

ORDINANCE NO. 18- 09

AN ORDINANCE TO AMEND CERTAIN PROVISIONS OF CHAPTER 44 OF THE CODE OF ORDINANCES, CITY OF ROGERS, ARKANSAS; TO ALLOW THE PLANNING COMMISSION TO DEVIATE FROM THE PROVISIONS OF THE SIGN CODE UNDER CERTAIN CIRCUMSTANCES; TO CREATE AN HISTORIC SIGNS REGISTER; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

WHEREAS, the unique qualities of the City of Rogers are enhanced by allowing for the erection of certain signs that are historical in nature, enhance public safety, enhance aesthetics, or otherwise establish and enhance the identity of the City.

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

Section 1: Chapter 44 of the Code of Ordinances, City of Rogers, Arkansas is amended to add an additional section, 44-17 to read as shown in the attached Exhibit "A";

Section 2: Chapter 44 of the Code of Ordinances, City of Rogers, Arkansas is amended to add an additional section, 44-18 to read as shown in the attached Exhibit "B";

Section 3: Appendix B to the Code of Ordinances, City of Rogers, Arkansas is amended to add and authorize an additional fee to read as shown in the attached Exhibit "C";


Section 4 – Emergency Clause: The need to amend the City Code to add Sections 44-17 and 44-18 is immediate and in order to protect the public peace, health, safety and welfare an emergency is hereby declared to exist and this Ordinance shall be in full force and effect from the date of its passage and approval;

Section 5 - Severability Provision: If any part of this Ordinance is held invalid, the remainder of this Ordinance shall continue in effect as if such invalid portion never existed; and

Section 6 - Repeal of Conflicting Provisions: All ordinances, resolutions, or orders of the City Council, or parts of the same, in conflict with this Ordinance are repealed to the extent of such conflict.

PASSED this 13th day of February, 2018.

APPROVED:


C. GREG HINES,

Mayor

Attest:

Peggy David

PEGGY DAVID, City Clerk



Requested by: John McCurdy, Director, Department of Community Development
Prepared by: Jennifer A. Waymack, Senior Staff Attorney

EXHIBIT "A"

Sec. 44-17. Alternative sign program.

(a) *Purpose.* The purpose and intent of the Alternative Sign Program is to provide opportunities for signage that, while not in strict conformance with the standards, requirements, and limitations of this Chapter, provide compensating benefits that justify the deviation from standards, requirements, and limitations of this Chapter. Such benefits include enhanced public safety, enhanced visual interest, improved aesthetics, improved place identification, or superior visual integration of signs and related buildings. The Alternative Sign Program may be used to encourage creative, unusual, innovative, or unique design, architecture, construction, or materials in contrast to conventional or formulaic signage. The Alternative Sign Program is not intended to provide routine variances from the standards, requirements, and limitations of this Chapter.

(b)(1) *Request for an alternative sign.* A property owner or his or her designee may request an alternative sign by:

- (A) Submitting the request to the Department of Community Development on the form approved by the Department of Community Development;
- (B) Payment of the fee set forth in Appendix B to this Code of Ordinances.

(2) The request under this subsection (b) shall include:

- (A) An artist's rendering or similar graphic depiction of the proposed sign;
- (B) Plans, elevations, or any other document needed to indicate the proposed sign's location, size, height, and relationship to the building to which it will be attached or enhance, nearby buildings, nearby signs, and nearby travel ways;
- (C) A description of any request for temporary signage;
- (D) If other signs exist on the property, a description of the other existing signs and their locations, and a proposal for bringing those existing signs into conformity with the requirements of this Chapter if they are not conforming; and

(E) Any additional relevant information requested by the Department of Community Development or the Planning Commission.

(3) The Department of Community Development shall:

- (A) Upon receipt of a complete request for an alternative sign, set a hearing date before the Planning Commission no later than forty-five (45) days after its complete receipt; and
- (B) Review the request and provide a recommendation to the Planning Commission.

(c)(1) *Notice.* The Department of Community Development shall:

(A) Publish notice of the hearing under this section in a newspaper having general circulation in the City one (1) time not less than ten (10) days before the day of the hearing; and

(B) Post a sign on the property for at least the ten (10) days preceding the day of the hearing.

(2) The notice published by newspaper under subdivision (c)(1)(A) of this section shall include:

(A) The date, time, and place of the hearing;

(B) The applicant's name; and

(C) A legal description and a layman's description of the location of the property on which the requested alternative sign will be placed.

(3) The sign posted under subdivision (c)(1)(B) of this section shall:

(A) Be at least eighteen (18) inches high and thirty (30) inches wide;

(B) Include the date, time, and place of the hearing; and

(C) State the applicant's name.

(d)(1) *Hearing.* The Planning Commission shall hear a request for an alternative sign under this section.

(2) *Public comment.* The Planning Commission shall open the hearing to public comments. A member of the public shall not speak more than five (5) minutes to a request. The Chair of the Planning Commission may reduce the time for a public commenter to speak if:

(A) It necessary to ensure timely consideration of all items on the agenda;

(B) The public commenter's conduct is inappropriate or disrupts the official proceedings; or

(C) The public commenter has nothing new to present to the Planning Commission, and is repeating comments that the Commission has previously heard and considered.

(3) *Considerations.* In making its determination, the Planning Commission shall consider:

(A) Whether the sign architecturally integrates into or compliments the design and materials of the existing and proposed buildings and overall character of the site;

(B) The aesthetic impact of the sign;

(C) The overall size of the development and the scale of the use or uses located or anticipated to be located there;

- (D) The relationship between the building setback and sign location;
- (E) Access and visibility to the property;
- (F) Intended traffic circulation pattern;
- (G) Creation of more obvious hierarchy of signage;
- (H) Improvement of the relationship between the property and adjacent properties or land uses;
- (I) Proximity of the property to elevated limited access highways;
- (J) Consistency with the objectives and design policies adopted by the City for the area in which the alternative sign is proposed; and
- (K) Any other factor relevant to public health, public safety, or the overall enhancement of the City.

(4)(A) *Standard.* Except as provided in subdivision (d)(4)(B) of this section, an alternative sign may be approved if the Planning Commission determines that the detriments of the proposed nonconformities are outweighed by the alternative sign's enhancement of the region in which it is proposed or the City as a whole.

(B) The Planning Commission shall not approve any proposed nonconformity that:

- (i) Violates legitimate state or federal safety standards; or
- (ii) Would interfere with an easement held by the City of Rogers or any utility easement.

(5)(A) *Decision.* After the hearing, the Planning Commission may approve, approve with conditions, or deny the request for an alternative sign.

(B)(1) *Conditions.* A condition of approval shall not reference or dictate the speech content or viewpoint conveyed by the sign.

(2) As a condition of approval of the requested alternative sign, the Planning Commission may require the requester to remove, alter, improve, repair, or otherwise modify existing signs on the property if:

- (i) The existing signs do not conform with the requirements of this Chapter; or
- (iii) The removal, alteration, improvement, repair, or modification would reduce any potential negative impact of the alternative sign.

(C) *Deemed denial.* If the Planning Commission does not approve, approve with conditions, or deny a request for one hundred eighty (180) days after the hearing, it is deemed denied.

(e)(1) *Permits*. If the Planning Commission approves or approves with conditions a request for an alternative sign, the requestor shall obtain the permits indicating that approval from the Department of Community Development.

(2)(A) *Term of validity of approval*. If the requestor does not request the permit from the Department of Community Development and complete the permitted construction within six (6) months after the Planning Commission approves the request for an alternate sign, the approval or approval with conditions is null and void, and the Department of Community Development shall not issue the permit.

(B) The construction period may be extended one (1) time for a period of no more than thirty (30) days with the approval of the Director of the Department of Community Development if:

- (i) The requestor obtains the permit within six (6) months of the approval; and
- (ii) Requests the additional thirty (30) days for construction before the six (6) months expires.

EXHIBIT "B"

Sec. 44-18 – Historic signs.

(a)(1) The Department of Community Development shall maintain a register of historic signs in the City of Rogers.

(2) An historic sign may be maintained by the property owner on the property despite any nonconformance with the requirements of this Chapter if the sign is:

- (A) Structurally safe or capable of becoming structurally safe; and
- (B) On the City's register of historic signs.

(3) The Director of the Department of Community Development may remove any historic sign from the register of historic signs that is structurally unsafe or has been changed in a way that renders it no longer representative of signs from the era in which it was constructed.

(b) Upon the request of a property owner, the Director of the Department of Community may designate a sign as an historic sign and place it on the register if the property owner demonstrates that:

- (1) The sign has been at its present location for at least fifty (50) years;
- (2) The sign is structurally safe or capable of becoming structurally safe; and
- (3) The sign is representative of signs from the era in which it was constructed and provides evidence of the historic use of the building or premises.

EXHIBIT "C"

Sec. 44-17(b), Alternative sign request fee: \$250.00