



Legislation Text

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CITY of ALBUQUERQUE
NINETEENTH COUNCIL

COUNCIL BILL NO. O-11-69 **ENACTMENT NO.** _____

SPONSORED BY: Isaac Benton

ORDINANCE

Amending The Zoning Code, Subsections 14-16-1-5(B) And 14-16-3-5(A), (B), (C) And (D) ROA 1994 To Update The Regulation Of Electronic Signs; Adding Restrictions To New Off-Premise Electronic Signs (Benton)

AMENDING THE ZONING CODE, SUBSECTIONS 14-16-1-5(B) AND 14-16-3-5(A), (B), (C) AND (D) ROA 1994 TO UPDATE THE REGULATION OF ELECTRONIC SIGNS; ADDING RESTRICTIONS TO NEW OFF-PREMISE ELECTRONIC SIGNS.

BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

Section 1. Subsection 14-16-1-5(B) ROA 1994, the Definitions section of the Zoning Code, is amended to add the following definitions in alphabetical order:

“SIGN, ELECTRONIC. Electronic display panel signs and electronic message reader board signs.

SIGN, ELECTRONIC DISPLAY/BOARD PANEL. A sign which presents information that is transmitted in various visual forms and includes types such as: flat screen, active display matrix, or any electronic display capable of displaying multiple communications, images, graphics in mono, tri and/or full color. Such displays include but are not limited to current and future technology such as: Light Emitting Diodes (LED), Liquid Crystal Display (LCD), Plasma Display Panels (PDP), 3D Holography, pixel or subpixel technology, other fiber optics or illumination devices within the display area. The electronic control allows for programmable, electronic changing messages used primarily for the purpose of advertising, marketing messages, display of time-sensitive and other updatable information.

SIGN, ELECTRONIC MESSAGE READER BOARD (VARIABLE MESSAGE SIGNS, ELECTRONIC MESSAGE READER). A sign with light bulbs used to display single or multiple lines of text or graphics. The horizontal columns of light produce changing messages or text by programmable electronic or mechanical processes. The sign can also use a fixed light source to provide a message in text, graphics, photos and/or symbols appearing to move or flash. Examples of electronic message boards include but are not limited to: static monochrome price sign - displaying numbers only, (Example: gas stations); changeable price sign - displays numbers and/or text, with alternating

messages against a dark background (Example: gas stations); monochrome message reader board - displays text and/or limited graphics, with changing messages (Example: bus stops, community centers).

SIGN TRANSITION. The visual effect and time interval between messages or images displayed on an electronic display panel or electronic message reader board.”

Section 2. The following definition for “sign, illuminated”, in Subsection 14-16-1-5(B) ROA 1994, the Definitions section of the Zoning Code, is amended to read as follows:

“SIGN, ILLUMINATED. Any sign which is directly lighted by any on-premise electrical light source, internal or external, except light sources specifically and clearly operated for the purpose of lighting the general area in which the sign is located rather than upon the sign itself, including but not limited to luminous tubing signs such as neon signs. All electronic signs are illuminated signs.”

Section 3. Subsection 14-16-3-5(A) ROA 1994 is amended to read as follows:

“§ 14-16-3-5 GENERAL SIGN REGULATIONS.

(A) Zoning Permits, Seals of Compliance.

(1) Permit needed. Except for signs specified under divisions (A)(7), (B)(3) and (B)(4) of this section, a sign permit is required for the following types of new signs:

- (a) All sign faces having an area greater than 40 square feet.
- (b) All signs having a height in excess of eight feet.
- (c) All illuminated signs.
- (d) All signs with moving elements.
- (e) All free-standing and projecting on-premise signs.

(f) All portable signs. The permit for a portable sign shall automatically become void when the number of employees of the small business becomes ten or more. Upon request, the business owner shall furnish documentation evidencing the number of employees of the business. Failure to provide such evidence within 48 hours of it being requested shall void the permit.

(g) A permit for a new off-premise sign will be approved only upon removal of an existing off-premise sign, and support structure, of equal or greater sign area. In addition, the new off-premise sign must be located on a property of equivalent or more intensive zoning, e.g., a C-2 off-premise sign removal can be applied to a C-2 or C-3 zone, but not to a C-1 zone.

(h) Changing an existing sign so that it becomes an electronic sign or changing an electronic sign from an electronic message reader board sign to an electronic display panel sign shall require a sign permit for a new sign.

(2) Permit Applications. The permit application for a new sign shall contain the following:

- (a) Signature of the applicant.
- (b) The name and address of the sign owner and sign erector.
- (c) Drawings showing the design and dimensions of the sign. Standard sign structure drawings may be filed with the Planning Department and referenced in permit applications.

(d) A drawing of the site plan or building facade indicating the proposed location of the sign, and all other existing signs maintained on the premises and regulated by this Zoning Code.

(e) For illuminated signs, a statement declaring the sign's brightness, image change rate and

transition time. Electronic sign applications must also declare the type of software used, programming details and specify how the photo cell will operate.

(3) Annual Permit Renewal for Electronic Signs.

(a) A new or renewed sign permit for an electronic sign, as provided for in §14-16-3-5(A)(2), shall expire one year after the date of issuance and shall be renewed annually.

(b) The City shall notify each owner of an electronic sign of the expiration and renewal requirement and shall provide the owner with an application form. The owner shall complete the application form, sign it and submit an affidavit which states that, in the preceding year, either:

(i) there have been no changes to the electronic sign; or

(ii) there have been changes to the electronic sign. Any changes shall be specified and explained in writing.

(c) The City shall review the application materials and determine compliance with the Zoning Code.

(d) This requirement for the renewal of an electronic sign permit shall apply to all existing electronic signs.

(4) Fees. A sign permit fee shall be charged to cover the cost of enforcement of zoning regulations concerning signs erected after 1975 and for the costs associated with the enforcement of zoning regulations for all electronic signs. The fee for a sign permit shall be:

(a) \$.70 per square foot of the largest face of the sign or \$70, whichever is more.

(b) \$1.45 per square foot of the largest face of the sign or \$145, whichever is more, for signs erected without a permit when it has been determined by the Zoning Enforcement Officer that the sign erector had full knowledge of the permit requirements.

(c) For electronic signs, the fee shall be paid annually.

(d) The Planning Director may adopt by regulation an additional fee to cover the costs associated with the inspection and enforcement of electronic signs.

(5) Seal of Compliance. Any sign for which a permit is required shall bear a seal of compliance. This seal shall be affixed to the sign by the Zoning Enforcement Officer after an inspection has shown that the sign conforms to the provisions of this Zoning Code. For electronic signs the seal shall be effective for a one year period and shall state the permit's date of expiration. A special seal of compliance (or legal nonconformance) shall be placed on legal preexisting signs of types listed in division (A)(1) of this section by the Zoning Enforcement Officer.

(6) Nullification. A sign permit shall become null and void if the work for which the permit was issued has not been completed within a period of six months after the date of the permit. However, a permit for the same work as proposed in a permit that has become null and void may be applied for and no additional fee shall be collected for new application.

(7) Permit Exceptions. The following operations shall not be considered as creating a sign and shall not require a sign permit.

(a) Replacing Copy. The changing of the advertising copy or message, including the interchange of sign facings, on an approved painted or printed sign structure or on a marquee or similar approved sign, provided the size of the sign is not changed.

(b) Maintenance. Painting, cleaning, and other normal maintenance and repair of a sign or sign structure unless a structural change is made.

(c) Upgrade. Improvement or upgrade of a sign, including replacement, provided the size of the sign is not changed.”

Section 4. A new subsection 14-16-3-5(B) ROA 1994 is added to read as follows and subsequent subsections are renumbered and lettered appropriately:

“(B) Restrictions on New Off-Premise Electronic Signs.

(1) Limitation on New Off-Premise Electronic Signs.

(a) No new off-premise electronic sign shall be permitted within the City except as provided in this subsection B.

(b) The modification of any existing off-premise sign that makes the sign an electronic sign shall constitute a new electronic sign.

(c) Any expansion of the area of a sign that operates as an electronic sign shall constitute a new electronic sign with respect to the area of expansion.

(2) Exception for New Off-Premise Electronic Sign.

(a) A new off-premise electronic sign can be permitted if the applicant can demonstrate that existing off-premise signs and support structures containing at least three times the advertising area of the proposed electronic sign will be permanently removed.

(b) The removed signs must be located on property of equivalent or less intense zoning than the location of the proposed off-premise electronic sign.

(c) Off-premise signs that have been previously removed and not replaced may count as removed advertising space for the purpose of permitting a new electronic off-premise sign.

(3) This subsection B shall not apply to any electronic sign for which, prior to enactment of this subsection, an application for the sign permit or for a site plan or site plan amendment to allow the sign, has been submitted to the City and is pending.

(4) This subsection B shall not apply to the improvement, upgrade, or replacement of an existing electronic sign so long as the advertising space is not increased by such improvement, upgrade, or replacement.”

Section 5. Former Subsection 14-16-3-5(B)(2) ROA 1994 is amended to read as follows:

“(2) Prohibited Locations.

(a) No sign shall have its lowest point less than 12 feet above the ground over public right-of-way except those signs specified in Subsections 14-16-3-5(F), 14-16-3-5(G) and 14-16-3-5(I) of this Zoning Code.

(b) No sign facing, except a wall sign or a one-square-foot address sign, shall be between three and eight feet above the gutter line within ten feet of a street public right-of-way line except those signs specified in Subsection 14-16-3-5(F) of this Zoning Code.

(c) No electronic sign shall be allowed within any residential zone, historic zone, historic overlay zone or state or nationally registered historic district.

(d) No electronic sign shall be allowed within 1/8 mile (660 feet) of the outer edge of the right-of-way

of the following streets: Alameda Boulevard, Griegos Road, Rio Grande Boulevard, Unser Boulevard, and Tramway Boulevard. In addition, no electronic sign shall be allowed within 1/8 mile (660 feet) of the outer edge of the right-of-way of Segment 3 of Coors Boulevard as mapped in the Coors Corridor Plan, with the addition of the section from St. Josephs Drive to Western Trail and Coors Boulevard south of Central Avenue.

(e) No electronic sign shall be allowed within 1/4 mile (1320 feet) of the boundary of Major Public Open Spaces and/or the Petroglyph National Monument.

(f) Subsections (c), (d) and (e) shall not apply to any electronic sign existing prior to the adoption of this subsection if such sign is controlled by § 42A-1-34 NMSA 1994 and if such sign was an electronic sign prior to such adoption.

Section 6. Subsection 14-16-3-5(C) ROA 1994 is amended to read as follows:

“(D) Regulations Applicable to Signs in or Within 40 Feet of Residential Zones. The additional provisions of this section apply to all signs allowed in a residential zone or within 40 feet of a residential zone. In the case of a nonresidential zone within 40 feet of a residential zone, the more restrictive of these regulations or the regular sign regulations in the nonresidential zone shall apply.

(1) No portion of an illuminated sign shall have a luminance greater than 200 footlamberts at night.

(2) **Electronic signs shall not exceed an illumination level of 0.3 foot candles above ambient light as measured using a foot candle meter at a preset distance depending on sign area, measured as follows:**

Area of Sign	Measurement
sq. ft.	Distance (ft.)
10	32
15	39
20	45
25	50
30	55
35	59
40	63
45	67
50	71
55	74
60	77
65	81
70	84
75	87
80	89
85	92
90	95
95	97
100	100

For signs with an area in square feet other than those specifically listed in the above table the measurement

distance may be calculated with the following formula: Measurement Distance = The Square Root of the following: The Area of Sign Sq. Ft. x 100.

(3) No sign nor part of a sign shall move, flash, or rotate. No sign or any part of any sign shall change its message or picture at a rate more often than once each eight seconds, with the exception of wind devices, the motion of which is not restricted. No sign shall include motion of the message or image. Transition between messages or images on an electronic sign shall not exceed one second and shall not include any visual effects.

(4) No more than one sign per premises shall be illuminated, apart from the general illumination of the premises, between 10:00 p.m. and 7:00 a.m.

(5) No sign shall be on the public right-of-way, except for name and address signs mounted on mailboxes and signs specified in Subsections 14-16-3-5 <[\(F\)](http://www.amlegal.com/nxt/gateway.dll?f=id$id=Albuquerque%20Code%20of%20Ordinances%3Ar%3A4a0a$cid=new%20mexico$t=document-frame.htm$an=JD_14-16-3-5$3.0) and 14-16-3-5 <[\(I\)](http://www.amlegal.com/nxt/gateway.dll?f=id$id=Albuquerque%20Code%20of%20Ordinances%3Ar%3A4a0a$cid=new%20mexico$t=document-frame.htm$an=JD_14-16-3-5$3.0) of this Zoning Code.

(6) An apartment premises with five to 24 dwelling units may have wall signs identifying the apartments provided the sign area on any facade does not exceed 12 square feet, and the total wall sign area on any premises does not exceed 30 square feet. No facade shall have more than five words which contain any character equal to or exceeding four inches in height; words consisting of characters all of which are less than four inches high may be used without limit as to number.

(7) An apartment premises with more than 24 dwelling units or a nonresidential premises may have signs identifying the principal uses of the premises, as follows:

(a) Each premises may have no more than one free-standing sign provided, however, that premises with more than 750 feet of public street frontage may have one additional free-standing sign for each 500 feet of additional frontage or fraction thereof.

(b) No free-standing sign shall exceed 16 feet in sign height or 24 square feet per sign face.

(c) Wall signs, provided the sign area on any facade does not exceed 40 square feet and the total wall sign area on any premises does not exceed 100 square feet. No facade shall have more than five words which contain a character equal to or exceeding four inches in height; words consisting of characters all of which are less than four inches high may be used without limit as to number.

(8) No signs shall be erected or maintained on a house, townhouse, mobile home used as a residence, or vacant land, except as permitted in division (B) of this section and § 14-16-2-6 <[\(A\)\(2\)\(f\)](http://www.amlegal.com/nxt/gateway.dll?f=id$id=Albuquerque%20Code%20of%20Ordinances%3Ar%3A4a0a$cid=new%20mexico$t=document-frame.htm$an=JD_14-16-2-6$3.0) (for home occupations) of this Zoning Code.

(9) Premises which are mobile home parks with up to 24 dwellings may have signs identifying the development provided the signs are mounted flush to the perimeter wall or fence and the total sign area does not exceed 30 square feet. There shall be no more than five words which contain any character equal to or exceeding four inches in height; words consisting of characters all of which are less than four inches high may be used without limit as to number.

(10) Premises which are mobile home parks with more than 24 dwellings may have signs identifying the development as follows:

(a) Premises may have one free-standing sign at any location on the site provided, however, that premises with more than 750 feet of public street frontage may have one additional sign for each 500 feet of additional frontage or fraction thereof. Such sign shall not exceed 16 feet in sign height or 24 square feet per sign face.

(b) In addition to signs provided in division (a) above, premises may have signs mounted flush to the perimeter wall or fence if the total of such sign area does not exceed 100 square feet. There shall be no more than five words which contain a character equal to or exceeding four inches in height; words consisting of characters all of which are less than four inches high may be used without limit as to number.

Section 7. A new Subsection 14-16-3-5(D) ROA 1994 is added to read as follows:

“(D) Regulations Applicable to Electronic Signs.

(1) Electronic signs shall include a photo cell to control brightness. Any previously permitted

electronic sign shall be turned off from sunset to sunrise until the sign is brought into compliance for brightness.

(2) No electronic sign shall move, flash, or rotate, or change its message or picture at a rate more often than once each eight seconds, with the exception of wind devices, the motion of which is not restricted. No sign or part of a sign shall change its illumination more than once an hour.

(3) No sign shall include motion of the message or image. Transition between messages or images on an electronic sign shall not exceed one second and shall not include any visual effects.

(4) No more than one sign per premises shall be illuminated, apart from the general illumination of the premises, between 10:00 p.m. and 7:00 a.m.; provided however that this provision shall not apply to signs that only display gasoline prices at establishments for retail sales of gasoline, oil, and liquefied petroleum.

(5) Illuminated signs with a 360 degree display are prohibited.

(6) If a premise meets the requirements for a free standing electronic sign, with at least 100 feet of street frontage, then the premise is prohibited from having an electronic sign that is a wall sign or canopy sign. If a premise does not meet the requirements for a free standing sign, that premise shall be permitted one electronic sign that can be a wall sign or canopy sign.”

Section 8. Former Subsection 14-16-3-5(D) is redesignated as 14-16-3-5(E) and is amended to read as follows:

“(E) Regulations Applicable to Signs in Nonresidential Zones. The additional provisions of this section apply to all signs not in a residential zone or within 40 feet of a residential zone.

(1) General Illumination.

(a) No light bulb used to indicate time or temperature shall have a rating greater than 40 watts; no reflectors shall be used in connection with such bulbs.

(b) No portion of an illuminated sign, apart from light bulbs used to indicate time or temperature, shall have a luminance greater than 320 footlamberts at night. Electronic signs shall include a photo cell to control brightness. Any previously permitted electronic sign shall be turned off from sunset to sunrise until the sign is brought into compliance on brightness.

(c) Electronic signs shall not exceed an illumination level of 0.3 foot candles above ambient light as measured using a foot candle meter at a preset distance depending on sign area, measured as follows:

Area of Sign sq. ft.	Measurement Distance (ft.)
10	32
15	39
20	45
25	50
30	55
35	59
40	63
45	67

50	71
55	74
60	77
65	81
70	84
75	87
80	89
85	92
90	95
95	97
100	100

For signs with an area in square feet other than those specifically listed in the above table the measurement distance may be calculated with the following formula: Measurement Distance = The Square Root of the following: The Area of Sign Sq. Ft. x 100.

(2) Any illuminated sign, or any illuminated element of any sign, may turn on or off, or change its brightness, provided that:

(a) Change of illumination does not produce any apparent motion of the visual image, including but not limited to illusion of moving objects, moving patterns or bands of light, expanding or contracting shapes, or any similar effect of animation except twinkling. Transition between messages or images on an electronic sign shall not exceed one second and shall not include any visual effects, meaning any transitional images or changes to the message before the new message appears.

(b) There is no continuous or sequential flashing in which more than one-third of the lights are turned on or off at one time.

(c) The sign is not within 200 feet of a residential zone and visible from such zone.

(3) No sign or any part of any sign may move or rotate at a rate more often than once each ten seconds, or change its message or picture at a rate more often than once each eight seconds, with the exception of wind devices, the motion of which is not restricted.

(4) Religious Signs. On-premise signs consisting only of religious symbols of a religious group operating an institution or place of worship may be as high as 15 feet above the roof top of the principal building on the lot, regardless of whether the sign is illuminated.”

Section 9. SEVERABILITY CLAUSE. If any section, paragraph, sentence, clause, word or phrase of this ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this ordinance. The Council hereby declares that it would have passed this ordinance and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

Section 10. COMPILATION. This ordinance shall be incorporated in and made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

Section 11. EFFECTIVE DATE. This ordinance shall take effect five days after publication by title and general summary.

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