

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING THE ZONING CODE OF THE CITY OF FOLEY  
TO PERMIT LEGAL NONCONFORMING BILLBOARDS IN CERTAIN AREAS TO BE  
CONVERTED INTO DIGITAL BILLBOARDS UNDER CERTAIN CIRCUMSTANCES,  
TERMS, REQUIREMENTS AND CONDITIONS

WHEREAS, off premises signs (“billboards”) are prohibited in the corporate limits of the City of Foley by the Zoning Code, but a significant number of billboards are in existence as legal nonconforming structures; and

WHEREAS, most of the legal nonconforming billboards are constructed in such a way that it is not reasonable to expect them to lose their legal nonconforming status through damage, destruction, or abandonment in the foreseeable future; and

WHEREAS, the City would like to reduce the number of billboards in the City of Foley by encouraging billboard owners to voluntarily remove billboards they have in the City; and

WHEREAS, the outdoor advertising company that owns the most billboards in the City of Foley expressed a willingness to remove several of their billboard sign faces for each billboard they are allowed to convert to a digital sign face; and

WHEREAS, the City has determined that digital billboards can potentially pose additional, unique, and different risks to the health, safety and general welfare of the community than traditional billboards and thus they need to be regulated if they are to exist; and

WHEREAS, the City is willing to allow legal nonconforming billboards in certain areas to be converted to a digital billboard sign face under certain conditions, situations, and subject to certain regulations, without losing their legal nonconforming status to facilitate a reduction in the overall number of billboard signs in the City;

NOW, THEREFORE, be it ordained by the City of Foley as follows:

Sec. 1. That Section 2.1 and Section 12.3 of the Zoning Code of the City of Foley are both hereby amended to add the following definitions to those definitions that already appear in said sections:

Digital Billboard. A billboard (off-premises sign) with an electronic changeable copy sign face.

Standard Billboard. A billboard (off-premises sign) that does not have an electronic changeable copy sign face.

Nit. A term used to describe a unit of measure for luminance intensity per unit area that is projected in a given direction. A nit is equal to one candela per square

meter. A nit measures the luminance of a light source which is closely related to the perceived “brightness” of the light source.

Footcandle. A term used to describe a unit of measure of the density of light that falls on a surface. A footcandle is equal to one lumen per square foot. A footcandle measures the amount of illumination on a surface from a light source.

Sec. 2. That the following shall be added and shall appear as Section 9.14.3 and as Section 12.12 of the Zoning Code of the City of Foley:

Conversion of Legal Nonconforming Billboards to Digital Billboards. Notwithstanding anything else contained in this Zoning Code to the contrary, a legal nonconforming standard billboard sign face may be converted into a digital billboard sign face without losing its legal nonconforming status, but only in the following circumstances and only subject to the following conditions:

- A. The owner of the billboards must first apply for and receive a Billboard Conversion Permit from the Community Development Department which is both a building permit for the to-be-converted billboard and a demolition permit for the to-be-removed billboards;
- B. The digital billboard sign face must be located on the same pole or vertical support structure that currently exists for the standard billboard being converted, and that the pole or support structure must not be moved in any manner;
- C. The digital billboard sign face must be installed at the same angle and direction of travel as the standard sign face being replaced;
- D. The digital billboard sign face must be no higher than the standard sign face being replaced (or for previously stacked sign faces, no higher than the lowest sign face);
- E. The digital billboard sign face must be no larger in square feet than the standard billboard sign face being replaced;
- F. The digital billboard sign face must be no larger than 672 square feet;
- G. The digital billboard must be at least 2,000 feet from the nearest other digital billboard aimed in the same direction of travel.
- H. The digital billboard sign face must not be located beside, above, or below any other standard billboard sign face or digital billboard sign face on the same pole or support structure (no double faced billboards in which one or both sign faces aimed in the same direction of travel is an electronic changeable copy sign).
- I. The digital billboard sign face may not be located in a historic district, a residential district, or be visible from either residentially zoned property or from property being used for residential purposes.
- J. The digital billboard must at all times adhere to the then-current technical specifications established by the City of Foley, which may be amended from time-to-time, but which currently provide as follows:

1. Digital billboards may only display static messages or images and they may not have any effects or appearance of movement, travel, fade, pulse, blinking, animation, scrolling, flashing, or similar effects;
2. Digital billboard messages or images cannot change more frequently than once every eight (8) seconds;
3. Digital billboard images must transition instantly as seen by the human eye, and shall not use blinking, fading, rolling, shading, dissolving, or similar effects as part of the image transition or change.
4. Each digital billboard shall be equipped with automatic light intensity controls and automatic ambient light monitors to control their level of illumination. The digital billboard must automatically adjust based on ambient light conditions to ensure that each sign face does not exceed illumination changes of 0.3 (three-tenths) of a foot-candle over ambient light levels if measured from the nearest property line of an abutting landowner (excluding public rights-of-way) or from 250 feet away from the sign face (for 672 SF signs), from 200 feet away from the sign face (for 378 SF signs, from 150 feet away from the sign face for signs smaller than 378 SF, whichever is closer. Certification must be provided to the City demonstrating that each sign has been preset to automatically adjust the brightness to these levels or lower. Re-inspection and recalibration may periodically be required by the City in its reasonable discretion, and when required it shall be completed within thirty (30) days at the sign owner's expense. During an inspection, one hour or more following sunset, a properly calibrated light meter shall be used to obtain an ambient light reading in footcandles for the location with the digital sign either turned off or displaying a solid black copy, then the digital sign shall be turned on to full, standard white copy (color temperature 6,500 degrees Kelvin) to take another reading with the same meter at the same location. If the difference between the two readings is 0.3 (three-tenths) of a footcandle or less, then the illumination level from the sign relative to ambient light is properly adjusted.
5. Notwithstanding ambient light levels, each digital billboard sign shall be programmed so that its luminance does not exceed certain maximums. No digital billboard shall exceed 6,500 nits when measured from the sign's face at its maximum brightness between the time of one half hour after sunrise and one half hour before sunset as per the National Weather Service. No digital billboard shall exceed 300 nits when measured from the sign's face at its maximum brightness between the time of one half hour before sunset and one half hour after sunrise as per the National Weather Service. Certification must be provided to the City demonstrating that each sign has been preset to these maximum limits. Re-inspection and recalibration may periodically be required by the City in its reasonable discretion, and when required it shall be completed within thirty (30) days at the sign owner's expense. During an inspection a luminance

meter shall be used to obtain a reading in Nits when the digital sign is turned on to full, standard white copy (color temperature 6,500 degrees Kelvin).

6. Written certification from the digital sign manufacturer must be provided certifying that the light intensity of the sign has been preset to be within the brightness levels specified in this Ordinance, and that the preset intensity level is protected from end user manipulation by password protected software or other approved method.
  7. Each digital billboard sign face shall contain a default design that will freeze the device and message or image in one position with a maximum luminance of 300 nits if any malfunction occurs.
  8. Each digital billboard sign face shall contain a “kill switch” which can cause the sign face to go dark regardless of the nature of any type of malfunction, and any malfunction that causes an image or message to be displayed causing movement, flashing or any similar effects, or exceeding the brightness levels established hereby, must be remedied or caused to go dark or static within six (6) hours.
- K. For each standard billboard sign face that the owner desires to convert to a digital billboard sign face, the owner must first remove a minimum of four (4) eligible standard billboard sign faces (including the standard sign face that is being converted). Eligible standard billboard sign faces being removed and not converted are those that are:
1. Located inside the corporate limits of the City of Foley;
  2. Located on the same road as the proposed digital billboard (unless the owner and the Community Development Director agree otherwise to facilitate the removal of billboards on a National Scenic Byway, a residential area, a historic district area, or other such locations where billboards are deemed more out of character).
  3. Not otherwise in violation of law or that are not otherwise required to be removed pursuant to government action;
- L. The operator of a digital billboard shall immediately, upon request, publish emergency information on each digital billboard such as weather alerts, Amber alerts, and similar law enforcement emergencies and announcements;
- M. The operator of a digital billboard shall, if reasonably requested, donate available advertising spots to the City of Foley for public announcements.

Sec. 3. Effective Date. This Ordinance shall take effect upon its publication as required by law.

Passed, adopted, and approved on the \_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Presiding Officer

Attest:

\_\_\_\_\_  
City Clerk