

FIRST READING: _____

PASSED: _____

ORDINANCE NO. 2013-_____

AN ORDINANCE TO REGULATE SIGNS IN THE CITY OF BLAIRSVILLE, GEORGIA; TO PROVIDE FOR THE PERMITS, ENFORCEMENT, PENALTIES FOR VIOLATION, TO REPEAL SIGN ORDINANCE NO. _____, TO REPEAL CONFLICTING ORDINANCES, TO PROVIDE AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

WHEREAS, it is the intent and purpose of the Mayor and Council of the City of Blairsville to make its Ordinance to Regulate Signs conform with the laws of the State of Georgia; and

WHEREAS, it is the intent and purpose of the Mayor and the City Council of the City of Blairsville to provide that commercial and non-commercial signs in the City of Blairsville be allowed under a permit granted by the City Council upon the terms and conditions provided in this Ordinance; and

WHEREAS, the City Council of the City of Blairsville, Georgia is authorized by the Constitution of the State of Georgia to enact ordinances for the health, safety and welfare of the general public, and

NOW THEREFORE BE IT RESOLVED AND ORDAINED by the Mayor and Council of the City of Blairsville, and it is hereby resolved and ordained by the authority of the same, that Sign Ordinance No. _____ and all conflicting ordinances are hereby deleted in their entirety, and the following is substituted therefore:

ARTICLE 1
Short Title

This ordinance shall be known and may be cited as the "Sign Ordinance of the City of Blairsville."

ARTICLE 2
Purpose and Scope

Section 2.1 The Mayor and City Council of Blairsville, Georgia find that adoption of sign regulations serves the following purposes:

1. The public health, safety and general welfare of the City is enhanced by ensuring the prohibition and removal of dangerous and unsafe signs.

2. Pedestrian and motorist safety is promoted by reducing and limiting the number and area of signs, which can unduly distract motorists and pedestrians, create traffic hazards, confuse motorists when such signs are similar to traffic signs, and reduce the effectiveness of signs needed to direct the public.
3. This ordinance is intended to promote attractive signs which clearly present the visual message in a manner that is compatible with its surroundings. The appearance, character and quality of the City are affected by the location, size, construction and graphic design of its signs.
4. The economic well-being of the City of Blairsville is enhanced by creating a more attractive city to tourists, and by preserving and improving the appearance of the city and surrounding area, thereby assuring that signs are properly integrated with and harmonious to the buildings and sites in the City.
5. The purpose of the City's elimination of billboards is to promote the safe movement of vehicular traffic, to reduce vehicular traffic, to reduce air pollution, and to improve the aesthetic appearance of the City.

Section 2.2 By enacting this Ordinance, the City intends:

1. To balance the rights of individuals, businesses, and government to convey their messages through signs and the right of the public to be protected against the unrestricted proliferation of signs;
2. To afford the business community equal and fair opportunity to advertise and promote its products and services without discrimination;
3. To preserve and promote the public health, safety, and welfare of the citizens of the City of Blairsville;
4. To improve traffic and pedestrian safety;
5. To maintain and enhance the visual environment, and preserve the right of citizens and visitors to enjoy the City's scenic beauty;
6. To protect property values of nearby public and private property by minimizing possible adverse effects and visual blight caused by signs;
7. To avoid the harmful aspects of the unrestricted proliferation of signs;
8. To promote economic development;
9. To enable the fair and consistent enforcement of sign regulations and
10. To promote the purposes stated in this Article by regulating signs based on objective standards, including, but not limited to height and size, and without regard to the content of the sign message.

ARTICLE 3
Statement of Findings

The City finds that signs provide an important medium through which individuals, businesses, and government may convey a variety of messages. Left unregulated, however, signs can become a threat to the public health and safety as a traffic hazard and a detriment to property values and the overall economic growth of the City of Blairsville as an aesthetic nuisance. (See, e.g. & Scenic America, Billboards & Sign Control available at <http://www.scenic.org>; Jerry Weitz, PhD. AICP, The Public Purpose of Roswell's Sign Ordinance and the Implications of

Doing Without It: A Position Paper (December 7, 1999), available at <http://roswellgov.com>; Street Graphics and the Law, 2004 Revised Edition, Daniel Mendelker, Andrew Bertucci, and William Ewald.)

Based on the cited materials and the studies referenced therein, the City finds that unregulated signs:

1. Can be a safety hazard to drivers and pedestrians;
2. Can create unsafe, cluttered and aesthetically blighted thoroughfares throughout the City;
3. Can hamper economic growth;
4. Can lower property values;
5. Can adversely impact public investments;
6. Can degrade the utility of public safety signs; and
7. Can adversely impact the aesthetic quality of the community and surrounding environment.

ARTICLE 4 Definitions

Words and phrases used in this ordinance shall have the meanings set forth in this section. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise. Section headings or captions are for reference purposes only and shall not be used in the interpretation of this ordinance.

Area of Sign

The area of a sign is defined as the entire area including any type of perimeter or border which may enclose the outer limits of any writing, representation, emblem, figure, or character. The area of the sign having no perimeter or border shall be computed by enclosing the entire area within a parallelogram, circle, or triangle of the smallest size sufficient to cover the entire area of the sign and computing the area of the parallelogram, circle or triangle. If the sign has two faces that are not more than 2 feet apart the area of the sign shall be one-half the area of the two faces, and shall be considered as one sign.

Free-Standing Sign

A sign which is supported by one or more uprights or braces which are fastened to, or embedded in the ground or a foundation on the ground. A permanently affixed sign which is wholly independent of a building for support.

Height of Sign

The vertical distance measured from the average normal grade at the base of the sign to the highest point of the sign, including the air space between the ground and the sign. The height of any monument sign base or other structure erected to support or adorn the sign is measured as part of the sign height.

Non-Conforming Signs (also known as Grandfathered sign)

Any sign which was lawfully erected and maintained prior to the adoption of this ordinance, but does not meet the standards and conditions of this ordinance.

Sign

Sign shall mean and include every advertising message, announcement, declaration, demonstration, illustration, insignia, surface or space erected or maintained in view of the observer thereof for identification, advertisement, or promotion of the interest of any person, entity, product, or service. The definition of sign shall also include the sign structure, supports, lighting system, and any attachments, ornaments or other features used to draw the attention of observers.

Structure

The supports, uprights, bracing, guy rods, cables, and framework of a sign or outdoor display.

ARTICLE 5 Applicability, Authority, Interpretation and Enforcement

Section 5.1 *Applicability*

This ordinance shall apply to all properties within the corporate limits of the City of Blairsville. Signs that are not visible from a public right-of-way and are not intended to be viewed from a public right-of-way are not regulated.

Section 5.2 *Interpretation and Enforcement.*

The City Council shall be responsible for enforcement of this ordinance, except to the extent such responsibility is delegated to the Blairsville Police Department. A violation of this ordinance is a misdemeanor.

Section 5.3 *Construction Standards*

All signs permitted under this ordinance shall be constructed and maintained in accordance with the applicable building codes.

ARTICLE 6 Sign Types Requiring a Permit

All free-standing signs shall require a permit issued in accordance with the procedures in Article 8 of this code subject to the following standards:

1. Height limit: Signs may not exceed a height of 20 feet at the highest point anywhere on the sign.

2. Design: There shall be no graphics located on the vertical support structures of a freestanding sign.
3. Size: Free-standing signs shall be limited to a sign area of not more than (60) square feet.
4. Location and Orientation: Signs shall not be located in the right-of-way.

ARTICLE 7 Prohibited Signs and Devices

The following signs or devices are prohibited:

Section 7.1 *Signs Creating Traffic Hazards*

No sign shall be erected at or near any public street or the intersection of any streets in such a manner as to create a traffic hazard by obstructing vision or at any location where it would interfere with, obstruct the view of, or be confused with any authorized traffic sign.

Section 7.2 *Hazardous Signs*

No sign shall be erected or maintained which, due to structural weakness, design defect, or other reason, constitutes a threat to the health, safety and welfare of any person or property.

Section 7.3 *Signs Resembling Traffic Signals or Signs*

No sign shall be constructed, erected or maintained which purports to be or resembles an official traffic sign or signal, except those signs officially authorized by the City of Blairsville or other governmental entities.

Section 7.4 *Signs not otherwise allowed by this ordinance.*

ARTICLE 8 Sign Permit Applications

Section 8.1 *Purpose*

The purpose of this Article is to provide a timely and standardized mechanism for reviewing applications for sign permits to ensure signs within the City comply with the objective standards of this ordinance, including, but not limited to, the height and size provisions.

Section 8.2 *Authority*

The Blairsville City Council is authorized to review and approve or disapprove an application for a sign permit pursuant to the procedures of this Article and the standards of this ordinance.

Section 8.3 *Applicability*

No sign, except those specified in this ordinance, shall be erected, placed, reconstructed or structurally altered without the sign owner having first obtained a sign permit from the Blairsville city council pursuant to the procedures in this Article and the standards of this ordinance.

Section 8.4 *Permitted signs by ordinance*

Pursuant to Article 7 of this Ordinance, a general permit has been granted for those signs listed therein, and no application for a sign permit is required so long as all applicable standards of this ordinance are met.

Section 8.5 *Procedure*

The following procedure shall govern the application for, and the issuance of, all sign permits under this ordinance:

Application for a sign permit shall be made on the form provided by the City of Blairsville as required by the City. The sign application fee, the amount being determined by resolution of the City of Blairsville, shall be paid at the time of application. An application will only be deemed as complete when all required information, appropriate fees, and accompanying documents are received. The following information will be required at the time of application:

1. Name, address and telephone number of the party erecting the sign and of the sign owner.
2. The square foot area per sign.
3. The names(s) and addresses) of the owner(s) of the real property upon which the sign is to be located.
4. Prints or drawings of the plans and specifications for the proposed sign, together with structural details for construction and attachment to a building or placement in the ground. A single submission may be permitted for standardized signs.

Section 8.6 *Action by the City of Blairsville*

1. Within 10 working days of submission, the city clerk shall inform the applicant of any information or documents necessary for completion of an application. Until such time as the application is complete, the City will not consider the application properly filed.
2. Once the application is determined complete, the city council at the next regularly scheduled city council meeting, shall review the application in accordance with this Article and determine whether the application complies with the standards in this ordinance.
 - a. Approval. If the City Council finds that the application complies with the standards of this ordinance, the City Council will issue the sign permit.

b. Denial. The City Council may only deny an application for a sign permit for any of the following reasons:

1. The application submitted for a sign permit is not complete as required by these ordinances.
 2. The sign applied for fails to meet the sign location or orientation requirements in this ordinance.
 3. The sign applied for fails to meet the type of sign permitted by this ordinance.
 4. The sign applied for is a prohibited sign under the terms of this ordinance.
 5. The sign applied for fails to meet the dimensional, including size, requirements in this ordinance.
 6. The sign applied for exceeds the maximum number of signs permitted by this ordinance.
 7. The sign applied for otherwise fails to meet the standards in this ordinance.
- c. Fails to comply. If the city council determines the application fails to comply with the standards of this ordinance, the applicant shall be provided a written notification with an explanation of why the application has been denied within fifteen (15) days of its determination that the application does not comply with this ordinance. If the applicant resubmits the application within 60 days of the written notification of denial, the resubmitted application does not require payment of the fee. The time for resubmission may be extended an additional 30 days for good cause, if requested of the city council prior to the original deadline for re-submittal
- d. Re-submittal. A revised application shall be resubmitted to the city council and reviewed in the same manner as an original application.
- e. Criteria. A sign permit shall be approved upon a finding that the applicant has demonstrated that the application complies with the standards of this ordinance. A permit shall issue within fifteen (15) days of the city council's determination that the application complies with this ordinance.
- f. Expiration. A sign permit shall become null and void if the sign for which the permit was issued has not been installed and completed within 60 days after the date of issuance; provided, however, that when an applicant can demonstrate that a commercial entity was timely engaged to construct the permitted sign, but the fabrication has not yet been completed, the city clerk may grant one 30-day extension. No refunds will be made for permit fees paid for permits that expired due to failure to erect a permitted sign. If later an individual desires to erect a sign at the same location, a new application must be submitted and another fee paid in accordance with the fee schedule applicable at such time.

Section 8.7 *Amendments*

A sign permit may be amended, extended, or modified only in accordance with the procedures established for its original approval.

Section 8.8 *Maintenance of permit*

The owner or lessee of a lot containing signs requiring a permit under this ordinance shall, at all times, maintain in force a permit for such sign. Sign permits shall be issued to the owner of a sign for each individual sign and are not transferable.

Section 8.9 *Non-transferability*

Sign permits issued pursuant to this ordinance are not transferable.

Section 8.10 *Appeals*

The following procedure shall govern the appeal of any decision regarding an application for a sign permit under this ordinance:

- I. Any applicant or person aggrieved or affected by the denial or grant of an application for a sign permit may appeal the determination to the City Council by filing a written notice of appeal with the City Clerk within 30 days following the decision. The appeal shall be heard at the next regularly scheduled council meeting of the filing of the written notice of appeal.
 1. The City Council shall have 30 days following the hearing to issue a written decision.
 2. Any party aggrieved or affected by the decision of the City Council may appeal the decision by filing a writ of certiorari with the Superior Court pursuant to O.C.G.A. § 5-4-1, et seq.

ARTICLE 9
Variances

Section 9.1 *Authority*

The Blairsville City Council is authorized to consider applications for variances to the provisions of this Ordinance.

Section 9.2 *Limitations*

The Blairsville City Council is only authorized to increase the size or height of a sign by a maximum of 25% of the standards set forth herein.

Section 9.3 *Procedure*

The procedure for filing and hearing variance applications shall be the same as for the sign permit application procedure set forth in Article 9.

Section 9.4 *Standards*

The Blairsville City Council shall consider the following when voting on a variance application under this Article:

1. Whether the natural features of the subject property on which the sign is located or to be located, or of the land immediately adjacent to the subject property, impair the visibility of the sign such that it cannot be seen.
2. Whether there exist extraordinary and exceptional conditions pertaining to the property in question resulting from its size, shape, or topography that are not applicable to other lands or structures in the area;
3. Whether a literal interpretation of the provisions of the sign ordinance would deprive the applicant of rights commonly enjoyed by other similar properties;
4. Whether granting a variance requested would confer upon the property of the applicant any significant privileges that are denied to other similar properties;
5. Whether the requested variance will be in harmony with the purpose and intent of these regulations and will not be injurious to the neighborhood or to the general welfare;
6. Whether the special circumstances are the result of actions of the applicant;
7. Whether granting the variance would result in allowing a sign that interferes with road or highway visibility or obstruct or otherwise interfere with the safe and orderly movement of traffic;
8. Whether the variance requested is the minimum variance, which will make possible the logical use of the land and sign; and
9. Whether the mere existence of a non-conforming sign or advertising device shall not constitute a valid reason to grant a variance.

Section 9.5 Appeals

Any applicant or person aggrieved or affected by the denial or grant of a variance application may appeal the determination to the Superior Court by filing a writ of certiorari with the Superior Court pursuant to O.C.G.A. § 5-4-1, et seq. within 30 days following the City Council's decision.

**ARTICLE 10
Removal of Signs**

Section 10.1 Procedure for Removal of Unsafe and Abandoned Signs

In case any sign poses a safety threat to persons or property or is abandoned, the City shall notify⁷ by certified mail or written notice served personally, the owner or lessee thereof to alter such sign, secure the necessary permit, make required alterations or remove the sign. If such order is not completed within 30 working days from the time of notice being received, the sign shall be removed under instruction of the appropriate official at the expense of the owner of

lessee thereof. However, such written notice is not required for signs that are upon the public right-of-way or upon other public property or if the sign poses an immediate safety threat to the life or health of any member of the public, or injury to property.

Section 10.2 Non-Conforming Signs
1. Findings

The City finds that non-conforming signs may adversely affect the public health, safety and welfare. Such signs may adversely affect the aesthetic characteristics of the City and may adversely affect public safety due to the visual impact of these signs on motorists and pedestrians. Furthermore, nonconforming signs frustrate the purpose of adoption of this ordinance as expressed in Article 2.

2. Continuation of Non-conforming Signs (Grandfathered Signs)

A non-conforming sign that is permanently affixed to the ground or to a building may continue to be used, except that the non-conforming sign:

- a. Shall not be enlarged or altered except in conformance with this ordinance, but it may be repaired to the extent necessary to maintain it in a safe condition;
- b. Shall not be replaced, expanded or modified by another non-conforming sign, except that the substitution or interchange of poster panels, painted boards or dismountable material on non-conforming signs shall be permitted.
- c. Shall not be allowed to be increased in height, size or relocated on the property, but may be decreased in height or size;
- d. Subject to removal if it has deteriorated to a point of making it a hazard, or unsightly;
- e. To the extent any portion of this Article conflicts with O.C.G.A. § 32-6-83 or the Georgia Constitution in application, this section shall be deemed to provide affected parties the minimum protections provided by O.C.G.A. § 32-6-83 or the Georgia Constitution, as amended from time to time. In no event is it the City's intent to obligate itself to pay any compensation related to the removal of any nonconforming sign.

ARTICLE 11
Enforcement and Maintenance

Section 11.1 Enforcement Officer

The provisions of this ordinance shall be enforced by the City Council, or as delegated to the Blairsville Police Department.

Section 11.2 Maintenance

1. The area on private property around the sign on which it is erected shall be properly

- maintained clear of brush, trees, and other obstacles so as to make signs readily visible;
2. All burned out bulbs or damaged panels must be replaced;
 3. All sign copy shall be maintained securely to the face and all missing copy must be replaced;
 4. All signs shall be maintained in good structural condition at all times so that the public and traffic safety are not compromised;
 5. All signs shall present a neat and orderly appearance, without rust or holes on or in the sign or sign structure, or broken, missing, loose or bent parts, faded, or flaking paint, non operative or particularly non operative illuminating or mechanical devices or missing letters in sign copy; and

Section 11.3 Penalties

1. The provisions of this ordinance shall be enforced by the Blairsville Police Department.
2. A violation of this ordinance may be prosecuted in the City of Blairsville Municipal Court in accordance with the procedures of that court. Additionally, any person violating this ordinance shall be guilty of a misdemeanor and upon conviction, shall be punished as provided by the city charter or state law. Each day a violation continues shall be considered a separate violation of this ordinance.

Section 11.4 Public Nuisance

Any violation of this ordinance is hereby declared to be a public nuisance.

Section 11.5 Removal

1. The City may order the removal of any sign in violation of this ordinance by written notice to the permit holder, sign owner and property owner. If a permit has been issued, such notice shall operate to revoke the permit. An order to remove a sign under this section of this ordinance may be in addition to prosecution of such violation in the City of Blairsville Municipal Court.
2. If the sign is not removed within the time required by the City (or the date any appeal becomes due), the City may remove or cause to be removed the sign and collect the costs thereof through appropriate legal proceedings.
3. The City may remove any sign in violation of this ordinance, without giving notice to any party if the sign is upon the public right-of-way or upon other public property or if the sign poses an immediate safety threat to the life or health of any member of the public or injury to property.
4. Signs removed by the City will be destroyed after 14 days if they are not claimed.

Section 11.6 *Appeal*

Any violator may appeal the determination of the City that a sign shall be removed to the Blairsville City Council in accordance with the procedures in Article 8. Any appeal shall act as a stay of the City's removal of such sign, except to the extent that violation of this ordinance is deemed to present a safety hazard to the public

ARTICLE 12
Legal Status Provisions

Section 12.1 Amendment

This ordinance may be amended by the Blairsville City Council.

Section 12.2 *Conflict With Other Laws*

Whenever the provisions of this ordinance impose more restrictive standards than are required in or under any other statute, the provisions of this ordinance shall govern. Whenever the provisions of any other statute require more restrictive standards than are required by this ordinance, the provisions of such statute shall govern.

Section 12.3 *Severability*

Should any Article, Section or provisions of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declarations shall not affect the validity of this ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

Section 12.4 *Repeal of Conflicting Ordinance.*

All ordinances and resolutions and parts thereof in conflict with this Ordinance are repealed.

Section 12.5 *Effective Date*

This ordinance shall take effect and be in force from and after adoption, the public welfare demanding it.

ADOPTED and APPROVED by the City Council of Blairsville, Georgia, this ____ day of _____, 20__.

Rhonda Mahan
COUNCILMEMBER

Betty Easter
COUNCILMEMBER

Martha Cone
COUNCILMEMBER

Buddy Moore
COUNCILMEMBER

Tony Dyer
COUNCILMEMBER

Attested To:

Jim Conley
MAYOR

Janice Graton
CITY CLERK