

SAN MIGUEL COUNTY  
ORDINANCE NO. 05-25-04-PZ

AN AMENDMENT TO ORDINANCE NO. 86-2 RELATING TO FREE STANDING SIGNS, BILL BOARD SIGNS AND BILL BOARD FACILITIES; ESTABLISHING REGULATIONS AND PROCEDURES; ESTABLISHING AN APPLICATION PROCESS AND FEES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, San Miguel County Ordinance 86-2 requires certain on-going revisions; and

WHEREAS, Section 3600; Section 3610 (f); Section 3620 (k); Section 4700; and Section 7000 do not adequately address matters relating to free standing signs, bill boards and bill board facilities; and

WHEREAS, due to the absence of any consolidated rules, regulations or policy relating to height or square footage of free standing signs, bill boards and bill board facilities, San Miguel County cannot now reasonably and adequately address and assess issues and matters relating to applications for conditional use permits for free standing signs, bill boards and bill board facilities; and

WHEREAS, the purpose of such consolidated rules, regulations and policies are necessary for the protection and safety of the public; the maintaining of property values; the preservation of the natural beauty and historic integrity of San Miguel County; and to be compatible and sensitive to the business community of San Miguel County.

IT IS NOW, THEREFORE, ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SAN MIGUEL COUNTY, NEW MEXICO, THAT:

SECTION 1. The following sections of San Miguel County Ordinance No. 86-2 and all sections relating to signs therein are repealed and amended:

- Section 3600
- Section 3610 (f)
- Section 3620 (k)
- Section 4700
- Section 7000

COUNTY OF SAN MIGUEL  
 PAUL MAEZ  
 COUNTY CLERK  
 FILED FOR RECORD ON:  
 DATE: 3-23-04  
 TIME: 9:25  
 BOOK: 2400F MSC PG 5796  
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 WITNESS MY HAND AND SEAL

SECTION 2. DEFINITIONS. The following definitions shall apply to this Ordinance. Any definition contained in San Miguel County Ordinance No. 86-2, Article II, Definitions, not specifically listed herein shall apply to this Ordinance.

“Attached Sign” means any sign that is connected, attached, supported, fastened in whole or in part by any means to a building or structure.

“Bill Board” means a sign that is not an attached sign and directs the attention of the public or informs the public of or to a business activity, product or service that is sold or offered at a location that is not on the same premises where such sign is located. A large panel designed to carry outdoor advertising.

“Bill Board Facility” means the structure of a billboard and any component parts used in whole or in part to support a billboard.

“Construction Sign” is a temporary sign placed at the location where construction, renovation or remodeling is occurring and indicates the names of architects, engineers, contractor or similar artisan, owner, sponsor, financial institution having a role or interest to the structure or project.

“Directional Sign” means a non-commercial sign informing the public of the location of public, government or educational buildings and institutions; historic areas or structures; access to parking or loading areas; indicating or advising of traffic patterns. A sign erected by any government agency setting forth information as provided by law or pursuant to court order.

“Double-faced Sign” means two adjacent signs on separate structures or billboard facility with the faces of each sign oriented in the same direction. Double-faced sign and side-by-side sign have the same meaning.

“Flashing Sign” means a sign that is illuminated by a changing light or blinking light or by any means that provides inconsistent or intermittent illumination.

“Sign Height” is the vertical distance measured from the ground level or the adjacent roadway right-of-way grade level, whichever permits the greatest height, including all sign structure and embellishments.

“Monument Style” means a sign in which the width of the sign base is solid and equal to the sign fascia and is in architectural conformity with the primary structure of the premises or property sign is to be located.

“Portable Sign” means a free standing sign not permanently affixed to the ground or a structure which can be moved from one location to another by any means or method.

“Political Sign” mean a temporary sign pertaining to the election of an individual in any local, state or national election.

“Sign” is any communication medium, including its structure and component parts, which is used or intended to be used to attract attention to the subject matter for information or advertising purposes when the medium is placed out of doors or within a building in view of the general public from the property line.

“Temporary Sign” means any sign, banner, pennant, or advertising display intended to be displayed for a short period of time not to exceed ninety (90) days.

SECTION 3. A-1 RESIDENTIAL AGRICULTURAL ZONE.

- A. Permitted Use. Signs not exceeding twenty-five (25) square feet in area per sign pertaining to the lease, hire or sale of a premises or sale of home raised products, provided there shall be no more than one (1) such sign per acre of lot area and provided that such sign not exceed ten (10) feet in total height and provided that such sign is not illuminated by any means or method.
  
- B. Signs for any purpose exceeding twenty-five square feet in area but not exceeding fifty (50) square feet in area shall have a maximum height of fifteen (15) feet provided that there shall be no more than one (1) sign per five (5) acres of lot area or every 1043.5 linear feet of perimeter boundary line of a lot of record or lot line abutting the principal street frontage and provided that such sign is not illuminated by any means or method

Such sign shall not be nearer than 200 feet to any existing occupied conforming residential structure or property measured along the right-of-way of the nearest street, highway or road.

- C. Signs for any purpose exceeding fifty (50) square feet but not exceeding three hundred (300) square feet in area shall have a maximum height of twenty-five (25) feet provided that there shall be no more than one (1) sign per five (5) acres of lot area or every 1043.5 linear feet of perimeter boundary line of a lot of record or lot line abutting the principal street frontage.

SECTION 4. A-2 RESIDENTIAL AGRICULTURAL ZONE.

Sign uses permitted under Section 3, A-1 Residential Agricultural Zone of this Ordinance.

SECTION 5. R-H RURAL-HOLDING ZONE.

Sign uses permitted under Section 3, A-1 Residential Agricultural Zone of this Ordinance.

SECTION 6. TC-TRADITIONAL COMMUNITY ZONE.

Sign uses permitted under Section 3, A-1 Residential Agricultural Zone of this Ordinance.

## SECTION 7. PROHIBITED SIGNS.

- A. No sign shall be erected or maintained with "vision clearance", noted under Ordinance 86-2, Section 4200 C.
- B. Signs that interfere with the effectiveness of any official traffic control device.
- C. No sign shall be erected or maintained within County right-of-way, public utility easements or private roadway easements recorded on a survey or plat filed in the San Miguel County Clerk's Office.
- D. Signs that exceed the provisions of Section 3 (B) of this Ordinance. No sign shall exceed fifty (50) square feet in area.
- E. Vertical stacking of signs is prohibited.
- F. A sign attached to a building that protrudes more than four and one-half (4 1/2) feet from the wall of a building and which any point of said sign is lower than eight (8) feet from the ground and which any point of said sign extends beyond the property line is not allowed.

## SECTION 8. EXEMPT SIGNS.

- A. Signs not exceeding one (1) square foot in area and bearing only property numbers, post office box numbers, or name of occupants on premises.
- B. Legal notices, identification, informational, directional signs, fire and police signs and any other signs erected by governmental entities.
- C. Signs directing traffic, guiding traffic and parking on private property.
- D. Tablets, grave markers, headstones, statuary or remembrances of individuals or events non-commercial in nature.
- E. Non-illuminated directional or informational signs of public or quasi-public in nature which do not exceed ten (10) square feet in area.
- F. Temporary advertising signs for homeowner garage and yard sales, and temporary signs for real estate sales or rental use. Such signs shall be non-illuminated by any means or method.
- G. Political signs may be erected thirty (30) days prior to early voting and must be removed no more than fifteen (15) days after the primary and/or general election. No political sign may be illuminated by any means.

**SECTION 9. HIGHWAY, STATE ROAD AND COUNTY ROAD SIGN STANDARDS.**

The following minimum standards shall apply to all signs within 1000 feet of Interstate 25; State Roads 3, 34, 50, 63, 65, 94, 104, 105, 223, 250, 266, 276, 281, and 283; U. S. Highways 84 and 85.

- A. Signs exceeding the square footage under Section 3 (A) are subject to conditional use approval requirements of Section 11 and Section 3 (B) contained herein.
- B. Signs may be illuminated by down lighting means only.

**SECTION 10. BILL BOARDS AND BILL BOARD FACILITIES.**

- A. Bill boards and bill board facilities are prohibited in the area outside a five (5) mile radius of the municipal boundary of any incorporated municipality within the San Miguel County.
- B. Vertical stacking of billboards is prohibited.
- C. Bill boards and bill board facilities may be allowed within a one (1) mile radius of any highway exit provided that such bill board and bill board facility be limited to 200 square feet in size and provided that such bill board and bill board facility be limited to advertising message pertaining to a specific business within the one (1) mile radius or within San Miguel County.

**SECTION 11. APPLICATION PROCEDURE FOR CONDITIONAL USE PERMITS.**

The following provisions shall apply to and control all applications for conditional use permits for signs subject to Section 3 (B) and (C) of this Ordinance. Any notice, hearing or other provision relating to conditional use permits as may be contained in Ordinance No. 86-2 shall not apply and is hereby expressly superseded.

- A. Each application for a conditional use permit for a sign, bill board and/or bill board facility shall be accompanied by the following fees: All fees are non-refundable.  
Said fees herein identified as minimum fees are the minimum amounts applicant shall be required to submit by check or money order payable to San Miguel County at the time application is submitted to the Planning and Zoning Division as a condition of application being determined as complete. Any and all costs incurred by San Miguel County relevant to said identified minimum fees that are greater and above said minimum amounts, shall be paid by the applicant upon receipt of proper documentation of said costs provided by San Miguel County to applicant.
  - Application fee: \$200.00 plus \$10.00 per each square foot of Sign face

- Publication and Notification: \$246.00 Minimum Fee  
(Planning and Zoning Commission Hearing)
- Publication and Notification: \$246.00 Minimum Fee  
(County Commission Hearing)

**B. Each application shall include the following documents:**

- (1) A detailed written statement explaining in full the proposed project.
- (2) Name, address and telephone of applicant and any co-applicants.
- (3) A scaled site development plan and a scaled elevation view showing location, color, dimensions, fencing, landscaping and adjacent uses, and other such information as may be deemed necessary by the Planning and Zoning Division to assess compliance with this ordinance.
- (4) Documentation of legal right to install, construct and place sign, billboard and/or billboard facility, copy of legal property deed, and copy of lease agreement if applicable.
- (5) A copy of the tax map and parcel identification code number of the subject property and adjacent properties as shown in the records of the San Miguel County Assessor's Office.
- (6) Photo simulations of the proposed billboard and billboard facility on said location from each direction.
- (7) Site plan showing all property within 300 feet of the perimeter of the proposed property where billboard and billboard facility will be located.
- (8) Identification on a map showing the locations of all existing billboards and billboard facilities within 10,000 feet of the proposed location.
- (9) A project comment review and approval letter from the State of New Mexico Historic Preservation Division.
- (10) A project comment review letter from the appropriate Land Grant Board if the proposed site is within a land grant.
- (11) A certified affidavit indicating date certified letters were mailed and a copy of the mailing list as per Section 12 (B) (3) of this Ordinance.

- (12) A project comment review and approval letter from the New Mexico Transportation Department.

**SECTION 12. PROCEDURE FOR NOTICE AND HEARING BEFORE THE PLANNING AND ZONING COMMISSION:** When the County Planning and Zoning Division deems the application complete, the Planning and Zoning Commission shall at a public hearing consider and pass upon the application for conditional use permit in accordance with the following procedure and requirements:

- A. The public hearing before the Planning and Zoning Commission shall be held within ninety (90) days from the date the application is deemed complete by the Planning and Zoning Division.
- B. Notice of the time, place and purpose of the hearing shall be given as follows:
- (1) By publication not less than fifteen (15) calendar days before the public hearing in a newspaper of general circulation in San Miguel County and in any other newspaper particular to the area affected by the conditional use application; and
  - (2) By posting not less than twenty (20) calendar days before the public hearing, upon the premises where the billboard and billboard facility is proposed to be located and upon the perimeter fence of said premises and adjacent to any public road or right-of-way of nearest premises; and
  - (3) By the applicant, by certified mail return receipt requested, notice of said public hearing to all contiguous landowners identified under the requirements of Section 11 (5) of this Ordinance, which certified mail shall be post marked not less than fifteen (15) calendar days before the date of the public hearing.
  - (4) After giving the notice specified herein, the Planning and Zoning Commission shall hold and conduct its public hearing on the application for conditional use permit and shall accept testimony, evidence and public comment. Upon the conclusion of the public hearing, the Planning and Zoning Commission shall make and render its decision recommending to the Board of County Commissioners the approval or denial of the application for conditional use permit.
  - (5) The Planning and Zoning Commission shall reduce its recommendation to writing within ten (10) calendar days of said public hearing, which decision shall include the findings of fact relied upon in making such recommendation. If the recommendation is to grant the conditional use permit, conditions imposed if any, shall be included.

SECTION 13. PROCEDURE FOR NOTICE AND HEARING BEFORE THE BOARD OF COUNTY COMMISSIONERS. Not later than sixty (60) days after the decision and recommendation is made by the Planning and Zoning Commission, said decision and the application for conditional use permit at issue, shall be considered *de novo* by the Board of County Commissioner at a public hearing pursuant to and in accordance with the notice requirements set forth in Section 12 of this Ordinance, and upon the conclusion of the public hearing, the Board of County Commissioners shall:

- (1) Make and render its decision granting or denying the conditional use permit, which decision shall include the findings of fact relied upon by the County Commission, and the conditions imposed, if any, upon the granting of the application.
- (2) Not later than thirty (30) days after the public hearing, the County Commission shall reduce its decision to writing and shall serve the same upon the applicant and all contiguous landowners and interested parties by certified mail, return receipt requested, which decision shall be filed in the office of the San Miguel County Clerk; and which decision shall set forth an effective date of the permit which shall be the sixteenth (16<sup>th</sup>) day after the filing of said decision in the office of the San Miguel County Clerk.

SECTION 14. APPEAL. Any person aggrieved by the decision of the Board of County Commissioners may appeal the decision to the District Court of the Fourth Judicial District within fifteen (15) days of the filing of said decision in the office of the San Miguel County Clerk.

SECTION 15. USE OF PERMIT: EXPIRATION AND EXTENSION OF TIME.

- A. A conditional use permit approved and issued for a billboard and billboard facility shall be used not later than twelve (12) months from the effective date of the permit, or within such additional time as may be set in the conditions of approval, which time shall not exceed twenty-four (24) months from the effective date of said permit; otherwise the permit shall be null and void.
- B. Applicant may, prior to the expiration of the permit, request an extension of time to use the permit. A request for an extension of time shall be made in writing to the Planning and Zoning Supervisor accompanied by the appropriate filing fees set forth under Section 11 of this Ordinance.
- C. The Planning and Zoning Supervisor shall review the request for extension within thirty (30) calendar days after receipt of the request and shall make a recommendation to the Board of County Commissioners at the next regularly scheduled Commission meeting. The Board of County Commissioners shall

review the request and shall take action on the request. If said extension of time is granted, applicant shall comply with the requirements set forth in Part A of this section.

**SECTION 16. REMOVAL OF BILLBOARD AND BILLBOARD FACILITY.**

Any billboard and billboard facility that is not operated for continuous period of twelve (12) months shall be considered abandoned, and the owner of such billboard and billboard facility and the owner of the land upon which billboard and billboard facility is situated shall remove the same within ninety (90) days of being notified to do so by the County.

**SECTION 17. YEARLY RENEWAL OF CONDITIONAL USE PERMIT:**

- A. All conditional use permits approved by the Board of County Commissioners under the provisions of this Ordinance shall be renewed on a yearly basis and shall be subject to a yearly renewal fee of \$200.00.
- B. Such renewal of conditional use permit shall occur by the 31<sup>st</sup> day of the month of January of each year. The purpose of said renewal is to provide the County with a means of determining active status on a yearly basis of each billboard and billboard facility approved under this Ordinance.

**SECTION 18. INDEMNIFICATION.**

San Miguel County shall not approve the construction of any billboard or billboard facility until and unless San Miguel County obtains adequate indemnification from the owner of said billboard or billboard facility which shall at a minimum, indemnify and hold harmless San Miguel County, its elected officials and appointed officers, agents, and employees, from and against any and all claims, demands or causes of action of whatsoever kind and nature, and the resulting losses, costs, expenses, reasonable attorneys fees, liabilities, damages, orders, judgments, or decrees sustained by San Miguel County or any third party arising out of or by reason of billboard failure or billboard facility failure or collapse or resulting from the negligent acts, errors or omissions of all billboard and billboard facility owners, agents, or employees; and provide that the covenants and representations relating to said indemnification provision shall survive the term of any agreement and continue as long as the billboard and billboard facility remains in place.

**SECTION 19. SIGN MAINTENANCE.**

- A. All signs shall be kept in good repair and shall be maintained in good and safe structural condition.
- B. If the message portion a sign (the sign face) is not maintained or if it is removed and left blank, the owner of the sign or the owner of the property where the sign is

located or other person having control over such sign, shall, within sixty (60) days of being notified by the County of San Miguel, either replace the entire message portion of the sign or remove the remaining components of the sign.

- C. Customary maintenance of a sign does not include the following:
1. Raising the height of a sign.
  2. Increasing the width of a sign.
  3. Adding a panel to the sign and display.
  4. Increasing the dimension of any sign face.

#### SECTION 20. PENALTY.

Any person, firm or corporation, whether as principal, agent, employee, property owner or otherwise, violating or causing a violation of any of the provisions of this ordinance shall upon conviction thereof be punished by a fine not exceeding three hundred dollars (\$300.00) per violation, or by imprisonment not exceeding ninety (90) days in the county jail, per violation, or by both such fine and imprisonment. Each day of violation shall constitute a separate offense and shall be punishable as provided herein.

#### SECTION 21: NON-CONFORMITIES.

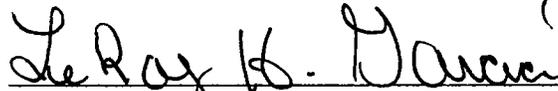
Except as otherwise provided in this article, any non-conformity lawfully existing at the time this Ordinance became effective may continue so as long as it remains otherwise lawful. No non-conformity shall be enlarged upon, or expanded unless such alteration is in full compliance with all requirements of this Ordinance. No accessory use to a principal non-conforming use or structure shall continue after such principal use or structure shall have ceased or terminated, unless it shall thereafter conform to all regulations of this Ordinance.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction or designated use of any structure on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been started and diligently carried on. Actual start of construction is considered to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of material has been substantially begun preparatory to actual start of construction.

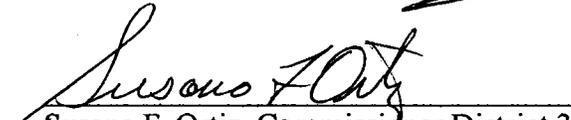
#### SECTION 22. EFFECTIVE DATE.

This Ordinance shall become effective thirty (30) days after it is filed in the office of the San Miguel County Clerk.

MOVED, SECONDED, ADOPTED AND ORDAINED on this 25<sup>th</sup> day of May, 2004 by the Board of County Commissioners of San Miguel County, New Mexico.

  
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LeRoy H. Garcia, Chairman

  
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Hugh H. Ley, Commissioner District 2

  
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Susano F. Ortiz, Commissioner District 3

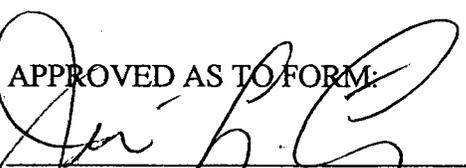
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Lawrence R. Rascon, Commissioner District 4

  
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Kenneth C. Medina, Commissioner District 5

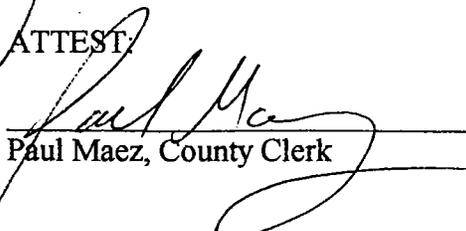
SUBMITTED:

  
\_\_\_\_\_  
Les Montoya, County Manager

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Jesus L. Lopez, County Attorney

ATTEST:

  
\_\_\_\_\_  
Paul Maez, County Clerk