

ORDINANCE NO: 13-

AN ORDINANCE REPEALING ORDINANCE 1142-10 AND  
AUTHORIZING CERTAIN TYPES OF BUSINESS SIGNS WITHIN THE RIGHT-OF-  
WAY AND ESTABLISHING CRITERIA AND REGULATIONS FOR THE SAME

WHEREAS, the City Council of the City of Foley hereby declares and finds that certain types of signs directing the travelling public to destinations in the City of Foley are in the best interest of the public; and

WHEREAS, previous ordinances that addressed this same issue are due to be repealed or amended to allow for these certain signs;

NOW, THEREFORE, IT IS HEREBY ORDAINED by the City Council of the City of Foley as follows:

Sec.1. That the following shall appear and be codified as an ordinance of the City of Foley:

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**I. Definitions**

As used herein, unless the context clearly indicates otherwise, the following words shall have the following meanings:

- A. Applicant – Any person, business or entity submitting an application to display a Business Sign on a Directional Sign.
- B. Business Sign - a separately attached sign face mounted on a Directional Sign panel that displays the trade or common name of a business, place, or facility and the direction of travel toward that business, place or facility.
- C. City - the City of Foley, Alabama or the corporate limits of the City of Foley, Alabama depending on the context.
- D. Directional Sign - a larger sign panel that has space for multiple Business Signs to be attached to it that is erected by the City.
- E. Entertainment – any type of family business or operation which is not more appropriately categorized as a Restaurant, Retail, Lodging or Public establishment.
- F. Public – a type of operation or location that is owned and operated by the federal, state or local government or some other governmental entity, agency, department, or related entity on a not-for-profit basis.

G. Restaurant – a type of business or operation that has as its primary purpose the furnishing or sale of prepared foods and/or beverages for on-premises or immediate consumption by patrons.

H. Retail – a type of business or operation, or group of businesses or operations at one location, that predominantly offers goods or products for sale excluding Restaurants.

I. Lodging – a type of business or operation that has as its primary purpose the temporary housing of guests, such as hotels, motels, camping facilities, and RV Parks.

## **II. Specifications and Requirements**

A. Directional Signs. Directional Signs shall be of such design and color scheme as selected by the City, from time to time, with the capacity to hold multiple Business Signs. These signs shall be located in the public right-of-ways as selected by the City and in such number as the City deems appropriate. The City is not obligated to provide a Directional Sign at any particular location, but in the event the City elects to install a Directional Sign, eligible businesses may apply to have a Business Sign located on such Directional Sign in compliance with this Ordinance.

B. Business Signs. Business Signs shall be of such design and color scheme as selected or specified by the City from time to time. Business Signs may only be located on a Directional Sign when approved by the City.

C. Basic Eligibility. Any business or operation that meets all of the following criteria is eligible to apply for and be selected to have a Business Sign located on a particular Directional Sign:

1. The location of the operation to be featured on the Business Sign must be within the corporate limits of the City and must be within two and one-half (2½) miles driving distance from the street intersection nearest the Directional Sign for those Directional Signs at the intersection of U.S. Highway 98 and the Foley Beach Express, or be within two (2) miles driving distance from any other street intersection nearest the Directional Sign;
2. The business or operation to be featured on the Business Sign must have all appropriate licenses, permits and approvals to operate;
3. The business or operation must be open at least forty (40) hours per week and available to the public at large, including minors under the age of 18, without requiring a patron, visitor or customer to be a member; and

4. The business or operation, including the land and improvements, must be in full compliance with all City ordinances, rules and regulations.

D. Priority. In the event that there is more demand from eligible applicants than there is space available on a particular Directional Sign or cluster of Directional Signs at one location, the following rules will determine priority:

1. On each Directional Sign or cluster of Directional Signs, as many Public type Business Signs shall be attached as necessary to meet demand, thereafter an even number of Business Signs shall be displayed from each of the remaining four business types (Entertainment, Restaurant, Lodging and Retail) for the remaining spaces. In the event that there are not enough eligible Applicants within a business type to fill all the space available on a particular Directional Sign or cluster of Directions Signs for that type of business, then the open spaces will be made available to other business types with priority given to those businesses with the largest square footage under roof at the subject location.

2. In the event that there is not enough space on a Directional Sign or cluster of Directional Signs to display all the Business Signs of all eligible Applicants within any one category of business type (e.g., Public, Entertainment, Lodging, Restaurant and Retail), then priority will be given to the Applicants within that business type that have the largest square footage under roof at the subject location.

E. No more than one (1) Business Sign for a particular business or operation shall appear on the same side of any one Directional Sign or cluster of Directional Signs.

### **III. Special Requirements**

A. Each Applicant shall offer written assurance that it conforms to all applicable laws concerning the provision of public accommodations with regard to race, religion, color, age, sex, national origin or disability, and laws concerning the licensing and approval of service facilities. The City reserves the right to remove any disqualified business's Business Sign by furnishing the business written notice of such intent not less than thirty (30) calendar days prior to such action. A business having received written notice of such intent, may correct deficiencies within the same thirty (30) calendar days in order to remain qualified. A disqualified business will not

be eligible for application resubmission for (12) months from date of disqualification. Neither compensation nor refund will be afforded a disqualified business.

B. If a new Applicant wants to become a participant on an existing Directional Sign that is already full, then the same analysis as above concerning priority will take place upon the three-year renewal date of each Directional Sign. The City reserves the right to remove any Business Sign affected by this section and shall in no way be held responsible for damages arising from such action.

C. All Business Signs shall be furnished to the City by the successful Applicant at no cost to the City and shall be manufactured using materials and workmanship which are in accordance with the City's standards for this type of sign.

D. Applications shall be submitted in writing and all qualifications shall be met before a facility can be approved for participation subject to Council approval. No Business Sign shall be placed on a Directional Sign prior to the opening of its facility.

E. Applicants must not be in violation of any municipal ordinances to be eligible to be selected to have participate.

F. The City reserves the sole right and discretion to decide when, where, and if a Directional Sign should be made available at any particular location, and the City reserves the sole and exclusive right to remove, change, add or relocate any Directional Sign from time to time and to amend this ordinance.

G. Approved Applicants, in addition to providing the Business Sign and signing the required applications, agreements, and other documents, shall pay an annual license fee in the amount of \$500 per Business Sign per year. Such payments are to be made annually in advance.

H. Unless terminated sooner, each Directional Sign will be populated with Business Signs over a three (3) year term. After three (3) years, the existing Business Sign participants must renew their applications to remain on the Directional Sign. Participants joining during a three year term shall pay a pro-rated fee for the current year, and that term shall end with the other participants at the end of the normal three-year term.

Sec. 2. That Ordinance 1142-10 is hereby repealed in its entirety, and further that all other ordinances which are directly contradicted by this ordinance are hereby repealed, but only to the extent of the direct conflict.

PASSED, ADOPTED AND APPROVED on this the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

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John E. Koniar, Mayor

ATTEST:

\_\_\_\_\_  
Vickey Southern  
City Clerk

I certify that the foregoing Ordinance was published in the Foley Onlooker, a newspaper of general circulation in the City of Foley, in its issue of

\_\_\_\_\_.

\_\_\_\_\_  
Vickey Southern  
City Clerk

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