

CITY OF BELEN
ORDINANCE 2023-07
AN ORDINANCE REPEALING AND REPLACING
Chapter 17.58 OF THIS MUNICIPAL CODE TITLED
SIGN REGULATIONS

17.58.010 - Intent.

It is the intention of the City of Belen to allow such signs that will not endanger the public safety, will not obstruct or detract from visibility necessary for traffic safety, and will not conflict with the development policies and land use objectives set by the City of Belen. No sign shall be installed or maintained within the City of Belen unless such sign conforms to the regulations herein. Every sign shall be maintained in good structural condition at all times.

17.58.020 - Definitions.

For purposes of this section, the following words, terms, and phrases shall apply:

"Business signage" means signage advertising or promoting a private business.

"Signage support structure" means any structural part of a signage device.

"Billboard" means a sign that is not physically located on the premises to which the sign refers. Billboards are also called off-premises signs. A signage support structure without a sign face is regulated as a billboard.

"Building-mounted sign" means any sign attached to any part of a building, as contrasted to a freestanding sign.

"Freestanding sign" means a sign attached to an independent supporting structure which is not an integral part of a building.

"Interstate sign" means an on-premises sign within one thousand two hundred (1,200) linear feet in any direction of an interstate facing the interstate.

"Nonconforming sign" means any sign which does not conform to the regulations of this section upon the effective date of adoption or amendment thereto.

"On-premises sign" means a sign referring to the premises on which the sign is located and "off-premise sign" mean a sign not principally located or available on the same premises as the sign.

"Portable sign" means a temporary sign, usually mounted on wheels, that is not permanently attached to a building.

"Portable sign dealer" means a sign dealer in the business of renting portable signs to businesses or individuals and placed within the city.

"Residential sign" means any sign located in a district zoned for residential uses.

"Sign" means a device which is constructed to convey information visually to the public. A sign shall be construed to be a display surface or device containing organized and related elements composed to form a single unit. The size of signs shall be regulated according to the sign face. Signs not exceeding one (1) square foot of sign face and bearing only property numbers, mailbox numbers or names of occupants of premises do not meet the definition of a "sign" regulated by this ordinance;

"Sign face" means that area of the sign which is enclosed by a continuous line, connecting the extreme points or edges of the sign, but not including structural supports of the sign. For any two-sided sign on which both sign faces cannot be viewed at once, only one (1) sign face shall be counted in calculating the sign size.

"Temporary sign" means any sign that is used only temporarily and is not permanently mounted.

"Wall sign" means any sign painted on or applied directly onto the outside wall of a building and which displays only one (1) signage surface.

"Wayfinding sign" means a sign that directs or guides pedestrian and vehicular traffic from point to point or confirms traffic is on the correct path to or have arrived at a location. An example would be a "finger point" sign that points an arrow in a certain direction and identifies points of interest such as yard sales and special/sporting events.

"Window sign" means any sign placed inside or upon a window facing the outside and which is intended to be seen from the exterior of a building; provided, however, that the total square feet of window sign shall not exceed twenty-five (25) percent of any of the window areas.

17.58.030 - Signs in Commercial Zones.

Subject to New Mexico Night Sky Protection Act codified as NMSA §§ 74-12-1 through 11, the following regulations shall apply to all signs located in areas zoned for business, commercial, or industrial:

A. Signs located at the premises within a commercial zone shall be regulated as follows:

1. The cumulative total of sign face computed for all signs on each of the premises shall not exceed five hundred (500) square feet; For each freestanding sign, the sign face shall not exceed one hundred fifty (150) square feet per sign.
2. Wall signs, window signs and building mounted signs shall be included in the computation of sign face; however, the cumulative total may be increased if granted a variance in accordance with the Belen zoning ordinance.
3. Freestanding signs shall not exceed a height of thirty (30) feet, and building-mounted signs, shall not exceed the height of the building, unless granted a variance in accordance with the Belen zoning ordinance.
4. Off-premises signs are only permitted with explicit written permission of the property owner to post such a sign. Off-premises signs are included in the cumulative total of sign face computed for each premises.

B. Interstate signs shall be regulated as follows:

1. The cumulative total of sign face computed for all interstate signs on each of the premises shall not exceed two thousand (2,000) square feet;
2. Wall signs, window signs and building mounted signs shall be included in the computation of sign face however, the cumulative total may be increased if granted a variance in accordance with the Belen zoning ordinance;
3. Freestanding signs shall not exceed a height of forty (40) feet above the highest ground level at the interstate in either traffic direction;
4. Billboard signs and other off-premises signs are only permitted with explicit written permission of the property owner to post such a sign. Off-premises signs are included in the cumulative total of interstate sign face computed for each premises; and
5. Exceptions may be granted to the forgoing that would require an approval of a variance by the planning and zoning commission.

C. New billboard signs shall be prohibited. Existing billboard signs shall be regulated as nonconforming signs:

1. Existing billboard signs shall be allowed to remain but may not be enlarged, expanded, modified, extended or relocated;
2. An existing billboard sign, when destroyed by natural causes, may not be reconstructed;
3. Whenever an existing billboard sign has been discontinued as an outdoor signage device for a period of sixty (60) consecutive days, the city shall cause the billboard to be removed at the expense of the property owner. Any signage support structure shall also be removed at the expense of the property owner; and
4. Structural maintenance of existing billboard signs shall be continued until the billboard sign is removed by the property owner.

D. Outdoor night lighting fixtures shall be regulated to preserve and enhance the community's natural resource of dark skies while promoting safety, conserving energy and preserving the environment for astronomy. All direct external lighting fixtures shall be effectively shielded to prevent direct or reflected light into the sky and onto highways or residential areas. All outdoor electrically powered illuminating devices shall be installed in conformance with the provisions of the New Mexico Electrical Code and under appropriate permit and inspection. The following signs are exempt from these lighting regulations:

E. Signs lighted by means of internal indirect light;

1. Signs with outdoor lighting fixtures used on land or facilities under the control of the federal government; and
2. Signs with lighting fixtures legally installed prior to the effective date of the regulations codified in this subsection; however, when lighting fixtures on existing signs become inoperable or are replaced or structurally altered, such lighting fixtures must conform to this subsection;

F. Off-premises signs shall be limited to no more than three (3) signs for each referenced property, provided that no such sign face shall exceed ten (10) square feet.

17.58.040 - Temporary signs.

Temporary signs, which are placed for a limited period, shall be regulated as follows:

- A. In areas zoned as business, commercial, or industrial, not more than five (5) temporary signs are permitted per lot, if no such sign face shall exceed five (5) square feet.
- B. Temporary signs may not be displayed more than thirty (30) days prior to the event or purpose of the sign; and
- C. All temporary signs including portable signs shall be removed within ten (10) days after the conclusion of the event or purpose of the sign.
- D. Portable signs may be located on any lot, which is not used for residential purposes, if expressly permitted by the lot owner. The sign face for any portable sign shall not exceed thirty-two (32) square feet;
- E. No temporary sign shall be higher than its distance to the nearest point on the property line, but in no case higher than the height of the highest building on the premises; and
- F. Temporary signs shall be non-illuminated.

17.58.050 - Residential signs.

In areas zoned residential, signs shall be regulated as follows:

- A. Non-illuminated sign(s) are allowed in the agricultural/residential (A-R) zone district, provided that no such sign shall exceed ten (10) square feet of sign face; and
- B. Non-illuminated sign(s) are allowed for each home in all other residential zone districts, provided that no such sign shall exceed five (5) square feet of sign face.

17.58.060 - Prohibited signs.

The following signs are prohibited within the municipal limits of the City of Belen:

- A. Signs located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device, or obstruct or interfere with the driver's view of approaching, merging or intersecting traffic;
- B. Signs which extend over any public highway such that free movement of traffic on the public highway is impaired;
- C. Signs which extend over or onto any public sidewalk such that free movement on the public sidewalk is impaired;
- D. Signs which are over three (3) feet in height and less than eight (8) feet in height within a clear sight triangle area. A clear sight triangle is an area of unobstructed vision at the intersection of public highways, defined by lines of sight between points twenty-five (25) feet from the intersection of street right-of-way lines;
- E. Signs applied to trees, rocks, or other natural objects;
- F. Signs on public property, unless specifically authorized by the City of Belen;

- G. Signs which are or may become a public safety hazard.
- H. Business Signage except otherwise allowed in the City Ordinance.
- I. A sign shall be considered unused or abandoned and shall be removed after the activity, product, business, service or other use, which it advertised, has ceased or has vacated the building, lot or parcel for a period not less than one year. All unused or abandoned signs shall be removed by the property owner, upon written notice by the City of Belen's authorized personnel, and shall be subject to removal by the City, if not removed by the property owner within thirty (30) days of notice by the City of Belen's authorized personnel, or other remedies that may be available to the City.

17.58.070 – Business sign permits and fees.

Within the City of Belen, it is unlawful for any person to erect or relocate any sign as defined and not exempted herein without first obtaining a sign permit from the city and paying any fees or charges required by this section. When a sign permit has been issued by the City, it is unlawful to modify, alter or otherwise deviate from the terms and conditions of such permit without prior approval from the City. The City shall inspect and have the authority to order the painting, repair, alteration or removal of any sign which shall constitute a hazard to safety, health or public welfare by reason of inadequate maintenance or dilapidation.

- A. Application for a sign permit shall be made in writing upon a standard form provided by the City. The City, within seven (7) working days of the date the application is received, shall either approve or deny the application or refer the application back to the applicant in any instance where insufficient information has been furnished. The application shall contain or have attached thereto the following information:
 - 1. Name, address and telephone number of the applicant, and name of person, firm, corporation or association erecting the sign;
 - 2. Two (2) permanent copies of the plans and specifications drawn to scale and including:
 - a. The dimensions of the sign face and its supporting members and, where applicable, the dimensions and a photograph of the wall surface of the building to which it is to be attached;
 - b. A description of the materials used for construction of the sign;
 - c. The maximum height and minimum clearance of the sign;
 - d. The position of the sign in relation to the front of the building and to adjacent buildings, structures, or other signs, and in relation to any interstate highway; and
 - e. The location of the sign in relation to the boundaries of the lot upon which it is situated.
 - 3. Provide a written consent and a copy of the lease agreement from the owner of the building, structure, or land to which or on which the sign structure is to be erected; and
 - 4. Any electrical permit required and issued for the sign. Application requesting electrical permit from Construction Industry Division (CID) for the proposed sign must accompany sign application.
- B. The initial sign permit fee shall be waived for signs existing prior to the effective date of the ordinance codified in this chapter; however, permit applications must be completed and submitted to the city following a written notice from the city. A sign permit shall become void

if the business activity on the premises is discontinued for a period of one hundred eighty (180) days or more and is not renewed within thirty (30) days of a notice from the city to the last permittee, sent to the premises, that the sign permit will be voided if such activity is not renewed. A sign permit will be issued to the applicant and is required to be kept on premises for inspection purposes.

17.58.080 - Exemptions.

Exemptions shall not be construed as relieving the owner of such signs from the responsibility of complying with applicable provisions of this section or other laws or regulations. The exemptions shall apply to the requirement for a sign permit and/or removal of any signage support structure, and no sign permit or removal of any signage support structure will be required for the following signs:

- A. Temporary signs, provided they are in compliance with the ordinance herein;
- B. Residential signs such as realtor's notice for sale or lease, provided they are in compliance with the ordinance herein;
- C. Flags and insignia of any government;
- D. Legal notices, identification information or directional signs erected by governmental bodies;
- E. Integral decorative or architectural features of buildings, except letters and trademarks; and
- F. Signs directing and guiding traffic and parking on private property;
- G. Signage support structure on property purchased within the prior twelve (12) months so long as the signage support structure is safely maintained;
- H. Window Signage; and
- I. Signs otherwise allowed by the Federal and State Law.

17.58.090 - Enforcement.


The City of Belen's authorized personnel shall be authorized to enforce this section by issuing notices and/or citations to the responsible party and/or the property owner, and shall be authorized to remove signs displayed in violation of the provisions of this ordinance. Any citation issued by the Director must specify time, location, manner of the violation of the ordinance in writing, and must provide sufficient notice required by the normal City business practice considering facts and circumstances surrounding sign issues before issuing citation.

A. Private Property. Subject to *Reed et al. v. Town of Gilbert, Arizona, et al.*, 135 S. Ct. 2218 (2015) and United States Constitution, upon determining a violation of the provisions of this section for any sign located on private property, the Code Enforcement Officer shall notify the property owner of the violation and shall specify the time which the violation must be corrected. Upon failure of the property owner to correct the violation as directed, the Code Enforcement Officer shall issue a citation to the property owner. In the event that the property owner cannot be identified, the Code Enforcement Officer shall cause a copy of such notice to be mailed by registered or certified mail, return receipt requested, to the last known address of each owner or any responsible party having an interest in any of the property affected thereby as the same appears upon the records of the County clerk, the County assessor or any other source he or she deems reliable. An affidavit of such mailing by the Code Enforcement Officer shall be filed with the City Clerk's office. In the event the address of the owner or other persons having an interest, is unknown, the City Enforcement Officer shall so state in his or her affidavit of mailing which shall be filed with the City Clerk's office, and in such event, a copy of

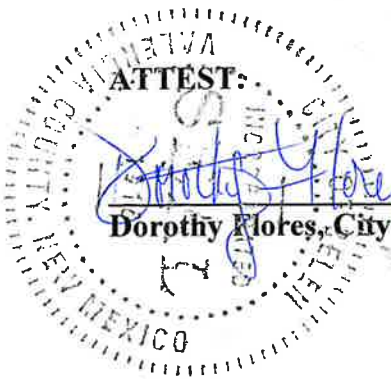

the notice and such affidavit shall be posted in the City Building and County Court..B. Minimum Fine. Upon a finding of violation, the municipal court shall impose a mandatory minimum fine of fifty dollars (\$50.00) per sign, per day. Each day of violation shall constitute a separate offense.

C. Public Right-of-Way and Public Property. Any temporary sign located within the public right-of-way or on public property shall be unlawful and shall be subject to removal as provided for herein with the exception of Eagle Lane (within designated area) only on Election Day.

PASSED, APPROVED on this day 1st of May 2023



Robert C. Noblin, Jr., Mayor


ATTEST:


Dorothy Flores, City Clerk