Introduced by Council Member Clark and Substituted by the Rules Committee:

ORDINANCE 2013-493

AN ORDINANCE CONCERNING THE REGULATION OF OFF-SITE COMMERCIAL SIGNS; MAKING FINDINGS; AMENDING CHAPTER 656 (ZONING CODE), PART 13 (SIGN REGULATIONS), ORDINANCE CODE, AS DESCRIBED; AMENDING SECTION 656.1301 (GENERAL PROVISIONS), ORDINANCE CODE; AMENDING SECTION 656.1302 (DEFINITIONS), ORDINANCE CODE, TO ADD A NEW DEFINITION FOR REPLACEMENT OFF-SITE COMMERCIAL SIGNS; AMENDING SECTION 656.1303 (ZONING LIMITATIONS ON SIGNS), ORDINANCE CODE, TO ALLOW FOR THE MAINTENANCE AND REPAIR OF OFF-SITE COMMERCIAL SIGNS, SUBJECT TO CONDITIONS; AMENDING 656.1309 (UNLAWFUL SIGN MESSAGES), ORDINANCE CODE, TO PROVIDE FOR AN EXEMPTION FOR REPLACEMENT OFF-SITE COMMERCIAL SIGNS; CREATING NEW SECTION 656.1322 (REPLACEMENT OFF-SITE COMMERCIAL SIGNS), ORDINANCE CODE, TO ALLOW FOR REPLACEMENT OFF-SITE COMMERCIAL SIGNS IN CERTAIN ZONING DISTRICTS WHEN EXISTING OFF-SITE COMMERCIAL SIGN INVENTORY IS FURTHER REDUCED, SUBJECT TO CERTAIN PERFORMANCE STANDARDS AND RESIDENTIAL PROXIMITY RESTRICTIONS; CREATING NEW SECTION 656.1323 (APPEALS FROM THE BUILDING INSPECTIONS DIVISION), ORDINANCE CODE, TO REQUIRE CHALLENGES BY AGGRIEVED PARTIES OF BUILDING INSPECTION DIVISION FINAL ACTIONS TO BE PURSUED THROUGH . . .; AMENDING ARTICLE 23 OF THE CHARTER OF THE CITY OF JACKSONVILLE TO HALT THE PROLIFERATION OF OFF-SITE COMMERCIAL BILLBOARDS BY CAPPING THE EXISTING INVENTORY OF OFF-SITE COMMERCIAL BILLBOARDS AND ONLY PERMITTING REPLACEMENT OFF-SITE COMMERCIAL BILLBOARDS WHEN EXISTING INVENTORY IS FURTHER REDUCED AND TO PROMOTE PUBLIC SAFETY AND AESTHETICS BY ALLOWING FOR REPAIR AND MAINTENANCE OF EXISTING OFF-SITE COMMERCIAL BILLBOARDS AS OF THE EFFECTIVE DATE OF THIS ORDINANCE; AMENDING 614.142 (UNLAWFUL SIGN MESSAGES), CHAPTER 614 (PUBLIC ORDER AND SAFETY), ORDINANCE CODE; PROVIDING FOR SEVERABILITY OF THE PROVISIONS OF THIS ORDINANCE; PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, in 1987, Jacksonville voters adopted a ballot measure that prohibited the construction of “further” off-site commercial signs and required the removal of commercial billboards on Non-Federal Aid Primary highways by June 1, 1992; and

**WHEREAS**, in 1991, various off-site commercial sign companies brought suit to challenge the legality of both the 1987 Charter Amendment and the City ordinances prohibiting off-site signs; and

**WHEREAS**, between 1993 and 1996, the City entered into twelve separate settlement agreements to resolve the pending lawsuits that waived “those provisions of the Charter and Ordinance Code which relate to signs and which are inconsistent with [those] agreement[s];” and

**WHEREAS**, to date, implementation of those settlement agreements has resulted in the removal or more than 900 commercial billboards throughout the City of Jacksonville; and

**WHEREAS**, certain material terms of the remaining settlement agreements have begun to expire; and

**WHEREAS**, the City desires to continue to regulate off-site commercial signs in a uniform manner, consistent with its substantial governmental interests in aesthetics, public health and public safety, as well as with the federal and state free speech and expression rights; and

**WHEREAS**, the City recognizes that when off-site outdoor advertising is properly regulated, the City can both protect its interests in aesthetics, public health and public safety, and allow for this advertising medium, which provides for advertising options for Jacksonville businesses, as well as creating messaging options for non-commercial interests and emergency messaging; and

WHEREAS, the City desires to further encourage the reduction of the City’s off-site sign inventory by creating incentives for sign owners to remove same by establishing a “swap down” mechanism whereby sign owners may replace multiple existing off-site signs with one new off-site sign; and

WHEREAS, nothing herein shall modify or annul the terms of an existing settlement agreement between any sign company and the City; now therefore

BE IT ORDAINED by the Council of the City of Jacksonville:

**Section 1.** **Section 656.1301 (Findings), Ordinance Code, Amended.** Section 656.1301 (Findings), *Ordinance Code*, is amended, in part, to read as follows:

**CHAPTER 656. ZONING CODE**

**\* \* \***

**PART 13. SIGN REGULATIONS**

**SUBPART A. General Provisions**

 **Sec. 656.1301. Findings.**

**\* \* \***

(c) The Council ~~has determined that the City's current sign laws are insufficient in some respects to properly limit and protect the City against~~ finds that the City benefits from sign laws properly limiting and protecting the City against:

(1) The unlimited proliferation in number and location of off-site and on-site signs, including mobile signs;

(2) Construction and placement of overly huge, animated, flashing and other aesthetically unpleasant signs which dominate and detract from the surrounding visual environment;

(3) Commercial and other signs being placed in residential and rural neighborhoods which unpleasantly commercialize and clutter such neighborhoods for residents and travelers, as well as overly-large signs in zoning districts disproportionate in size for the intensity of the uses permitted and permissible in such districts;

(4) Signs being constructed and placed without first obtaining proper permits for them or permission of the owner or occupant of the property on which the signs are placed;

(5) Signs failing to be properly maintained once erected and placed; and

(6) Signs which are placed dangerously in or near street intersections and rights-of-way so as to pose actual or potential hazards to traffic and pedestrians.

(h) Regulations limiting the size, location and total amount of signage can control the proliferation of off-site commercial signs, while also preserving this valuable advertising medium for citizens, non-profit organizations, businesses, and government. ~~There is no effective way to stop or even slow the proliferation of off-site signs without prohibiting off-site signs except those on federal highways~~;

**\* \* \***

 (l) The 1987 amendment to the City Charter called for the prohibition of any new off-site billboards and required the removal of all off-site commercial signs on property other than along any portion of the Interstate Highway System and the Federal Aid Primary (FAP) System. ~~In March 1987, the voters enacted an amendment to the City Charter which prohibited all off-site billboards.~~ In legislation adopted before and afterwards, the Council enacted ordinances prohibiting off-site signs in various zoning districts and regulating on-site signs.

 (m) In 1991, various off-site commercial sign companies brought suit to challenge the legality of both the 1987 Charter Amendment and the City ordinances prohibiting off-site signs. Ultimately, those lawsuits were settled, resulting in twelve separate settlement agreements concerning off-site commercial billboards. Nothing herein shall modify or annul the terms of any existing settlement agreement between a sign company and the City

 (n) The Council desires to encourage the further reduction of the number of off-site signs in the City by creating incentives for sign owners to voluntarily remove them.

 ~~(m)~~ (o) The inherent primary purpose of mobile billboards is to display commercial advertising on public streets. By their nature, mobile billboards are intended to distract and aim to capture and hold the attention of, members of the public on or adjoining public streets, including drivers, pedestrians, bicyclists, and others. Moreover, such vehicles display commercial advertising from a mobile platform, including while the vehicle is moving within the flow of traffic, potentially stopping, starting or turning abruptly, accentuating the inherent tendency of such advertising to seize attention and distract. Additionally, the use of motor vehicles to display commercial advertising creates exhaust emissions and adds to traffic congestion by placing additional motor vehicles on City streets. For these reasons, mobile billboards create aesthetic blight and visual clutter and create potential and actual traffic, health and safety hazards. A prohibition of such advertising vehicles will promote the public health, safety and welfare of motorists, pedestrians, bicyclists and others using the City's public streets and roadways and adjoining areas, by eliminating aesthetic blight and visual clutter and traffic and safety hazards caused by the operation of mobile billboards on the City's streets. It will also reduce congestion on the City streets and reduce exhaust emissions by eliminating as an emission source a type of commercial advertising display whose use may require continuous or extensive operation of motor vehicle engines. Finally, a prohibition of mobile billboards will protect the public investment in and the character and dignity of the City's streets.

 ~~(n)~~ (p) Mobile billboards on boats, ships and other vessels would detract from the scenic beauty of the St. Johns River and its tributaries. Such mobile billboards also create boating safety hazards by placing additional vessels on the City's waterways, especially those which are designed to distract and catch the attention of the public, including the boating public.

 ~~(o)~~ (q) The sign categories identified within Part 13 of Chapter 656 relate to the function of the sign; the sign categories are tailored toward the sign function; the limitations on height, size, number, setback, physical characteristics or location are based upon the sign type and the sign function; the regulation of sign types according to their functions are not because of any disagreement with the message conveyed; the regulation of signage is not designed to regulate speech per se, but is a regulation of the places where some speech may occur; and the regulations herein are not concerned with a particular viewpoint and do not seek to advance or prohibit any particular point of view on any specific subject.

\* \* \*

**Section 2.**  **Section 656.1302 (Definitions), Ordinance Code*,* Amended.** Section 656.1302 (Definitions), *Ordinance Code*, is amended to create a new subsection (gg), to read as follows:

\* \* \*

 (gg) *Replacement* *off-site commercial sign* means any off-site commercial sign that is (i) permitted in accordance with Section 656.1322, *Ordinance Code*,(ii) permanently affixed to the ground, and (iii) more than 25 square feet in size.

**Section 3. Sec. 656.1303. Zoning limitations on signs, Amended.** Section 656.1303 (Zoning limitations on signs), *Ordinance Code*, is amended, in part, to read as follows:

**Sec. 656.1303. Zoning limitations on signs.**

**\* \* \***

(k) *Special exemptions*:

**\* \* \***

 (4) All off-site commercial signs that (a) are permitted and existing as of the effective date of this Ordinance, and (b) satisfy the requirements contained in section 656.1322(d)-(i), are deemed to be conforming uses. All other off-site commercial signs are deemed to be legal nonconforming uses as of the effective date of this Ordinance. In the event that a court of competent jurisdiction determines that an off-site commercial sign was illegally erected and/or permitted, such sign shall be deemed a nonconforming use. All legal nonconforming signs are entitled to be maintained and repaired pursuant to the provisions of Section 326.107 and Section 656.719(i); provided, however, that any proposed changes to the height, size, or type of construction of the sign structure or sign face shall not be permitted as repair or maintenance activities. Signs that are already subject to an amortization schedule pursuant to a settlement agreement shall continue to be governed by the terms of said agreement.

Section 4. Section 656.1309 (Unlawful sign messages), Amended. Section 656.1309 (Unlawful sign messages), *Ordinance Code*, is amended, in part, to read as follows:

Sec. 656.1309. Unlawful sign messages.

\* \* \*

 **(**b) It shall be unlawful and a class D offense for any person to erect display or maintain, at any time, a sign which contains a commercial message which relates to offices, products, accommodations, services, or activities which are not sold, produced, available, conducted or rendered on the property where the sign is located; provided that the prohibition applies only to signs which can be seen unaided from any location on the ground which is not on the lot or parcel where the sign is located; provided, further, this section does not prohibit signs erected pursuant to a naming right or sponsorship agreement entered into by the City of a publicly owned sports or entertainment venue, or an athletic team which is a tenant thereof under rights assigned to such team pursuant to a written agreement with the City; provided further that this section does not prohibit replacement off-site commercial signs, as that term is defined in this Chapter.

 ~~(c) From and after July 30, 1997, it shall be unlawful and a class D offense for any person to erect, display or maintain, at any time, a sign which contains a commercial message which relates to offices, products, accommodations, services, or activities which are not sold, produced, available, conducted or rendered on the property where the sign is located; provided that the prohibition applies only to signs which can be seen unaided from any location on the ground which is not on the lot or parcel where the sign is located provided, further, this section does not prohibit signs erected pursuant to a naming right or sponsorship agreement entered into by the City of a publicly owned sports or entertainment venue, or an athletic team which is a tenant thereof under rights assigned to such team pursuant to a written agreement with the City.~~

~~(d) Any sign structure in violation of this Section is hereby declared to be contraband and forfeited to the City. A violation has been proved if the owner, or person in control of the structure, has been convicted of using a sign structure in violation of this Section. A conviction shall include a plea of nolo contendere or a withhold of adjudication. In addition, a violation may be proved in a separate civil action. The City shall seek forfeiture of the sign through any appropriate civil action, which may include declaratory judgment or a mandatory injunction.~~

~~(e) In the event that a court of competent jurisdiction determines, finally, that subsection (b) of this Section unconstitutionally distinguishes between commercial and noncommercial messages, it shall be unlawful and a class D offense for any person to erect, display or maintain, at any time, a sign which contains a commercial message which relates to offices, products, accommodations, services, or activities which are not sold, produced, available, conducted or rendered on the property where the sign is located; provided that the prohibition applies only to signs which can be seen unaided from any location on the ground which is not on the lot or parcel where the sign is located; provided, further, this ordinance does not prohibit signs erected in compliance with Section 656.1320; provided, further this subsection shall not be enforced without providing 30 days' notice to correct and unless subsection (b) of this Section is declared unconstitutional.~~

~~(f) In the event that a court of competent jurisdiction determines, finally, that subsection (c) of this Section unconstitutionally distinguishes between commercial and noncommercial messages, from and after July 30, 1997, it shall be unlawful and a class D offense for any person to erect, display or maintain, at any time, a sign which contains a commercial message which relates to offices, products, accommodations, services, or activities which are not sold, produced, available, conducted or rendered on the property where the sign is located; provided that the prohibition applies only to signs which can be seen unaided from any location on the ground which is not on the lot or parcel where the sign is located; provided, further, this ordinance does not prohibit signs erected in compliance with Section 656.1320; provided, further, this subsection shall not be enforced without providing 30 days' notice to correct and unless subsection (c) of this Section has been declared unconstitutional.~~

Section 5. Section 656.1322 (Replacement Off-Site Commercial Signs), Created. Chapter 656 (Zoning Code), Part 13 (Sign Regulations) is amended to create a new Section 656.1322, *Ordinance Code,* to read as follows:

Sec. 656.1322 (Replacement Off-Site Commercial Signs). In order to encourage the removal of additional off-site commercial signs within the City, a sign removal credit system is hereby established, as follows:

(a) *Replacement Credits.* A sign owner that permanently removes existing off-site commercial sign inventory shall earn sign replacement credits.

(1) *Calculation.* One replacement credit shall be earned in accordance with the following provisions:

(i) Two for One Rebuild Right. To erect a single sign structure with a non-digital sign face or faces, the applicant must be granted a replacement credit by the City. The replacement credit for a single sign structure will be granted upon the applicant showing proof of the removal of at least two times the amount of sign face square footage of the replacement off-site sign. For a structure to be counted as having been removed, the entire sign structure must be removed.

(ii) Three for One Rebuild Right. To erect a single sign structure with a digital sign face or faces, the applicant must be granted a replacement credit by the City. The replacement credit for a single sign structure will be granted upon the applicant showing proof of the removal of at least three times the amount of sign face square footage of the replacement off-site sign. For a structure to be counted as having been removed, the entire sign structure must be removed.

 (2) *Duration.* Sign replacement credits must be used within five (5) years of the date the replacement credit was granted by the City. The transferring of a replacement credit has no effect on the expiration date of such credit.

(3) *Transferability*. Removal credits shall be completely transferable, without limitation.

(4) *Eligibility*.

(i) Any sign required to be removed under an existing settlement agreement shall not be eligible for sign replacement credits; provided, however, that a sign owner may earn sign replacement credits at any time by permanently removing a permitted existing off-site commercial sign structure that is not required to be removed under an existing settlement agreement, notwithstanding the status of any sign removal obligations imposed on such sign owner pursuant to the terms of an existing settlement agreement.

(ii) Any sign structure that is required to be removed because it has been destroyed as defined in Section 656.719(i)(4) shall not be eligible for a sign replacement credit.

(iii) In no event shall a replacement off-site commercial sign be permitted if doing so would increase the total number of then-existing off-site commercial sign structures.

(b) *Permit.* Permits for replacement off-site commercial signs shall be issued upon submission of valid replacement credits, payment of the appropriate fee, and in accordance with the procedures set forth in section 320.402(d), *Ordinance Code*, on forms approved by the Building Inspection Division. Prior to the issuance of any permits pursuant to this section, the validity of the proposed replacement credits shall be attested to by the applicant by way of both affidavit and documentary evidence.

(c) *Authorized Locations*. Replacement off-site commercial signs shall be restricted to the following commercial, industrial and governmental zoning districts along principal arterial or higher roadways, subject to the performance standards and residential proximity restrictions set forth herein:

(1) Commercial Community/General-1 (CCG-1)

(2) Commercial Community/General-2 (CCG-2)

(3) Industrial Business Park (IBP)

(4) Industrial Light (IL)

(5) Industrial Heavy (IH)

(6) Public Buildings and Facilities-1 (PBF-1)

(7) Public Buildings and Facilities-2 (PBF-2)

(8) Planned Unit Development (PUD), so long as the permitted uses of the PUD are similar to the aforementioned conventional zoning districts; provided, however, that any replacement off-site commercial sign shall not be located within 200 feet of any planned or existing residential development.

 (d) *Prohibited Locations*. Replacement off-site commercial signs shall be prohibited in the following locations:

(1) San Marco Zoning Overlay, Riverside-Avondale Zoning Overlay, the Riverside-Avondale Historic District, the Springfield Zoning Overlay, the Springfield Historic District, the Downtown Overlay Zone, Mayport Road Zoning Overlay, Mayport Village Working Waterfront, Mandarin Overlay (except where the Overlay areas abut an interstate highway), Black Hammock Overlay, and the Residential Enclave (New Berlin Road), or any other locally or nationally designated historic districts.

(2) Any roadway, or portion of a roadway, on which an off-site commercial sign that was or is to be removed pursuant to the terms of a settlement agreement.

 (e) *Spacing*. Replacement off-site commercial signs shall be separated from other off-site commercial signs in accordance with the following restrictions:

 (1) Non-Interstate roadways: No replacement off-site commercial sign shall be located closer than 1,000 linear feet from any other off-site commercial sign that is primarily oriented to the same roadway, located along the same roadway and on the same side of the roadway.

(2) Interstate roadways: No replacement off-site commercial sign shall be located closer than 1,500 linear feet from any other off-site commercial sign that is primarily oriented to the same roadway, located along the same roadway and on the same side of the roadway.

 (f) *Separation from residential development*. Any replacement off-site commercial sign allowed by this section shall be set back at least 200 feet measured radially from any residential district or use.

 (g) *Size*. The display area of any replacement off-site commercial sign may be up to 672 square feet, as calculated based on the area within and including the exterior boundaries, frames, or edges enclosing the letter or graphic matter that composes the sign surface; provided, however, that embellishments, cut-outs, snipes, or other temporary features measuring no more than 10 percent of the display area will not count against the maximum display area size.

 (h) *Height*. Unless a more restrictive height limit applies, replacement off-site signs shall not exceed 50 feet in height, except that sign height shall not exceed 65 feet if located not more than 660 feet measured radially from the centerline of an interstate interchange. Height is measured from the level of grade at the base of the sign.

 (i) *Construction type*. There shall be no limitation on the type of construction used in the erection of replacement off-site signs, including but not limited to the use of new display technologies.

Section 6. Section 656.1323 (Appeals from the Building Inspections Division), Created. Chapter 656 (Zoning Code), Part 13 (Sign Regulations) is amended to create a new Section 656.1323, *Ordinance Code,* to read as follows:

**Sec. 656.1323 Appeals from the Building Inspection Division).** All final actions taken by the Building Inspection Division concerning off-site commercial signs and the administration of Section 656.1322 may be challenged by an aggrieved party by filing a notice of appeal with the Planning Commission within thirty (30) days of the final action. For purposes of this section, aggrieved party shall have the same meaning as defined in Section 656.140(a)-(b), Ordinance Code.

Section 7. Charter Amended. Article 23 of the Charter of the City of Jacksonville is amended, in part, to read as follows:

**PART A. CHARTER LAWS**

**CHARTER OF THE CITY OF JACKSONVILLE, FLORIDA**

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ARTICLE 23. OFF-SITE COMMERCIAL BILLBOARDS ~~BAN~~

\* \* \*

Sec. 23.01. Findings, intent and purpose. The proliferation ~~construction, erection, location, and use~~ of off-site commercial billboards can affect~~s~~ the public safety and public welfare of the people of the city; however, when properly regulated and limited to appropriate areas of the City, off-site outdoor advertising offers significant benefits to the public health, safety and welfare. The construction and erection of further off-site commercial billboards at any location within the city, without a corresponding reduction in the number ~~and the continued location~~ of existing off-site commercial billboards ~~on property other than along any portion of the interstate highway system and the federal-aid primary highway system will:~~

~~(a) Further~~ could degrade the aesthetic attractiveness of the natural and manmade attributes of the community, thereby undermining the economic value of tourism and the permanent economic growth that is necessary for the promotion and preservation of the public welfare~~; and~~

~~(b) Have a further detrimental effect on traffic safety.~~

\* \* \*

Sec. 23.03. Prohibition on ~~further~~ proliferation of off-site commercial billboards ~~construction and erection~~. ~~After June 1, 1987, no~~ No person shall construct or erect an off-site commercial billboard within the City if doing so would increase the total number of off-site commercial billboards located within the City. ~~at any location, including along any portion of the interstate highway system or federal-aid primary highway system.~~

Sec. 23.04. Reduction of existing number ~~Removal~~ of ~~certain~~ off-site commercial billboards ~~on or before June 1, 1992~~. ~~Except for offsite commercial billboards located along any portion of the "interstate highway system" or the "federal-aid primary highway system" as defined in chapter 479, Florida Statutes (1985), all offsite commercial billboards shall be removed on or before June 1, 1992 by the owner of the billboard and the owner of the property on which the billboard is affixed or attached.~~ New off-site commercial billboards will be permitted only upon the submission of sign credits earned by reducing the existing amount of off-site commercial billboard inventory in accordance with the following provisions:

 (a) For every one square foot of display area added to existing off-site commercial billboard inventory, two square feet of display area from existing off-site commercial billboard inventory must be removed.

 (b) Existing off-site commercial billboard display area may be removed and accumulated to allow for future construction of new off-site commercial billboards, in accordance with the sign credits earned for said removals.

 (c) Off-site commercial billboard sign credits shall be completely transferable.

 (d) Any sign required to be removed under an existing judicially approved settlement agreement shall not be eligible for sign removal credits; provided, however, that a sign owner may earn sign removal credits at any time by permanently removing any existing off-site commercial sign face that is not required to be removed under an existing judicially approved settlement agreement,  notwithstanding the status of any sign removal obligations imposed on such sign owner pursuant to the terms of a judicially approved settlement agreement..

Sec. 23.05. Repair and maintenance of off-site commercial billboards. ~~Prohibition on future commercial use of offsite noncommercial billboards.~~ ~~Any offsite noncommercial billboard constructed or erected within the city subsequent to June 1, 1987 shall not thereafter be converted into, or used as, an offsite commercial billboard.~~ Off-site commercial billboards existing as of the effective date of this Charter amendment that satisfy the requirements of section 656.1322(d)-(i) shall be deemed legal uses and all other existing off-site signs shall be deemed legal non-conforming uses, and all such legal conforming and legal non-conforming uses shall be entitled to be maintained and repaired in accordance with the provisions of the Jacksonville Building Code; provided, however, that any proposed changes to the height, size or type of construction (other than as required to meet then-current Building Code requirements) shall not be permitted as repair or maintenance activities.

Sec. 23.06. Replacement of storm-damaged off-site commercial signs. Notwithstanding the foregoing, any off-site commercial sign damaged by fire, flood, extreme weather, sink hole or other natural disaster, may be replaced, subject to the spacing restrictions of section 656.1322(f), provided that the replacement off-site commercial sign shall be of the same height and size as the damaged off-site commercial sign.

Sec. 23.07. Enforcement and penalties.

(a) The city ~~or any taxpayer or resident of the city~~ may bring a civil action to enforce and compel compliance with the provisions of this article against anyone who erects or constructs an off-site commercial billboard in violation of section 23.03~~, or against anyone who fails to remove an offsite commercial billboard in violation of the provisions of section 23.04, or against anyone who violates the provisions of section 23.05.~~ If successful, the ~~person bringing the action~~ City shall be entitled to recover from the violator the costs and attorneys' fees expended in compelling compliance with the provisions of this article.

~~(b) In connection with any off-site commercial billboard which is erected or constructed in violation of the provisions of section 23.03, each person responsible for erecting or constructing such offsite commercial billboard shall pay the city a penalty of~~ ~~five hundred dollars per day until the off-site commercial billboard is removed.~~

~~(c) In connection with any off-site commercial billboard which is not removed as required by section 23.04, each person responsible for said removal shall pay the city a penalty of five hundred dollars per day for each day until the offsite billboard is removed.~~

~~(d) In connection with any off-site noncommercial billboard which is converted into an off-site commercial billboard in violation of section 23.05, the owner thereof shall pay to the city a penalty of five hundred dollars per day for each day said billboard is used in violation of section 23.05~~

Sec. 23.08. Council's power and right to legislate. This article shall not affect the council's powers and right to legislate with respect to regulating off-site commercial signs. ~~(i) an owner's obligation to maintain in good condition any offsite commercial billboard already constructed and erected as of June 1, 1987, or (ii) any sign that does not fall within the definition of "offsite commercial billboard" as defined in section 23.02, or (iii) any legislation which would require removal of any offsite commercial billboard from along any portion of the interstate highway system or the federal-aid primary highway system, or (iv) additional enforcement provisions or additional penalties to enforce the provisions of this article, or (v) any settlement of litigation commenced prior to January 1, 1995, to enforce or interpret this article.~~

~~Sec. 23.08. Removal by December 1, 1993.~~

~~(a) Any offsite commercial billboard not located along any portion of the "interstate highway system" or the "federal-aid primary highway system" as defined in Chapter 479, Florida Statutes (1985) which for any reason has not been removed prior to December 1, 1993, shall be removed no later than December 1, 1993. The owner of the billboard and the owner of the land on which the billboard is located shall be jointly and severally responsible for compliance with this section.~~

~~(b) Nothing contained herein shall limit the obligation of billboard owners and land owners to comply with the provisions of section 23.04 of this article. This section 23.08 shall be deemed to be supplemental to the provisions of section 23.04~~

~~(c) In lieu of the provisions of section 23.06 of this article, in connection with any offsite commercial billboard which is not removed as required by subsection 23.08(a), each person responsible for said removal shall pay the city a civil penalty for each day said billboard is still in place.~~

~~(d) The civil penalty to be paid by any responsible party pursuant to section 23.08(c) shall be the gross revenues received per day for said offsite commercial billboard except that such civil penalty shall not be less than one hundred dollars per day per offsite commercial billboard nor greater than five hundred dollars per day per offsite commercial billboard.~~

~~(e) This section may be enforced in the same manner as other sections of this article pursuant to section 23.06~~

~~Sec. 23.09. Removal by July 30, 1997.~~

~~(a) Any offsite commercial billboard not located along any portion of the "interstate highway system" or the "federal-aid primary highway system" as defined in Chapter 479, Florida Statutes (1985) which for any reason has not been removed prior to July 30, 1997, shall be removed no later than July 30, 1997. The owner of the billboard and the owner of the land on which the billboard is located shall be jointly and severally responsible for compliance with this section.~~

~~(b) Nothing contained herein shall limit the obligation of billboard owners and land owners to comply with the provisions of sections 23.04 and 23.08 of this article. This section 23.09 shall be deemed to be supplemental to the provisions of sections 23.04 and 23.08~~

~~(c) In lieu of the provisions of section 23.06 of this article, in connection with any offsite commercial billboard which is not removed as required by subsection 23.09(a), each person responsible for said removal shall pay the city a civil penalty for each day said billboard is still in place.~~

~~(d) The civil penalty to be paid by any responsible party pursuant to section 23.09(c) shall be the gross revenues received per day for said offsite commercial billboard except that such civil penalty shall not be less than one hundred dollars per day per offsite commercial billboard nor greater than five hundred dollars per day per offsite commercial billboard.~~

~~(e) This section may be enforced in the same manner as other sections of this article pursuant to section 23.06~~

 Section 8. Section 614.142 (Unlawful sign messages), Amended. Section 614.142 (Unlawful sign messages), *Ordinance Code*, is amended, in part, to read as follows:

TITLE XVI – JUDICIAL CODE

\* \* \*

**CHAPTER 614. PUBLIC ORDER AND SAFETY**

**\* \* \***

Sec. 614.142. Unlawful sign messages.

\* \* \*

(b) It shall be unlawful and a class D offense for any person to erect, display or maintain, at any time, a sign which contains a commercial message which relates to offices, products, accommodations, services, or activities which are not sold, produced, available, conducted or rendered on the property where the sign is located; provided that the prohibition applies only to signs which can be seen unaided from any location on the ground which is not on the lot or parcel where the sign is located; provided, further, this ordinance does not prohibit signs erected in compliance with Section 656.1320 or any sign erected pursuant to a naming right or sponsorship agreement entered into by the City of

a publicly owned sports or entertainment venue, or an athletic team which is a tenant thereof under rights assigned to such team pursuant to a written agreement with the City; provided further that this section does not prohibit replacement of off-site commercial signs, as that term is defined in this Chapter.

~~(c) From and after July 30, 1997, it shall be unlawful and a class D offense for any person to erect, display or maintain, at any time, a sign which contains a commercial message which relates to offices, products, accommodations, services, or activities which are not sold, produced, available, conducted or rendered on the property where the sign is located; provided that the prohibition applies only to signs which can be seen unaided from any location on the ground which is not on the lot or parcel where the sign is located; provided, further, this ordinance does not prohibit signs erected in compliance with Section 656.1320 or any sign erected pursuant to a naming right or sponsorship agreement entered into by the City of a publicly owned sports or entertainment venue, or an athletic team which is a tenant thereof under rights assigned to such team pursuant to a written agreement with the City.~~

~~(d) Any sign structure in violation of this Section is hereby declared to be contraband and forfeited to the City. A violation has been proved if the owner, or person in control of the structure, has been convicted of using a sign structure in violation of this Section. A conviction shall include a plea of nolo contendere or a withhold of adjudication. In addition, a violation may be proved in a separate civil action. The City shall seek forfeiture of the sign through any appropriate civil action, which may include declaratory judgment or a mandatory injunction.~~

~~(e) In the event that a court of competent jurisdiction determines, finally, that subsection (b) of this Section unconstitutionally distinguishes between commercial and noncommercial messages, it shall be unlawful and a class D offense for any person to erect, display or maintain, at any time, a sign which contains a commercial message which relates to offices, products, accommodations, services, or activities which are not sold, produced, available, conducted or rendered on the property where the sign is located; provided that the prohibition applies only to signs which can be seen unaided from any location on the ground which is not on the lot or parcel where the sign is located; provided, further, this ordinance does not prohibit signs erected in compliance with Section 656.1320; provided, further this subsection shall not be enforced without providing 30 days notice to correct and unless subsection (b) of this Section is declared unconstitutional.~~

~~(f) In the event that a court of competent jurisdiction determines finally, that subsection (c) of this Section unconstitutionally distinguishes between commercial and noncommercial messages, from and after July 30, 1997, it shall be unlawful and a class D offense for any person to erect, display or maintain, at any time, a sign which contains a commercial message which relates to offices, products, accommodations, services, or activities which are not sold, produced, available, conducted or rendered on the property where the sign is located; provided that the prohibition applies only to signs which can be seen unaided from any location on the ground which is not on the lot or parcel where the sign is located; provided, further, this ordinance does not prohibit signs erected in compliance with Section 656.1320; provided, further this subsection shall not be enforced without providing 30 days notice to correct and unless subsection (b) of this Section is declared unconstitutional.~~

Section 9. Severability. In the event that any portion of this ordinance is declared invalid, unenforceable, unconstitutional or void, or is permanently enjoined by a valid judgment of a court of competent jurisdiction, or if the existence of this ordinance would result in any other portion of Chapter 656, Part 13, or Article 23 of the Charter being held to be invalid, unenforceable, unconstitutional or void, then this entire ordinance and the Ordinance Code and Charter changes included therein are repealed and invalid. Such judgment shall not affect the validity of any other section, subsection, paragraph, sentence, clause or phrase of Chapter 656, Part 13, or Article 23 of the Charter, for the Council declares that it is its intent that it would have adopted and would retain intact all of Chapter 656, Part 13, and Article 23 of the Charter without such invalid or unconstitutional provisions.

Section 10. Effective Date. This ordinance shall become effective upon signature by the Mayor or upon becoming effective without the Mayor’s signature.

Form Approved:

\_\_/s/ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Office of General Counsel