the first 15 feet of the building wall, measured vertically at street level, as illustrated in Figure 7.

c. In cases where a building has more than two facades fronting a street or primary travel way, the transparency requirement shall only be required on two facades based on pedestrian traffic and vehicular visibility.

d. All ground level windows shall be required to meet the minimum transparency requirements by providing either provide direct views to the building's interior or to a lit window display area extending a minimum of three feet behind the window. Window signs may be placed within the window display area, without limitation, provided any such window sign affixed to or in contact with the window glass shall not exceed twenty-five (25) percent of the total window glass area fronting the window display area. Further, window signs outside of a window display area shall be prohibited unless such signs are exempted under section 94-4(6) of the City Code based on the amount of such signs that exist within total window glass area that is not incorporated into the window display area.

e. Ground level windows shall extend above a minimum 18 to 24 inch base.

f. A continuous curtain wall of glass which exceeds 30 feet in width and 15 feet in height without intervening vertical and horizontal breaks of at least 24 to 36 inches, shall be prohibited.

g. Street facing, ground floor windows shall be comprised of non-tinted, clear glass.

h. Windows on the upper levels of buildings may be comprised of tinted glass to reduce glare and unnecessary reflection.

* * *

Sec. 110-709. Business Park/Area Multi-user Sign. Pursuant to a Developer's Agreement approved by Council, a multi-user sign may be erected on SR A1A, Center Street and/or Central Boulevard to provide signage for properties/businesses located along Central Street, Imperial Boulevard, Brown Circle, and Commerce Street.

Section 4. Repeal of Prior Inconsistent Ordinances and Resolutions. All prior inconsistent ordinances and resolutions adopted by the City Council, or parts of prior ordinances and resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

Section 5. Incorporation Into Code. This Ordinance shall be incorporated into the Cape Canaveral City Code and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical, and like errors may be corrected and additions, alterations, and omissions, not affecting the construction or meaning of this ordinance and the City Code may be freely made.

Section 6. Severability. If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion

shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 7. **Effective Date.** This Ordinance shall become effective immediately upon adoption by the City Council of the City of Cape Canaveral, Florida.

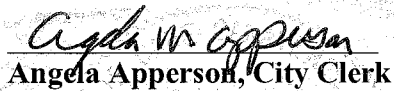
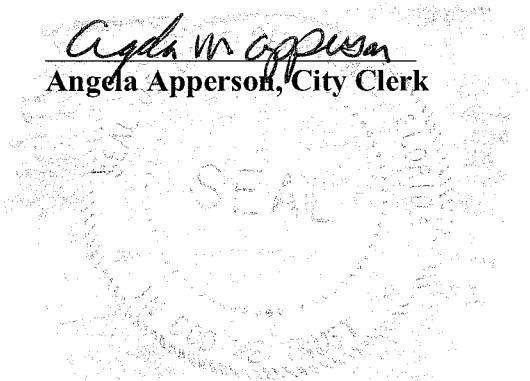
[ADOPTION PAGE FOLLOWS]

ADOPTED by the City Council of the City of Cape Canaveral, Florida, this 16th day of September, 2014.



Rocky Randels, Mayor

ATTEST:


Angela Apperson, City Clerk

	FOR	AGAINST
John Bond	<u>X</u>	<u> </u>
Bob Hoog	<u>Second</u>	<u> </u>
Buzz Petsos	<u>Motion</u>	<u> </u>
Rocky Randels	<u>X</u>	<u> </u>
Betty Walsh	<u>X</u>	<u> </u>

First Reading: August 19, 2014
Legal Ad Published: August 28, 2014
Second Reading: September 16, 2014

**Approved as to legal form and sufficiency for
the City of Cape Canaveral only:**


ANTHONY A. GARGANESE, City Attorney