

**CITY OF YACHATS  
ORDINANCE NO. 354**

**AN ORDINANCE AMENDING THE YACHATS MUNICIPAL CODE CHAPTER 9.44 SIGNS**

**WHEREAS**, the City shall, through development regulations, ensure that new development shall be of an appropriate scale to retain and enhance the small-town, ocean side character of the Yachats community (Yachats Comprehensive Plan Goal G Policy 6).

**WHEREAS**, the Yachats Comprehensive Plan stipulates the City shall review the sign ordinance.

**WHEREAS**, the Planning Commission held a public meeting on February 6, 2018 to obtain public input on sign regulations.

**WHEREAS**, on August 21, 2018, the Planning Commission held a public hearing and continued said hearing to August 28, 2018.

**WHEREAS**, on August 28, 2018, the Planning Commission met, continued the public hearing, and passed a motion to forward the following recommended code amendments to Chapter 9.44 Signs.

**WHEREAS**, and in consideration of the conditions and issues above, the City enacts the following regulations on signs.

**NOW THEREFORE**, the City of Yachats ordains as follows:

**SECTION 1.** Chapter 9.44 Signs, of the Municipal code is replaced with the following Chapter 9.44:

**Chapter 9.44 - Signs**

**Sections:**

9.44.010	Scope.
9.44.020	Definitions.
9.44.030	Permits required.
9.44.040	Zone requirements.
9.44.050	Temporary signs.
9.44.060	Nonconforming signs.
9.44.070	Maintenance and appearance of signs.
9.44.080	Abandoned signs.
9.44.090	Variances.

**9.44.010 Scope.**

Every sign erected, altered or relocated within the City of Yachats shall conform to the provisions of this Chapter. It does not regulate traffic and street signs erected and maintained by a road authority as defined in ORS 801.445, trespass signs posted in accordance with ORS 164.245 to 164.270, holiday decorations, temporary interior window signs, or the display of the national or state flag.

*Seasonal*

Ross M. Williamson 9/18/2018 11:58 AM

**Comment [1]:** Probably better to say "seasonal" decorations rather than "holiday." Still could be a problem, but at least we don't have to check to see if the decorations are related to a particular holiday or not (which is pretty clearly content-based restrictions). You can also get away from this by simply agreeing that holiday decorations (like lights and garland) are not "signs". To the extent there are holiday decorations that fit the definition of a sign, they would be regulated.

Ross M. Williamson 9/18/2018 11:57 AM

**Comment [2]:** Regulating the state or national flag differently from other flags is unconstitutional content-based regulation (e.g., you have to look at the flag to determine whether it is lawful or not). For example, someone should be able to fly a jolly roger flag in any location where the City allows the state flag.

#### 9.44.020 Definitions.

"A-Frame sign" means a freestanding sign which is ordinarily in the shape of an "A" or some variation thereof, which is readily moveable, and is not permanently attached to the ground or any structure.

"Banner sign" means a ground-mounted or building-mounted banner, pennant, flag or similar type of sign on fabric or similar material.

"Building sign" means a wall, projecting/hanging, window or roof sign.

"Digital sign" means a sign or portion thereof that uses light emitting diode technology or similar semiconductor technology to produce an illuminated image, picture, or message of any kind, regardless of whether the image, picture, or message is moving or stationary. This type of sign includes conventional (using discrete LEDs), surface mounted (otherwise known as individually mounted LEDs), transmissive, organic light emitting diodes (OLED), light emitting polymer (LEP), organic electro luminescence (OEL), or any similar technology.

"Free standing sign" means a sign which is supported by a separate independent structure and is not attached to or supported by any other building or structure.

"Linear Street Frontage" means the contiguous tax lots under single ownership on which the business is located.

"Monument sign" means a ground-mounted sign supported from grade with a solid base that is at least 75% of the width of the sign. A monument sign can also be supported with multiple architectural-designed posts. Single posts are prohibited.

"Nonconforming sign" means a sign which was erected legally but which does not comply with currently applicable sign restrictions and regulations.

"Off-premises sign" means any sign used for the purpose of displaying, advertising, identifying or directing attention to a business, service, activity or place, including products offered for sale or sold on premises other than on the premises where such sign is displayed.

"Open sign" means a sign referencing if the business is open or closed.

"Projecting sign" means a sign which is attached to the wall, overhang or awning of a building and which projects more than twelve (12) inches beyond the wall, overhang or awning of the building.

"Sign" means an identification, description, illustration, or device which is affixed to or represented, directly or indirectly, upon a building, structure or land, and which directs attention to a product, place, activity, person, institution or business.

"Size" means the aggregate area of all sign display surfaces located on a single structure, but excluding posts and base that are without attached identification, description or illustration. Two surfaces parallel and back to back on the same structure, e.g. a projecting sign or 2-sided monument sign, shall be considered a single display surface.

"Temporary sign" means any sign that is not permanently installed or affixed to any sign structure or building, and is accessory to an event, election, government or institutional sponsored activity, lease, rental, or sale. A temporary sign does not include an A-Frame sign as identified above.

"Wall sign" means a sign attached to or painted on a wall of a building with a display surface which projects no more than twelve (12) inches from the surface of the wall and not higher than the lowest roof edge above the building wall to which it is attached.

#### 9.44.030 Permits required.

A. Except as herein provided, no sign shall be erected, replaced, altered or relocated without the business owner first obtaining a sign permit and the property owner (if different) granting permission for a sign permit, demonstrating that the sign is or will be in compliance with all provisions of this Chapter. A-Frame signs, Banner signs, and one Open sign, as defined above, are exempt from sign permits.

Ross M. Williamson 9/18/2018 1:33 PM

**Comment [3]:** I'm not sure I understand this definition. What do contiguous tax lots have to do with "street frontage"? Shouldn't the definition make reference to streets or right-of-way?

Ross M. Williamson 9/18/2018 12:02 PM

**Comment [4]:** This is black letter unconstitutional under Oregon Supreme Court case law. In order to determine whether a sign is on-premises or off-premises, you need to read the content of the sign.

Ross M. Williamson 9/18/2018 1:25 PM

**Comment [5]:** This is content-based.

Ross M. Williamson 9/18/2018 12:01 PM

**Comment [6]:** This definition needs some work. The model code has a better definition. The use of the phrase "which directs attention" implies a content-based standard.

Ross M. Williamson 9/18/2018 12:03 PM

**Comment [7]:** This needs work, as it arguably is content-based due to being tied to an "event" - you can only know that a sign is "accessory to an event" if you read the sign.

Ross M. Williamson 9/18/2018 1:34 PM

**Comment [8]:** Why use the term "business owner"? Do you mean "sign owner"?

- B. Permits are issued for specific property only. Permits may transfer with ownership provided the signage is not altered or moved except to bring it into compliance with this section.
- C. Fees for sign permits shall be established by resolution of the city council, and shall be paid prior to the sign being placed or altered.
- D. Signs conforming to the current code that are damaged by acts of nature, vandalism or accident shall not be assessed a new sign permit fee when repaired to the pre-damaged condition.
- E. A building permit shall be required for all free-standing signs as specified in the Oregon Structural Specialty Code, which shall be issued prior to sign placement, construction, or alteration.

Ross M. Williamson 9/18/2018 1:38 PM

Comment [9]: Do you mean "this Chapter?"

Ross M. Williamson 9/18/2018 1:37 PM

Comment [10]: I think you have to define what "current code" means

#### 9.44.040 Zone requirements.

##### A. In the R-1, R-2, and R-3 zones: one (1) accessory sign shall be allowed and shall be limited to the following sizes and restrictions:

1. Only wall signs are allowed in the R-1, R-2 and R-3 zones. The one exception is that free-standing address (house number) signs are permitted with a maximum size of four (4) square feet.
2. A sign not exceeding two (2) square feet in size accessory to a single-family dwelling or a home occupation, or six (6) square feet for a bed and breakfast inn.
3. A sign not exceeding twenty-four (24) square feet in size accessory to any other permitted or conditional use in the zone.
4. No moving or flashing signs, lit signs, roof signs, A-Frame signs, or banner signs shall be allowed in the R-1, R-2 and R-3 zones.
5. No sign shall be placed within ten (10) feet of any government-installed sign within a street right-of-way (stop signs, traffic control sign, etc.).

Ross M. Williamson 9/18/2018 1:38 PM

Comment [11]: This is content-based

Ross M. Williamson 9/18/2018 1:40 PM

Comment [12]: I don't see these terms defined and I'm not sure what these terms mean. Do you mean "illuminated?"

##### B. In the R-4, C-I, P-F, and S-P zones:

1. General sign requirements:
  - a. No sign shall be placed within ten (10) feet of any government-installed sign within a street right-of-way (stop signs, traffic control signs, etc.)
  - b. External light illuminating from a sign shall be directed away from a residential use or zone and shall not be located so as to distract motorists.
  - c. No sign shall be of such intensity or brilliance as to impair the vision of a motor vehicle driver or interfere with the effectiveness of an official traffic sign, device, or signal.
  - d. Where it can be demonstrated that directional signs are needed for directing or controlling vehicular access, or where such signs are required as a condition of approval for public safety, such signs may be permitted in addition to any other signs permitted by this section. Such signs shall be placed at each motor vehicle entrance or exit, shall not exceed nine (9) square feet in size and six (6) feet in height, and shall not restrict required sight distances or pedestrian and vehicular flow.
  - e. The maximum amount of internally lit signs shall be limited to a total of 24 square feet. One open/closed sign with a maximum size of two (2) square feet is allowed.

Ross M. Williamson 9/18/2018 1:26 PM

Comment [13]: This seems like a very difficult standard to measure and judge. I'm also concerned that this could backfire on the City because an issued permit could be the City's pronouncement that the sign does not distract. When someone gets in an accident they could look to the City for liability because the City okayed the sign.

Ross M. Williamson 9/18/2018 12:04 PM

Comment [14]: A "directional sign" is content-based and likely unconstitutional - you need to read the sign to determine if it is providing directions or not.

Ross M. Williamson 9/18/2018 1:24 PM

Comment [15]: This is content-based

##### 2. Sign types:

a. Building Signs.

- 1) Wall signs. A maximum 10% of a building façade is allowed to have signs. The maximum size of any one sign shall be limited to 10% of the façade (all of the allowable sign footage on the façade). ~~The maximum size of any internally lit sign shall be 24 feet.~~ A building façade is an exterior side of a building excluding the roof.
- 2) Window signs. Windows are part of a building façade. Therefore, window signs are included in the maximum 10% of a building façade described above.
- 3) Projecting signs. Projecting signs may extend a maximum five (5) feet from a building. Projecting signs may extend over a sidewalk within the public right-of-way with a minimum clearance of 7.5 feet from the ground so as to not affect pedestrian traffic. Placement of projecting signs on Hwy 101 sidewalks are subject to agreement with the Oregon Department of Transportation.
- 4) Roof signs.
  - a) No signs shall be painted directly on a roof.
  - b) Roof signs shall not exceed 16 feet in height above the adjacent street grade nor exceed the peak of the roof.
  - c) A roof sign on a flat roof shall be limited to a maximum of 16 feet above the street grade but not more than 3 feet above the roofline.

Ross M. Williamson 9/18/2018 12:05 PM

**Comment [16]:** Strike-out text should be removed from an ordinance

b. Permanent free-standing signs.

- 1) No more than one free-standing sign is permitted per street frontage per property.
- 2) Single pole signs are prohibited.
- 3) Free-standing signs shall have a maximum of:
  - a. 8 feet in height as measured from the elevation of the centerline of the adjacent street.
  - b. 5 feet in width and 32 square feet of area on lots having up to 300 linear feet of street frontage
  - c. 8 feet in width and 50 square feet of area on lots with more than 300 linear feet of street frontage.
  - d. The Planning Commission may grant a waiver of Section 9.44.070 for pre-existing nonconforming signs as of (the date the sign ordinance is adopted).
  - e. One ~~vacancy/no vacancy sign~~ is permitted in addition to 'b' and 'c' above.

Ross M. Williamson 9/18/2018 1:11 PM

**Comment [17]:** This is content-based and unconstitutional distinction between signs

c. Banner signs.

- 1) One freestanding banner sign is allowed per business.
- 2) Banner signs shall not exceed 20 square feet.
- 3) Ground-mounted banner signs may be placed on private property. Such signs shall not be mounted in or extend into public right-of-way. Ground mounted banner signs shall be setback 15 feet from the street at ingress/egress locations.
- 4) Banners that are attached to a building and that extend over a public right-of-way shall have a minimum clearance of 7.5 feet from the ground.
- 5) No banner, other than the American flag, shall be placed in flagpole holes along Hwy 101, and no banners shall be placed in the planters.

Ross M. Williamson 9/18/2018 12:06 PM

**Comment [18]:** This is unconstitutional content-based regulation of banners

- d. Digital signs. Digital signs are prohibited.

#### 9.44.050 Temporary signs.

In addition to the allowances for signs provided by this section, temporary signs are allowed on private property without a permit with the following standards:

- A. No more than one temporary sign is permitted per issue per property. Temporary signs are not permitted in the public right-of-way.
- B. Temporary signs shall be a maximum of eight (8) square feet.
- C. Temporary signs are allowed for not more than ninety (90) consecutive days or for any period of time during an election or event.
- D. Temporary real estate signs for property for sale or lease shall be removed within fifteen (15) days of the sale or lease.
- E. Temporary signs shall be secured so as not to be movable (pushed, pulled, blown, etc.).
- F. No objects shall be attached to temporary signs, e.g. balloons, banners, etc.
- G. Temporary A-Frame signs.
  - 1) Temporary A-frame signs are allowed for a maximum of three days in conjunction with a special occasion or unique event not related to an ongoing business.
  - 2) A-Frame signs may be placed on private property.
  - 3) A-Frame signs may be placed within the right-of-way on a sidewalk, however a minimum four (4) feet of lateral clearance shall be maintained on a sidewalk. A-Frame signs may not impede pedestrian access or opening of vehicle doors. Placement of A-Frame signs on Hwy 101 sidewalks are subject to agreement with the Oregon Department of Transportation.
  - 4) A-Frame signs shall be a maximum of six (6) square feet with maximum dimensions of two (2) feet wide by three (3) feet tall.
  - 5) A-Frame signs shall be weighted and secured so as not to be movable (pushed, pulled, blown, etc.).
  - 6) No objects shall be attached to A-Frame signs, e.g. balloons, banners, etc.
  - 7) A-Frame signs are only permitted during business event hours and should be removed during periods of high winds.

Ross M. Williamson 9/18/2018 1:13 PM

**Comment [19]:** What does "per issue" mean? Is this a reference to the content of the sign? If so, this would be unconstitutional

Ross M. Williamson 9/18/2018 12:05 PM

**Comment [20]:** Regulations based upon the date of an "event" are likely unconstitutional because you are forced to read the sign to find out the date of the "event." Using election dates is less problematic because election dates are set by statute

Ross M. Williamson 9/18/2018 12:08 PM

**Comment [21]:** This needs work, as the sign regulations must be associated with a property that is for sale, without regard for what the sign itself may say. Here, the regulation refers to real estate signs, which requires us to read the sign to determine if it meets the regulation. Plus, real estate sign is an undefined term, so I am left to guess we mean a sign that refers to the sale or rental of real estate – which is content based regulation

Ross M. Williamson 9/18/2018 12:10 PM

**Comment [22]:** This could be constitutionally problematic, but I also question how you can regulate this. What is a special occasion or unique event?

Ross M. Williamson 9/18/2018 12:11 PM

**Comment [23]:** This distinction is content based and unconstitutional

Ross M. Williamson 9/18/2018 12:10 PM

**Comment [24]:** Should remove strike-out text.

#### 9.44.060 Maintenance and appearance of signs.

All signs, together with all of their supports, braces, guys and anchors, shall be kept in good repair and maintained in a safe condition. All signs shall be maintained in a neat, clean and attractive condition.

#### 9.44.070 Nonconforming signs.

Any sign deemed to be nonconforming at the time these sign regulations become effective shall be deemed to be in compliance if the sign was erected with an approved sign permit. In the event that a nonconforming sign is damaged or destroyed by any means to the extent of fifty (50) percent or more of its replaced value, the sign may not be rebuilt or used thereafter unless it conforms to all of the provisions of this title.

#### 9.44.080 Abandoned signs.



- A. Any sign shall be removed when the associated business or event has been discontinued or completed, or when the sign is no longer properly repaired or maintained as required by this Chapter.
- B. Abandoned non-conforming signs shall be removed in their entirety.

**9.44.090 Variances.**

To provide for reasonable interpretation of this Chapter, and in certain instances where this Chapter will produce hardship, a business owner (with permission from the property owner, if different) may apply for a variance pursuant to Chapter 9.80 of this Code.

Ross M. Williamson 9/18/2018 1:21 PM  
**Comment [25]:** I like the model code's adjustment process, since it applies specifically to signs and reduces discretion, which can cause constitutional problems.

**SECTION 2. SEVERABILITY.** Any provision of this Ordinance which proves to be invalid, void, or illegal shall in no way affect, impair, or invalidate any other provision of this Ordinance, and the remaining provisions of this Ordinance shall remain in full force and effect.

**SECTION 3. EFFECTIVE DATE.** This ordinance shall take effect on the 30<sup>th</sup> day after its adoption.

ADOPTED by unanimous vote on September 12, 2018 and October 3, 2018  
DATED this 3<sup>rd</sup> day of October, 2018.

\_\_\_\_\_  
Gerald F. Stanley, Mayor

ATTESTED TO:

\_\_\_\_\_  
Shannon Beaucaire, City Manager