

Clean Version

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 138-1334, SIGNS, OF THE PINELLAS COUNTY LAND DEVELOPMENT CODE; PROVIDING FOR AMENDMENTS OR ADDITIONS TO SUBSECTION A, DEFINITIONS, OF SECTION 138-1334; PROVIDING FOR AMENDMENTS OR ADDITIONS TO SUBSECTION B, GENERAL SIGN REQUIREMENTS, OF SECTION 138-1334; PROVIDING FOR AMENDMENTS TO SUBSECTION D, PROHIBITED SIGNS, OF SECTION 138-1334; PROVIDING FOR AMENDMENTS OR ADDITIONS, INCLUDING THE PARAMETERS FOR AN OFF-PREMISES DIGITAL SIGN, ADDITION OF A SHORTENED DISPLAY TIME AND AN ACCELERATED REMOVAL OF NON-FEDERAL AID PRIMARY OFF-PREMISES SIGNS, TO SUBSECTION G, OFF-PREMISES SIGNS, OF SECTION 138-1334; PROVIDING FOR THE REPEAL OF ORDINANCE NO. 11-01 AND THE TERMINATION OF THE MORATORIUM; PROVIDING FOR SEVERABILITY; PROVIDING FOR FILING THE ORDINANCE AND AN EFFECTIVE DATE; AND PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR ANY MODIFICATION THAT MAY ARISE FROM CONSIDERATION OF THE ORDINANCE AT PUBLIC HEARING.

WHEREAS, Section 163.3161, Florida Statutes, created the "Local Government Comprehensive Planning and Land Development Regulation Act" which was designed to overcome present handicaps, and promote public safety and appearance; and

WHEREAS, Section 163.3202, Florida Statutes, required each local government to adopt land development regulations designed to implement their comprehensive plans; and

WHEREAS, Section 163.3202, Florida Statutes, more specifically, required that the regulation of signage is among the minimum requirements for local government land development regulations; and

WHEREAS, in 1989, the Board of County Commissioners ("Board") adopted the Pinellas County Comprehensive Plan, after extensive public input and discussion, including (then) Future Land Use Element Policy 1.8.3, which stated that the existing County sign regulations were to be reviewed and amended as necessary to meet the safety, environmental and aesthetic needs of the County; and

WHEREAS, in 1992, the Board adopted its current sign code for unincorporated Pinellas County; and

WHEREAS, in 1994, the billboard industry requested that the Board amend its sign code to allow changeable message signs, in particular to accommodate the relatively new "tri-vision" billboards; and

WHEREAS, in recognition that a changeable message sign would have safety, environmental and aesthetic implications, and in further recognition that any frequency applicable to billboards may also be applicable to all signage, the Board, in 1994, amended a portion of its sign code to allow changeable messages, but with significant restrictions, one of which is the one-minute interval between messages; and

WHEREAS, there have been several governmental studies on the use of electronic changeable message signage, including a Federal Highway Administration ("FHWA") report released in 1980, entitled "*Safety and Environmental Design Considerations in the Use of Commercial Electronic Variable-Message Signage*" (the "FHWA 1980 Report"), which addressed both aesthetic and safety considerations for off-premise, commercial electronic variable message signs ("CEVMS"); and

WHEREAS, since the 1992 adoption of the County sign code and the 1994 amendment to the same, technology has continued to evolve in the area of electronic changeable message signs, also referred to as digital signs, commercial electronic variable message signs, changeable electronic message signs, dynamic signs, electronic message center signs, or light emitting diode signs; and

WHEREAS, in 2001, the FHWA sponsored a study authored by the Science Applications International Corporation and entitled "*Research Review of Potential Safety Effects of Electronic Billboards on Driver Attention and Distraction*" (the "FHWA 2001 Report"); and

WHEREAS, the FHWA 2001 Report identified knowledge gaps based on the literature review and determined that these gaps supported the development of a set of research questions and related research findings; and

WHEREAS, in the fall of 2008, one of the major billboard companies, requested that the County relax the standard for changing messages on off-premises CEVMS signs from once per minute (once every sixty seconds) to once every six seconds; and

WHEREAS, in February 2009, the FHWA released a report entitled "*The Effects of Commercial Electronic Variable Message Signs (CEVMS) on Driver Attention and Distraction: An Update*," Report No. FHWA-HRT-09-018 (the "FHWA 2009 Report"), which consisted of an update of the FHWA 1980 Report and the FHWA 2001 Report; and

WHEREAS, the FHWA 2009 Report (1) concentrated on identifying potential factors that may contribute to determining whether there are any significant safety concerns or distraction effects with regard to CEVMS used for outdoor advertising, and (2) recommended, as the first stage of a proposed research program, that an on-road instrumented vehicle study be utilized to determine driver safety effects as they relate to CEVMS exposure; and

WHEREAS, the FHWA 2009 Report's recommendation was accepted; and

WHEREAS, an FHWA study implementing the FHWA 2009 Report's recommendation has now been underway since 2009, but the results have not yet been released; and

WHEREAS, the Board, in anticipation of a study by the Federal Highway Administration on the effect of CEVMS on driver behavior and the evaluation of their potential risk to traffic safety, continued the matter until that time; and

WHEREAS, in 2007, the American Association of State Highway and Transportation Officials ("AASHTO") identified a need for research related to the impacts of CEVMS on traffic safety, and subsequently sponsored a study with the National Cooperative Highway Research Program to develop guidelines for CEVMS that state and local agencies could adopt; and

WHEREAS, in April 2009, AASHTO released a study entitled "*Safety Impacts of Emerging Digital Display Technology for Outdoor Advertising Signs*" (the "2009 AASHTO Study"), which identified a series of recommendations for eleven such safety guidelines; and

WHEREAS, the County sign code has not been amended since 1994 in connection with changeable message technology and does not address the guidelines in the 2009 AASHTO Study; and

WHEREAS, the current FHWA study and final report is not expected until early 2011; and

WHEREAS, there has been no FHWA study since 1980, or that is currently underway, that addresses the aesthetic impact of CEVMS; and

WHEREAS, the 1980 FHWA Study, which did address aesthetic issues, found that a harsh visual contrast with the ambient environment is generally considered to be unaesthetic, and that the capability of CEVMS for commanding and holding attention permits the signs to dominate the surroundings and involves the risk of incompatibility with the natural or man-made environment; and

WHEREAS, on September 25, 2007 the FHWA issued formal guidance on Off-Premise Changeable Message Signs, which advised that proposed laws, regulations, and procedures that would allow permitting CEVMS subject to acceptable criteria do not violate a prohibition against "intermittent" or "flashing" or "moving" lights as those terms are used in the various Federal-State Agreements that have been entered into during the 1960s and 1970s; and

WHEREAS, in July of 2009, the outdoor billboard company renewed its request to relax the frequency standard for changing messages for CEVMS billboards from once every sixty seconds to once every six seconds; and

WHEREAS, in October 2009, the Board conducted a workshop on the outdoor billboard company request, and the Board stated that a hold on future off-premise CEVMS installations was desired until the County sign regulations could be updated to address the safety, environmental and aesthetic impacts of CEVMS generally and of their changing at higher frequencies, and negotiations with sign companies on reducing the overall number of billboards in unincorporated Pinellas County could commence; and

WHEREAS, the Board directed a review of the current sign regulations relative to off-premises signage and digital technology; and

WHEREAS, the Board, on December 15, 2009, adopted an ordinance declaring a one-year moratorium on the acceptance of applications for off-premise CEVMS in unincorporated Pinellas County based on the anticipated receipt and review of the ongoing FHWA study and the development of standards of CEVMS based on the guidelines in the AASHTO study; and

WHEREAS, the Board, on November 16, 2010, adopted Ordinance No. 10-63, extending the one-year moratorium for a period of two months to the date of January 17, 2011; and

WHEREAS, the Board, on January 11, 2011, adopted Ordinance No. 11-01, extending the one-year, two-month moratorium for a period of four months to May 13, 2011; and

WHEREAS, County staff has researched a myriad of articles and studies on billboards, CEVMS, aesthetics and billboards, and traffic safety and billboards; and

WHEREAS, County staff conducted meetings with outdoor advertising industry representatives and with other interested parties to discuss amendments to the County's sign code and its impact upon Pinellas County; and

WHEREAS, the Board recognizes that its land development regulations need to be kept current but it is not abandoning its basic premise of protecting the safety, environmental, and aesthetic needs of the unincorporated areas of Pinellas County; and

WHEREAS, the Board finds and determines that message sequencing of advertisements with the objective of capturing and holding a driver's attention during the time period over which the message sequencing is displayed is based upon the psychological need to follow a task to its conclusion (sometimes referred to as the Zeigarnik Effect); and

WHEREAS, the Board finds and determines that message sequencing in a driving environment may draw a driver's attention away from the task of driving and to the sign displaying the message sequence because the driver may attempt to see a change in, or the completion of, the message sequence, and that this loss of attention could lead to unsafe driving behaviors such as prolonged glances away from the roadway, deceleration, or even lane departure; and

WHEREAS, as of January 1, 2001 and July 1, 2002 (the effective date of Chapter 2002-13), all of the existing off-premise signs in the unincorporated areas of Pinellas County were then subject to an ordinance, Pinellas County Ordinance No. 92-5 (hereinafter the "1992 Ordinance"), and the 1992 Ordinance provided for an amortization period, which period had expired on March 15, 1999; and

WHEREAS, as of January 1, 2001 and July 1, 2002, the 1992 Ordinance that provided for the aforementioned amortization period was the subject of judicial proceedings that were commenced prior to January 1, 2001; and

WHEREAS, since July 1, 2002, additional off-premise signs have been erected in Pinellas County and, at the time of their erection, the same were not the subject of judicial proceedings commenced on or before January 1, 2001; and

WHEREAS, the Board has entered into a series of settlement agreements with outdoor advertising companies that provide for the eventual removal of all Non-Federal-Aid Primary (Non-FAP) billboards through established schedules and by established deadlines that currently end on December 31, 2025 or December 31, 2042, depending on the applicable settlement agreement; and

WHEREAS, pursuant to such settlement agreements, more than 74 Non-FAP billboards have already been physically removed from the unincorporated areas of Pinellas County by operation of those agreements between January 1, 2002 and the present date; and

WHEREAS, pursuant to such settlement agreements, at least 78 Non-FAP billboards may continue to remain within the unincorporated areas of Pinellas County after December 31, 2012, but subject to established deadlines for removal that end no later than December 31, 2042; and

WHEREAS, the Board desires to find alternatives that would accelerate the removal of Non-FAP billboards by balancing competing interests, specifically by improving the safety and aesthetic interests along Non-FAP roadways while temporarily diminishing those interests for a period of time along interstate and federal-aid primary highways through supplements to existing settlement agreements; and

WHEREAS, the Board is desirous of accelerating the removal of all Non-FAP billboards in order to benefit the safety and aesthetic interests of Pinellas County; and

WHEREAS, the Board finds and determines that over the past several decades there has been a significant increase in the potential gross revenue and resulting profits that may be obtained through the erection, construction, and/or maintenance of unlawful and/or illegal signage and sign structures for commercial gain; and

WHEREAS, the Board finds and determines that the increasing magnitude of gross revenue and profits from the erection, construction, and/or maintenance of unlawful and/or illegal signage and sign structures poses ever greater enforcement problems

inasmuch as unlawful and/or illegal conduct may provide such significant gains that the benefits of engaging in unlawful and/or illegal activity may outweigh any fines, penalties, or remedies that are currently provided for under local laws; and

WHEREAS, the Board finds and determines that it is essential that there be effective enforcement mechanisms in place, that will deter unlawful and/or illegal conduct through violations of the Pinellas County Land Development Code; and

WHEREAS, the Board of County Commissioners believes that the standards set forth in this Ordinance further benefit the public health, safety, and welfare by (1) creating a limit on the number and location of those billboards that may be converted to, or established as, electronic billboards, (2) clarifying their legal status, and (3) regulating the permitting and operation of such signs.

NOW, THEREFORE, IN REGULAR SESSION DULY ASSEMBLED ON THIS 26TH DAY OF APRIL, 2011, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY, FLORIDA that Pinellas County Land Development Code, Section 138-1334 is hereby amended as follows:

SECTION 1: That the following definitions are amended in, or added to, Section 138-1334(a), *Definitions*, to read as follows:

Changeable message sign means a sign or portion of a sign on which message copy is changed manually or mechanically in the field through the utilization of attachable letters, numbers, symbols and other similar characteristics.

Dwell Time is the minimum duration of a single display on a changeable or electronic changeable message sign. During the dwell time, the message display shall be static, and there shall not be any change of color, flash, fade, rotation, twinkle, twirl, alternate luminance, scroll, show of action or motion, or illusion of action or motion.

Electronic changeable message sign (also referred to as digital sign) means an on-premises or off-premises sign or portion thereof that displays electronic static images, static graphics, static pictures, or non-pictorial text information in which each alphanumeric character, graphic, or symbol is defined by a small number of matrix elements using different combinations of light emitting diodes, fiber optics, light bulbs, liquid crystal or any other emerging illumination technology within the display area. Electronic changeable messages include computer programmable, microprocessor-controlled electronic displays. Electronic changeable messages include images or messages with these characteristics projected onto buildings or other objects. Electronic changeable message sign shall not include any sign that does not maintain a static image for a minimum dwell time of sixty (60) seconds or such other minimum dwell time that is expressly permitted under this Code.

Federal-Aid Primary (FAP) is a system of highways or portions thereof, which shall include the National Highway System designated as the federal-aid primary

highway system by the Florida Department of Transportation and shall also include the federal interstate highways. The parts of the federal-aid primary roadways within unincorporated Pinellas County are:

- a) U.S. Highway 19 from the Pasco County line to I-275;
- b) State Road 580 from U.S. Highway 19 eastward to Hillsborough County line;
- c) Gulf-to-Bay Boulevard (State Road 60) from U.S. Highway 19 eastward to the Hillsborough County line;
- d) Ulmerton Road (State Road 688) from U.S. Highway 19 eastward to I-275;
- e) Roosevelt Boulevard (State Road 686) from the St. Petersburg-Clearwater International Airport southward to State Road 688;
- f) Gandy Boulevard (SR 600/694) from U.S. Highway 19 eastward to the Hillsborough County line; and
- g) I-275 from the Hillsborough County line (Howard Frankland Bridge) to the Hillsborough County line (Sunshine Skyway Bridge).

Flash means an entry or exit mode in an electronic changing message with any single frame that repeats two or more times consecutively without change. This does not include official warning signs to the motoring public.

Illuminance means the amount of light coming from a light fixture that lands on a surface.

Legally Existing, for the purpose of describing a sign or sign structure, means that the sign or sign structure was lawfully erected in conformance with all applicable local, state, and federal laws, has been lawfully maintained and is lawfully operated in compliance with all applicable local, state, and federal laws (including any legal nonconforming signs), or that the sign or sign structure is lawfully operating in accordance with a settlement agreement to which Pinellas County is a party.

Luminance means the amount of light reflected off a surface in a particular direction.

Message Sequencing means dividing a single thought or message into two (2) or more successive sign displays on a single electronic changeable message sign or multi-vision sign. For example, it shall be considered message sequencing if the second display answers a textual question posed in the first display, continues or completes a sentence started on the first display, or continues or completes a story line started on the prior display.

Multi-Vision sign, also known as a tri-vision sign, means an on-premises or off-premises sign composed in whole or in part of a series of vertical or horizontal slats or cylinders that are capable of being rotated at intervals so that partial rotation of the group of slats or cylinders produces a different image and when properly functioning allows on a single sign structure the display at any given time one of two or more images.

Physically Removed means, for the purposes of this section, that an off-premises sign shall be deemed removed if the off-premises sign structure is permanently removed to a depth of twelve (12) inches below grade.

Sign means any device, fixture, placard or structure that uses any color, form, graphic, illumination, architectural style or design or writing to advertise, attract attention, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public. "Sign" includes sign structure.

* * *

Animated sign means any sign composed of moving parts or lights or lighting devices that change color, flash, fade, rotate, twinkle, twirl, alternate luminance, scroll, show action or motion, create the optical illusion of action or motion or otherwise change the appearance of the sign. Animated signs do not include electronic (digital) changeable message sign or multi-vision sign as defined in this section.

* * *

Traditional Off-Premises Sign means any off-premises sign that is not defined as an Electronic Changeable Message Sign.

SECTION 2: That the following provisions are amended in, or added to, Section 138-1334(b), *General sign requirements*, to read as follows:

- (2) b. The maintenance of signs shall be in keeping with the intent of section 22-231(b)(2) to ensure the public health, safety and welfare is maintained. The owner and/or leaseholder shall be responsible for keeping the area immediately surrounding the sign free from trash and debris as per chapter 58, articles VIII and IX, and shall be responsible for maintaining the signs concerned in good operating conditions and appearance. Failure to comply with chapter 22, article V shall constitute cause for revocation of the sign permit and removal of the sign, if the owner and/or leaseholder fail to correct same within ten days after written notice of violation.

* * *

- (8) c. No colored lights shall be used at any location or in any manner so as to be confused with, construed as, or interfere with traffic control devices. Similarly, no electronic changeable message sign shall be permitted if it may be confused with, construed as, or interfere with traffic control devices.

* * *

(9) Electronic changeable message signs shall meet the following criteria:

a. Luminance: Luminance shall be measured in nits. A nit is a metric unit of luminance and is defined as candela per square meter (cd/m^2); a nit is a unit based on the candela, the modern metric unit of luminous intensity, and the square meter, the modern metric unit of area. Luminance shall not exceed the maximum brightness as set forth below:

1. Luminance at night: Beginning at sunset and continuing until sunrise, the brightness of an electronic changeable message shall not exceed 350 nits.

2. Luminance during daylight hours, beginning at sunrise and continuing until sunset: During daylight hours, the brightness of an electronic changeable message shall not exceed 5,000 nits.

b. Illuminance: The illuminance of any electronic changeable message sign display shall not be greater than 0.3 footcandles above ambient light levels at any given time of day or night, as measured using a footcandle meter at a preset distance described in this subsection. To determine compliance with the 0.3 footcandle maximum illuminance, the footcandle measurements for a display shall be taken with the sign switched off and then taken again with the sign displaying all white (maximum sign brightness), and the brightness shall be measured at the pre-set distance perpendicular from the face of a sign. For electronic changeable message signs, the pre-set distance to measure the footcandle impacts vary with the expected viewing distances and the face size of each sign noted below.

The illuminance of any electronic changeable message sign which is less than two hundred eighty-eight (288) square feet in area shall be based upon a one hundred (100) square-foot display at a distance of one hundred (100) feet perpendicular to the display using a footcandle meter. To determine compliance with the 0.3 footcandles maximum illuminance, the footcandle measurements for a display shall be taken with the sign switched off and then taken again with the sign displaying all white (maximum sign brightness), and the brightness shall be measured one hundred (100) feet perpendicular from the face of a sign. If the sign face is other than one hundred (100) square feet, the measured reading shall be prorated to what an otherwise identical sign of one hundred (100) square feet would produce. The prorated, measured footcandle value is then used to compare to the limit of 0.3 footcandles (fc).

Example: For evaluation of a two hundred (200) square-foot sign, if the measured illuminance at a distance of one hundred (100) feet is 0.5 fc above ambient (i.e., with the sign on and showing an all white display, the reading at one hundred (100) feet is 0.5 fc greater than with the sign switched off), then the prorated footcandle value is 0.25 fc and the footcandle value is below the maximum of 0.3 fc.

To determine compliance with the 0.3 footcandle maximum illuminance for any electronic changeable message sign which is equal to or greater than two hundred eighty-eight (288) square feet in area, the footcandle measurements for a display shall be taken with the sign switched off and then taken again with the sign displaying all white (maximum sign brightness), and the brightness shall be measured using a footcandle meter at the preset distance described as follows: one hundred fifty (150) feet perpendicular from the face of a sign that is equal to two hundred eighty-eight (288) square feet in area; two hundred (200) feet perpendicular from the face of a sign that is greater than two hundred eighty-eight (288) square feet in area but less than or equal to three hundred seventy-eight (378) square feet in area; and two hundred fifty (250) feet perpendicular from the face of a sign that is greater than three hundred seventy-eight (378) square feet in area.

Note: The metric equivalent of footcandles is lux, and a luxmeter (as contrasted with a footcandle meter) is used when illuminance is measured in meters.

c. All electronic changeable message signs shall be equipped with appropriate sensors, timers, or other equipment sufficient to maintain compliance with the brightness standards set forth herein, and the same must be set and operated in a manner to ensure that the brightness standards are not exceeded.

d. Transition Time: The maximum transition time between messages or images on an electronic changeable message sign shall be no more than one-half (1/2) second. During transition, there shall not be any change of color, flash, fade, rotation, twinkle, twirl, alternate luminance, scroll, show of action or motion, or illusion of action or motion.

e. Sign Monitoring and Malfunction: Electronic changeable message signs shall be operated with systems and monitoring in place to either turn the display off or show full black as soon as possible in the event of a malfunction.

(10) Dwell Time: The minimum amount of time that a message or display on a changeable message sign, an electronic changeable

message sign or multi-vision sign remains fixed is one minute, except as otherwise permitted pursuant to Section 138-1334(g)(11).

- (11) Message Sequencing: Message sequencing on an electronic changeable message sign or multi-vision sign is prohibited.
- (12) In connection with the County's issuance of a notice of violation or other process pursuant to which the County seeks to enforce the provisions of Section 138-1334 related to an alleged violation of the luminance, illuminance, message sequencing, or minimum message dwell time standards established in Section 138-1334, forty-eight (48) hours shall be deemed a reasonable time period for the owner or operator to cure a first-time alleged violation. Any time period in which the electronic changeable message display is turned off while the owner or operator attempts to address or cure the alleged violation shall toll the running of the forty-eight (48) hour period. Pursuant to Section 2-625(b), the fine for a violation of any provision of Section 138-1334 pertaining to an off-premises electronic changeable message sign shall be not less than \$1,000.00 per day for the first violation, \$2,500.00 per day for the second violation, and \$5,000.00 per day for the third and subsequent violations.
- (13)*Intent.* It is the intent of the Board of County Commissioners that protection of First Amendment rights shall be afforded such that any sign, display, or device allowed under this section may contain, in lieu of any other copy, any otherwise lawful noncommercial message that complies with the size, lighting and spacing requirements of this section.

SECTION 3: That subsections (3), (12), (13) and (14) in Section 138-1334(d), *Prohibited signs*, are amended to read as follows:

* * *

(3) Off-premises signs, except for public/semipublic directional signs, per subsection (c)(13) of this section; where specifically provided for elsewhere in this section; and per subsection (g) of this section.

* * *

(12) Signs that emit sound, vapor, smoke, odor, particles or gaseous matter, or project three-dimensional images, holographic images or pyrotechnics.

(13) Signs that have unshielded illuminating devices, other than electronic changeable message sign displays permitted in accordance with Section 138-1334.

(14) Animated signs, multiprism signs and beacon lights, except when required by the Federal Aviation Administration or other governmental agency.

SECTION 4: Section 138-1334(g), *Off-premises signs*, is amended to read as follows:

(g) *Off-premises signs.* Off-premises signs, except as otherwise provided in this section, shall only be located on properties which abut federal-aid primary or interstate highways (FAP) and which are zoned C-2, C-3, CP, M-1, M-2 or IPD, and designated as industrial by the future land use map, and shall comply with the following:

(1) *Number.* A maximum of one such sign per zone lot is permitted.

(2) *Lot Area.* The sign must be located on a zone lot, the minimum area of which shall be that lot area required in the zoning district in which the sign is to be located.

(3) *Sign Area.* The maximum area for an off-premises sign shall be 672 square feet per sign face. Two such sign faces may be mounted back to back on the same sign structure.

(4) *Height.* The maximum height of such signs shall be fifty (50) feet from ground level. In the case where the freestanding sign is on a parcel contiguous to an overpass or elevated road (excluding service roads) from which the sign is designed to be viewed, the maximum height of the sign shall be the greater of either fifty (50) feet from the ground level or twenty-five (25) feet measured from the highest point of the overpass or elevated road at the crown of the roadway surface to the top of the sign; such highest point to be determined by the average elevation between the perpendicular extension of the contiguous zone lot lines on which the sign is to be located, as such lot lines intersect the overpass or elevated road.

(5) *Separation requirements.*

a. Off-premises signs shall not be located within a 1,500-foot radius of another such sign on interstate designated roadways (I-275), and shall not be located within a 1,000-foot radius of another such sign on all other federal-aid primary designated roadways. Provided, however, such radial spacing requirements shall be reduced to a 500-foot radius in connection with the conversion of a legally existing off-premises sign to an electronic changeable message sign in accordance with Section 138-1334(g)7.

b. On all FAP roadways, off-premises signs that are allowed to have electronic changeable message displays shall not be located within a 2,500

linear feet of another off-premises electronic changeable message sign that is facing the same direction on the same roadway. Such distance shall be measured along the centerline of the abutting roadway. Additionally, the separation requirement for an off-premises sign that has an electronic changeable message display from an off-premises sign that does not have electronic changeable message display shall meet the requirements of subsection (5) a., above.

c. No off-premises sign shall be placed within four hundred (400) feet of residentially zoned property, and any such sign within four hundred (400) feet of property subsequently classified residential shall be classified nonconforming and be subject to the nonconforming provisions of this section. In addition, the distance between a digital off-premises sign face and residentially zoned property shall be at least five hundred (500) linear feet, which shall be measured perpendicularly from a point on the digital off-premises sign face in a forward direction.

d. Off-premises signs, erected after April 26, 2011, that are allowed to have an electronic changeable messages display, shall not be located within a 500-foot radius of an intersection or interchange, measured from the nearest roadway edge, that has signalized traffic-control devices at said intersection or interchange.

(6) *Setbacks.* Off-premises signs shall be set back as follows:

a. Fifteen feet from any public right-of-way.

b. The side and rear setbacks of the applicable zoning district shall apply.

(7) *Off-Premises Signs with Electronic Changeable Message Displays Prohibited with Limited Exceptions.* Other than legally existing off-premises signs which already have an electronic changeable message display, an off-premise sign may not have an electronic message display except as follows:

a. *Conversion of Existing Off-Premises Signs to Electronic Changeable Message Display Signs.* Legally existing off-premises signs, without electronic changeable message displays, located on an FAP roadway, may be converted to off-premises signs with electronic changeable message displays in accordance with the requirements of Section 138-1334 (g), except for the restriction that such legally existing off-premises signs be on properties with an industrial future land use designation.

b. *Erection of New Off-Premises Signs with Electronic Changeable Message Display Signs.* New off-premises signs may be erected on an FAP roadway with electronic changeable message displays in accordance with the requirements of Section 138-1334 (g).

c. *Conversion to Electronic Changeable Message Display with a Shortened Display Time, as defined in Section 138-1334(g)(11).* An electronic changeable message display sign, located on an FAP roadway, may be converted to operate with a Shortened Display Time in accordance with the requirements of Section 138-1334 (g), except for the restriction that such legally existing off-premises signs be on properties with an industrial future land use designation.

(8) *Other Requirements.* Off-premises signs shall conform to the applicable requirements set forth in Section 138-1334 (b), *General sign requirements.*

(9) *Intergovernmental coordination.* In those locations at, or in proximity to jurisdictional boundaries where inconsistent sign regulations would serve to undermine the purpose and intent of the countywide minimum sign standards, the Board of County Commissioners may enter into an interlocal agreement with the applicable local government to provide for the regulation of signs within such transitional areas.

(10) *Acceleration of Removal of Non-FAP Off-Premises Signs Located in Unincorporated Pinellas County.* As an initiative to the acceleration of the removal of off-premises signs along Non-FAP roadways, (i) legally existing off-premises signs that are located on an FAP roadway and do not have electronic changeable message displays may be converted to off-premises signs with electronic changeable message displays, and (ii) new off-premises signs with electronic changeable message displays may be erected on an FAP roadway, but only under the following conditions and only upon approval of an application for such conversion or new construction.

a. The applicant shall submit an application for administrative approval in the forms provided by Pinellas County to ensure compliance with applicable law, including the provisions of Section 138-1334(g). In addition, as part of any application to utilize an electronic changeable message display under this subsection, an applicant shall specifically agree to the following:

1. Applicant waives all rights to challenge the validity, constitutionality, and enforceability of Section 138-1334(g)(10);

2. The removal by applicant of any Non-FAP off-premises signs under this subsection (g)(10) in a given year shall not be counted toward the minimum required annual removal rate for such year under any existing settlement agreement to which applicant and Pinellas County are parties;

3. Applicant agrees to furnish, with the application and within thirty (30) days following the end of each calendar year, a written status to Pinellas County that identifies:

i. Any information required to be included in any annual status report required to be provided by applicant to the County pursuant to the terms of any existing settlement agreement between applicant and Pinellas County, if any; and

ii. Applicant's billboards that are then located within Pinellas County and the square footage of sign face area on each identified billboard.

4. The applicant agrees to the provisions on luminance and illuminance standards in Section 138-1334(g)(10)g.

b. Except as provided in subsection (10)d below, for each legally existing off-premises sign an applicant seeks to convert into an off-premises sign with one (1) or more changeable electronic message displays, the applicant shall physically remove a minimum of two (2) Non-FAP off-premises sign structures for each single electronic changeable message sign face. In addition, the combined square footage of sign face area removed shall total at least four (4) times the square footage of the electronic changeable message sign face for which the application is made. If the computation for the combined square footage of sign face area that is required to be removed exceeds the combined sign face area on the minimum two (2) Non-FAP off-premises sign structures that are required to be physically removed, then the applicant shall physically remove in their entirety such additional Non-FAP off-premise sign structures that have display face area sufficient to meet or exceed the additional square footage required, i.e., that is sufficient to meet or exceed four (4) times the square footage of the electronic changeable message sign face for which the application is made. The Non-FAP off-premises sign structures designated in the application for removal shall not have been specifically identified for removal before the date of January 1, 2013 in a settlement agreement between the applicant (or its predecessor in interest) and Pinellas County; provided, however, if no off-premises signs that are scheduled for removal after January 1, 2013 exist, an applicant may physically remove Non-FAP off-premises signs identified for removal prior to January 1, 2013 in a settlement agreement between applicant (or its predecessor in interest) and Pinellas County. It is further provided that off-premises signs located on property annexed into a municipality shall not be considered removed for purposes of this subsection (10)b. The removal of any Non-FAP off-premises signs under this subsection shall not be counted toward the required annual removal rate for such year under any existing settlement agreement to which Pinellas County is a party.

c. Except as provided in subsection (10)d below, for each new off-premises sign with one (1) or more changeable message displays an applicant seeks to erect, the applicant shall physically remove a minimum

of two (2) Non-FAP off-premises sign structures for each single electronic changeable message sign face. In addition, the combined square footage of sign face area removed shall total at least four (4) times the square footage of the electronic changeable message sign face for which the application is made. If the computation for the combined square footage of sign face area that is required to be removed exceeds the combined sign face area on the minimum two (2) Non-FAP off-premises sign structures that are required to be physically removed, then the applicant shall physically remove in their entirety such additional Non-FAP off-premise sign structures that have display face area sufficient to meet or exceed the additional square footage required, i.e., that is sufficient to meet or exceed four (4) times the square footage of the electronic changeable message sign face for which the application is made. The Non-FAP off-premises sign structures designated in the application for removal shall not have been specifically identified for removal before the date of January 1, 2013 in a settlement agreement between the applicant (or its predecessor in interest) and Pinellas County; provided, however, if no off-premises signs that are scheduled for removal after January 1, 2013 exist, an applicant may physically remove Non-FAP off-premises signs identified for removal prior to January 1, 2013 in a settlement agreement between applicant (or its predecessor in interest) and Pinellas County. It is further provided that off-premises signs located on property annexed into a municipality shall not be considered removed for purposes of this subsection (10)c. The removal of any Non-FAP off-premises signs under this subsection shall not be counted toward the required annual removal rate for such year under any existing settlement agreement to which Pinellas County is a party.

d. Exceptions to Non-FAP Off-Premises Signs Removal Requirements;

1. An applicant shall not be required to physically remove any off-premises sign structures in conjunction with the relocation of an electronic changeable message display from a legally existing off-premises sign with an electronic changeable message display to an off-premises sign located on an FAP roadway in a location that meets all other requirements of Section 138-1334(g)(7). Upon removal of the electronic changeable message display from the existing sign, the applicant may replace the electronic changeable message display on the existing sign with a traditional billboard face.

2. In the event that an applicant has identified a location on an FAP roadway that meets all requirements of Section 138-1334(g)(7) for the conversion of a legally existing off-premises sign to an electronic changeable message sign other than the radial separation requirements established in Section 138-1334(g)(5)a., an applicant may, as an alternative to the removal of one of the two (2) required non-FAP

removals, elect to physically remove one (1) FAP structure in order to comply with the separation requirements. The applicant shall receive the same credit for the removal of such FAP structure as if a Non-FAP structure was removed by applicant.

e. The minimum dwell time for any off-premises sign with changeable electronic message displays that are converted or erected pursuant to subsections (10)b., (10)c., and (10)d. above, shall be sixty (60) seconds, except as permitted pursuant to subsection (11) below.

f. The right to operate an electronic changeable message off-premises sign shall be subject to the requirements of state law and any federal regulations that apply to FAP roadways. The applicant shall agree to abide by state law and applicable federal regulations in its application submitted pursuant to subsection (10)a. above.

g. The applicant shall agree to abide by the luminance and/or illuminance standards, established at any time by Pinellas County, governing the brightness of an electronic changeable message off-premises sign, when such standard is predicated reasonably upon safety or aesthetics, and shall agree to waive or otherwise forbear the enforcement of any claim to a vested right as a result of any standard that has been or that may be established in the future as to the brightness of a sign, including an electronic changeable message sign, provided that any such standard maintains the visibility to the traveling public of the electronic sign message during day and nighttime hours. The agreement to abide by the foregoing shall be incorporated into the application for such conversion or erection.

(11) *Acceleration of Removal of Non-FAP Off-Premises Signs Located in Unincorporated Pinellas County; Shortened Display Time.* As an added initiative to the acceleration of the removal of off-premises signs along Non-FAP roadways, (i) a legally existing off-premises sign with an electronic changeable message display located on a FAP roadway, which is in place on April 26, 2011, (ii) a legally existing off-premises sign which has been converted to an electronic changeable message display in accordance with subsection (g)(10), or (iii) a new off-premises sign which has been constructed with an electronic changeable message display in accordance with subsection (g)(10), may be converted to an electronic changeable message display with a minimum fifteen (15) second dwell time (Shortened Display Time) under the following conditions and upon the submission and approval of an application for a Shortened Display Time.

a. The applicant shall submit an application for administrative approval in the forms provided by Pinellas County to ensure compliance with applicable law, including the provisions of Section 138-1334(g). In addition, as part of any application to utilize an electronic changeable

message display under this subsection, an applicant shall specifically agree to the following:

1. Applicant waives all rights to challenge the validity, constitutionality, and enforceability of Section 138-1334(g)(11);

2. The removal by applicant of any Non-FAP off-premises signs under this subsection (g)(11) in a given year shall not be counted toward the minimum required annual removal rate for such year under any existing settlement agreement to which applicant and Pinellas County are parties;

3. Applicant agrees to furnish, with the application and within thirty (30) days following the end of each calendar year, a written status to Pinellas County that identifies:

i. Any information required to be included in any annual status report required to be provided by applicant to the County pursuant to the terms of any existing settlement agreement between applicant and Pinellas County, if any;

ii. Applicant's billboards that are then located within Pinellas County and the square footage of sign face area on each identified billboard; and

4. The applicant agrees to the provisions on luminance and illuminance standards in Section 138-1334(g)(11)d.

b. For each digital off-premises sign face for which an applicant seeks the Shortened Display Time, the applicant shall physically remove a minimum of two (2) Non-FAP off-premises sign structures. In addition, the combined square footage of sign face area removed shall total at least four (4) times the square footage of the electronic changeable message sign face for which the application is made. If the computation for the combined square footage of sign face area that is required to be removed exceeds the combined sign face area on the minimum two (2) Non-FAP off-premises sign structures that are required to be physically removed, then the applicant shall physically remove in their entirety such additional Non-FAP off-premise sign structures that have display face area sufficient to meet or exceed the additional square footage required, i.e., that is sufficient to meet or exceed four (4) times the square footage of the electronic changeable message sign face for which the application is made. The Non-FAP off-premises sign structures designated in the application for removal shall not have been specifically identified for removal before the date of January 1, 2013 in a settlement agreement between the applicant (or its predecessor in interest) and Pinellas County; provided, however, if no off-premises signs that are scheduled for removal after January 1, 2013 exist, an applicant may physically remove Non-FAP off-premises signs identified for removal prior to January 1, 2013 in a settlement agreement between applicant (or its predecessor in interest) and

Pinellas County. The FAP off-premises signs, as well as any additional off-premises signs that may in the future be lawfully erected along the FAP roadways, shall be eligible for obtaining the Shortened Display Time. Off-premises signs located on property annexed into a municipality shall not be considered removed for purposes of this subsection (11)b. The removal of any Non-FAP off-premises signs under this subsection shall not be counted toward the required removal rate under any existing settlement agreement to which Pinellas County is a party.

By way of example, an applicant who desires to install an off-premises electronic changeable message sign face with Shortened Display Time, would be required to remove a minimum of four (4) eligible Non-FAP off-premises sign structures – a minimum of two (2) eligible Non-FAP off-premises sign structures for the installation of a new off-premises electronic changeable message sign face and a minimum of two (2) eligible Non-FAP off-premises sign structures for the right to utilize Shortened Display Time on the sign face.

c. The right to operate an electronic changeable message off-premises sign for the Shortened Display Time or for any period of time shall be subject to the requirements of state law and any federal regulations that apply to FAP roadways. The applicant shall agree to abide by state law and applicable federal regulations in its application submitted pursuant to subsection (11)a. above.

d. The applicant shall agree to abide by the luminance and/or illuminance standards, established at any time by Pinellas County, governing the brightness of a digital off-premises sign, when such standard is predicated reasonably upon safety or aesthetics, and shall agree to waive or otherwise forbear the enforcement of any claim to a vested right as a result of any standard that has been or that may be established in the future as to the brightness of a sign, including a digital sign, provided that any such standard maintains the visibility to the traveling public of the electronic sign message during day and nighttime hours. The agreement to abide by the foregoing shall be incorporated into the application for the attainment of the Shortened Display Time.

(12) Other than as set forth in Section 138-1334(g)(10) and (g)(11) herein, there shall be no new off-premises signs with electronic changeable message displays erected within unincorporated Pinellas County.

(13) Any development order, including a building permit or a sign permit, that permits construction of an electronic changeable message display under either Section 138-1334(g)(10) or Section 138-1334(g)(11) shall be deemed a development order of the type described in Section 70.20(12), Florida Statutes.

SECTION 5: REPEAL OF ORDINANCE NO. 11-01; TERMINATION OF MORATORIUM

Pinellas County Ordinance No. 11-01 is hereby repealed, and the moratorium declared therein is terminated and of no further force and effect as of the effective date of this ordinance.

SECTION 6: SEVERABILITY

If any section, paragraph, clause, sentence, or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this Ordinance, but the effect therefore shall be confined to the section, paragraph, clause, sentence, or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

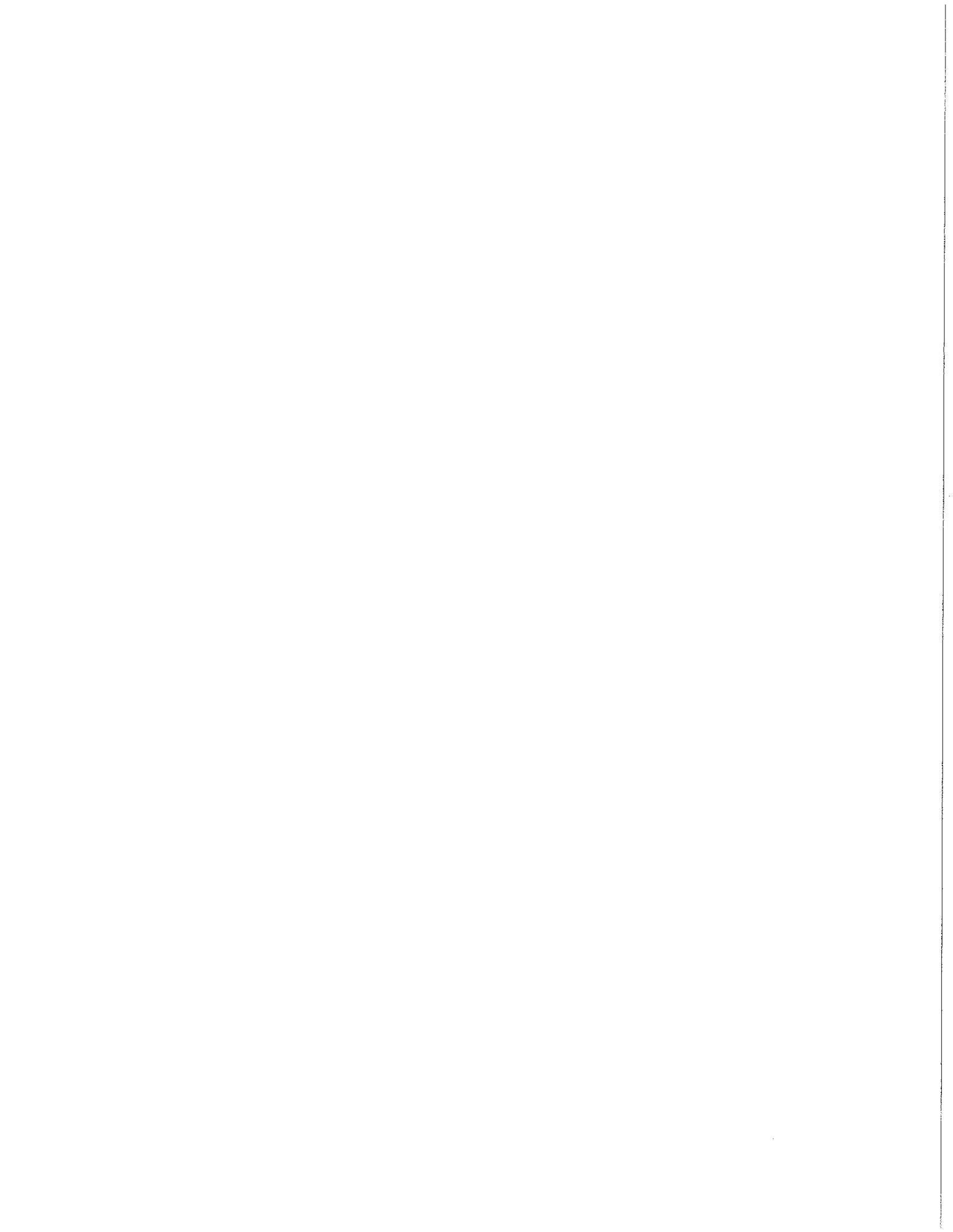
SECTION 7: FILING OF ORDINANCE; EFFECTIVE DATE

Pursuant to Section 125.66, F.S., a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners. This Ordinance shall be effective upon notice of filing of the Ordinance with the Department of State.

SECTION 8: INCLUSION IN THE CODE

The provisions of this Ordinance shall be included and incorporated in the Pinellas County Land Development Code, as an amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Pinellas County Land Development Code.

Pinellas County
Board of County Commissioners
11-01-01
11-01-01
11-01-01



Strike-Out/Underline Version

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 138-1334, SIGNS, OF THE PINELLAS COUNTY LAND DEVELOPMENT CODE; PROVIDING FOR AMENDMENTS OR ADDITIONS TO SUBSECTION A, DEFINITIONS, OF SECTION 138-1334; PROVIDING FOR AMENDMENTS OR ADDITIONS TO SUBSECTION B, GENERAL SIGN REQUIREMENTS, OF SECTION 138-1334; PROVIDING FOR AMENDMENTS TO SUBSECTION D, PROHIBITED SIGNS, OF SECTION 138-1334; PROVIDING FOR AMENDMENTS OR ADDITIONS, INCLUDING THE PARAMETERS FOR AN OFF-PREMISES DIGITAL SIGN, ADDITION OF A SHORTENED DISPLAY TIME AND AN ACCELERATED REMOVAL OF NON-FEDERAL AID PRIMARY OFF-PREMISES SIGNS, TO SUBSECTION G, OFF-PREMISES SIGNS, OF SECTION 138-1334; PROVIDING FOR THE REPEAL OF ORDINANCE NO. 11-01 AND THE TERMINATION OF THE MORATORIUM; PROVIDING FOR SEVERABILITY; PROVIDING FOR FILING THE ORDINANCE AND AN EFFECTIVE DATE; AND PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR ANY MODIFICATION THAT MAY ARISE FROM CONSIDERATION OF THE ORDINANCE AT PUBLIC HEARING.

WHEREAS, Section 163.3161, Florida Statutes, created the "Local Government Comprehensive Planning and Land Development Regulation Act" which was designed to overcome present handicaps, and promote public safety and appearance; and

WHEREAS, Section 163.3202, Florida Statutes, required each local government to adopt land development regulations designed to implement their comprehensive plans; and

WHEREAS, Section 163.3202, Florida Statutes, more specifically, required that the regulation of signage is among the minimum requirements for local government land development regulations; and

WHEREAS, in 1989, the Board of County Commissioners ("Board") adopted the Pinellas County Comprehensive Plan, after extensive public input and discussion, including (then) Future Land Use Element Policy 1.8.3, which stated that the existing County sign regulations were to be reviewed and amended as necessary to meet the safety, environmental and aesthetic needs of the County; and

WHEREAS, in 1992, the Board adopted its current sign code for unincorporated Pinellas County; and

WHEREAS, in 1994, the billboard industry requested that the Board amend its sign code to allow changeable message signs, in particular to accommodate the relatively new "tri-vision" billboards; and

WHEREAS, in recognition that a changeable message sign would have safety, environmental and aesthetic implications, and in further recognition that any frequency applicable to billboards may also be applicable to all signage, the Board, in 1994, amended a portion of its sign code to allow changeable messages, but with significant restrictions, one of which is the one-minute interval between messages; and

WHEREAS, there have been several governmental studies on the use of electronic changeable message signage, including a Federal Highway Administration ("FHWA") report released in 1980, entitled "*Safety and Environmental Design Considerations in the Use of Commercial Electronic Variable-Message Signage*" (the "FHWA 1980 Report"), which addressed both aesthetic and safety considerations for off-premise, commercial electronic variable message signs ("CEVMS"); and

WHEREAS, since the 1992 adoption of the County sign code and the 1994 amendment to the same, technology has continued to evolve in the area of electronic changeable message signs, also referred to as digital signs, commercial electronic variable message signs, changeable electronic message signs, dynamic signs, electronic message center signs, or light emitting diode signs; and

WHEREAS, in 2001, the FHWA sponsored a study authored by the Science Applications International Corporation and entitled "*Research Review of Potential Safety Effects of Electronic Billboards on Driver Attention and Distraction*" (the "FHWA 2001 Report"); and

WHEREAS, the FHWA 2001 Report identified knowledge gaps based on the literature review and determined that these gaps supported the development of a set of research questions and related research findings; and

WHEREAS, in the fall of 2008, one of the major billboard companies, requested that the County relax the standard for changing messages on off-premises CEVMS signs from once per minute (once every sixty seconds) to once every six seconds; and

WHEREAS, in February 2009, the FHWA released a report entitled "*The Effects of Commercial Electronic Variable Message Signs (CEVMS) on Driver Attention and Distraction: An Update*," Report No. FHWA-HRT-09-018 (the "FHWA 2009 Report"), which consisted of an update of the FHWA 1980 Report and the FHWA 2001 Report; and

WHEREAS, the FHWA 2009 Report (1) concentrated on identifying potential factors that may contribute to determining whether there are any significant safety concerns or distraction effects with regard to CEVMS used for outdoor advertising, and (2) recommended, as the first stage of a proposed research program, that an on-road

instrumented vehicle study be utilized to determine driver safety effects as they relate to CEVMS exposure; and

WHEREAS, the FHWA 2009 Report's recommendation was accepted; and

WHEREAS, an FHWA study implementing the FHWA 2009 Report's recommendation has now been underway since 2009, but the results have not yet been released; and

WHEREAS, the Board, in anticipation of a study by the Federal Highway Administration on the effect of CEVMS on driver behavior and the evaluation of their potential risk to traffic safety, continued the matter until that time; and

WHEREAS, in 2007, the American Association of State Highway and Transportation Officials ("AASHTO") identified a need for research related to the impacts of CEVMS on traffic safety, and subsequently sponsored a study with the National Cooperative Highway Research Program to develop guidelines for CEVMS that state and local agencies could adopt; and

WHEREAS, in April 2009, AASHTO released a study entitled "*Safety Impacts of Emerging Digital Display Technology for Outdoor Advertising Signs*" (the "2009 AASHTO Study"), which identified a series of recommendations for eleven such safety guidelines; and

WHEREAS, the County sign code has not been amended since 1994 in connection with changeable message technology and does not address the guidelines in the 2009 AASHTO Study; and

WHEREAS, the current FHWA study and final report is not expected until early 2011; and

WHEREAS, there has been no FHWA study since 1980, or that is currently underway, that addresses the aesthetic impact of CEVMS; and

WHEREAS, the 1980 FHWA Study, which did address aesthetic issues, found that a harsh visual contrast with the ambient environment is generally considered to be unaesthetic, and that the capability of CEVMS for commanding and holding attention permits the signs to dominate the surroundings and involves the risk of incompatibility with the natural or man-made environment; and

WHEREAS, on September 25, 2007 the FHWA issued formal guidance on Off-Premise Changeable Message Signs, which advised that proposed laws, regulations, and procedures that would allow permitting CEVMS subject to acceptable criteria do not violate a prohibition against "intermittent" or "flashing" or "moving" lights as those terms are used in the various Federal-State Agreements that have been entered into during the 1960s and 1970s; and

WHEREAS, in July of 2009, the outdoor billboard company renewed its request to relax the frequency standard for changing messages for CEVMS billboards from once every sixty seconds to once every six seconds; and

WHEREAS, in October 2009, the Board conducted a workshop on the outdoor billboard company request, and the Board stated that a hold on future off-premise CEVMS installations was desired until the County sign regulations could be updated to address the safety, environmental and aesthetic impacts of CEVMS generally and of their changing at higher frequencies, and negotiations with sign companies on reducing the overall number of billboards in unincorporated Pinellas County could commence; and

WHEREAS, the Board directed a review of the current sign regulations relative to off-premises signage and digital technology; and

WHEREAS, the Board, on December 15, 2009, adopted an ordinance declaring a one-year moratorium on the acceptance of applications for off-premise CEVMS in unincorporated Pinellas County based on the anticipated receipt and review of the ongoing FHWA study and the development of standards of CEVMS based on the guidelines in the AASHTO study; and

WHEREAS, the Board, on November 16, 2010, adopted Ordinance No. 10-63, extending the one-year moratorium for a period of two months to the date of January 17, 2011; and

WHEREAS, the Board, on January 11, 2011, adopted Ordinance No. 11-01, extending the one-year, two-month moratorium for a period of four months to May 13, 2011; and

WHEREAS, County staff has researched a myriad of articles and studies on billboards, CEVMS, aesthetics and billboards, and traffic safety and billboards; and

WHEREAS, County staff conducted meetings with outdoor advertising industry representatives and with other interested parties to discuss amendments to the County's sign code and its impact upon Pinellas County; and

WHEREAS, the Board recognizes that its land development regulations need to be kept current but it is not abandoning its basic premise of protecting the safety, environmental, and aesthetic needs of the unincorporated areas of Pinellas County; and

WHEREAS, the Board finds and determines that message sequencing of advertisements with the objective of capturing and holding a driver's attention during the time period over which the message sequencing is displayed is based upon the psychological need to follow a task to its conclusion (sometimes referred to as the Zeigarnik Effect); and

WHEREAS, the Board finds and determines that message sequencing in a driving environment may draw a driver's attention away from the task of driving and to the sign

displaying the message sequence because the driver may attempt to see a change in, or the completion of, the message sequence, and that this loss of attention could lead to unsafe driving behaviors such as prolonged glances away from the roadway, deceleration, or even lane departure; and

WHEREAS, as of January 1, 2001 and July 1, 2002 (the effective date of Chapter 2002-13), all of the existing off-premise signs in the unincorporated areas of Pinellas County were then subject to an ordinance, Pinellas County Ordinance No. 92-5 (hereinafter the "1992 Ordinance"), and the 1992 Ordinance provided for an amortization period, which period had expired on March 15, 1999; and

WHEREAS, as of January 1, 2001 and July 1, 2002, the 1992 Ordinance that provided for the aforementioned amortization period was the subject of judicial proceedings that were commenced prior to January 1, 2001; and

WHEREAS, since July 1, 2002, additional off-premise signs have been erected in Pinellas County and, at the time of their erection, the same were not the subject of judicial proceedings commenced on or before January 1, 2001; and

WHEREAS, the Board has entered into a series of settlement agreements with outdoor advertising companies that provide for the eventual removal of all Non-Federal-Aid Primary (Non-FAP) billboards through established schedules and by established deadlines that currently end on December 31, 2025 or December 31, 2042, depending on the applicable settlement agreement; and

WHEREAS, pursuant to such settlement agreements, more than 74 Non-FAP billboards have already been physically removed from the unincorporated areas of Pinellas County by operation of those agreements between January 1, 2002 and the present date; and

WHEREAS, pursuant to such settlement agreements, at least 78 Non-FAP billboards may continue to remain within the unincorporated areas of Pinellas County after December 31, 2012, but subject to established deadlines for removal that end no later than December 31, 2042; and

WHEREAS, the Board desires to find alternatives that would accelerate the removal of Non-FAP billboards by balancing competing interests, specifically by improving the safety and aesthetic interests along Non-FAP roadways while temporarily diminishing those interests for a period of time along interstate and federal-aid primary highways through supplements to existing settlement agreements; and

WHEREAS, the Board is desirous of accelerating the removal of all Non-FAP billboards in order to benefit the safety and aesthetic interests of Pinellas County; and

WHEREAS, the Board finds and determines that over the past several decades there has been a significant increase in the potential gross revenue and resulting profits

that may be obtained through the erection, construction, and/or maintenance of unlawful and/or illegal signage and sign structures for commercial gain; and

WHEREAS, the Board finds and determines that the increasing magnitude of gross revenue and profits from the erection, construction, and/or maintenance of unlawful and/or illegal signage and sign structures poses ever greater enforcement problems inasmuch as unlawful and/or illegal conduct may provide such significant gains that the benefits of engaging in unlawful and/or illegal activity may outweigh any fines, penalties, or remedies that are currently provided for under local laws; and

WHEREAS, the Board finds and determines that it is essential that there be effective enforcement mechanisms in place, that will deter unlawful and/or illegal conduct through violations of the Pinellas County Land Development Code; and

WHEREAS, the Board of County Commissioners believes that the standards set forth in this Ordinance further benefit the public health, safety, and welfare by (1) creating a limit on the number and location of those billboards that may be converted to, or established as, electronic billboards, (2) clarifying their legal status, and (3) regulating the permitting and operation of such signs.

NOW, THEREFORE, IN REGULAR SESSION DULY ASSEMBLED ON THIS 26TH DAY OF APRIL, 2011, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY, FLORIDA that Pinellas County Land Development Code, Section 138-1334 is hereby amended as follows:

SECTION 1: That the following definitions are amended in, or added to, Section 138-1334(a), *Definitions*, to read as follows:

Changeable message sign means a sign or portion of a sign on which message copy is changed manually, or mechanically ~~or automatically~~ in the field through the utilization of attachable letters, numbers, symbols and other similar characteristics.

Dwell Time is the minimum duration of a single display on a changeable or electronic changeable message sign. During the dwell time, the message display shall be static, and there shall not be any change of color, flash, fade, rotation, twinkle, swirl, alternate luminance, scroll, show of action or motion, or illusion of action or motion.

Electronic changeable message sign (also referred to as digital sign) means an on-premises or off-premises sign or portion thereof that displays electronic static images, static graphics, static pictures, or non-pictorial text information in which each alphanumeric character, graphic, or symbol is defined by a small number of matrix elements using different combinations of light emitting diodes, fiber optics, light bulbs, liquid crystal or any other emerging illumination technology within the display area. Electronic changeable messages include computer programmable, microprocessor-controlled electronic displays. Electronic changeable messages include images or messages with these characteristics projected onto buildings or other objects. Electronic

changeable message sign shall not include any sign that does not maintain a static image for a minimum dwell time of sixty (60) seconds or such other minimum dwell time that is expressly permitted under this Code.

Federal-Aid Primary (FAP) is a system of highways or portions thereof, which shall include the National Highway System designated as the federal-aid primary highway system by the Florida Department of Transportation and shall also include the federal interstate highways. The parts of the federal-aid primary roadways within unincorporated Pinellas County are:

- a) U.S. Highway 19 from the Pasco County line to I-275;
- b) State Road 580 from U.S. Highway 19 eastward to Hillsborough County line;
- c) Gulf-to-Bay Boulevard (State Road 60) from U.S. Highway 19 eastward to the Hillsborough County line;
- d) Ulmerton Road (State Road 688) from U.S. Highway 19 eastward to I-275;
- e) Roosevelt Boulevard (State Road 686) from the St. Petersburg-Clearwater International Airport southward to State Road 688;
- f) Gandy Boulevard (SR 600/694) from U.S. Highway 19 eastward to the Hillsborough County line; and
- g) I-275 from the Hillsborough County line (Howard Frankland Bridge) to the Hillsborough County line (Sunshine Skyway Bridge).

Flash means an entry or exit mode in an electronic changing message with any single frame that repeats two or more times consecutively without change. This does not include official warning signs to the motoring public.

Illuminance means the amount of light coming from a light fixture that lands on a surface.

Legally Existing, for the purpose of describing a sign or sign structure, means that the sign or sign structure was lawfully erected in conformance with all applicable local, state, and federal laws, has been lawfully maintained and is lawfully operated in compliance with all applicable local, state, and federal laws (including any legal nonconforming signs), or that the sign or sign structure is lawfully operating in accordance with a settlement agreement to which Pinellas County is a party.

Luminance means the amount of light reflected off a surface in a particular direction.

Message Sequencing means dividing a single thought or message into two (2) or more successive sign displays on a single electronic changeable message sign or multi-vision sign. For example, it shall be considered message sequencing if the second display answers a textual question posed in the first display, continues or completes a sentence started on the first display, or continues or completes a story line started on the prior display.

Multi-Vision sign, also known as a tri-vision sign, means an on-premises or off-premises sign composed in whole or in part of a series of vertical or horizontal slats or cylinders that are capable of being rotated at intervals so that partial rotation of the group of slats or cylinders produces a different image and when properly functioning allows on a single sign structure the display at any given time one of two or more images.

Physically Removed means, for the purposes of this section, that an off-premises sign shall be deemed removed if the off-premises sign structure is permanently removed to a depth of twelve (12) inches below grade.

Sign means any device, fixture, placard or structure that uses any color, form, graphic, illumination, architectural style or design or writing to advertise, attract attention, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public. "Sign" includes sign structure.

* * *

~~*Animated sign* means any sign which includes action, motion composed of moving parts or lights or lighting devices that change color, flash, fade, rotate, twinkle, twirl, alternate luminance, scrolling, show action or motion, create the optical illusion of action or motion or otherwise change the appearance of the sign. Animated signs do not include electronic (digital) changeable message sign, or multi-vision sign as defined in this section, or color changes of all or any part of the sign facing, requiring electrical energy or set in motion by movement of the atmosphere or a assign made up of a series of sections that turn and stop to show two or more pictures or messages in the copy area. In order to accommodate changes in technology, but to prevent such changes from creating distractions to the motoring public, animated signs shall include electronic reader boards unless the message changes instantaneously, without scrolling, and at a frequency of greater than one minute between messages.~~

* * *

Traditional Off-Premises Sign means any off-premises sign that is not defined as an Electronic Changeable Message Sign.

SECTION 2: That the following provisions are amended in, or added to, Section 138-1334(b), *General sign requirements*, to read as follows:

- (2) b. The maintenance of signs shall be in keeping with the intent of section 22-231(b)(2) to ensure the public health, safety and welfare is maintained. The owner and/or leaseholder shall be responsible for keeping the area immediately surrounding the sign free from

trash and debris as per chapter 58, articles VIII and IX ~~and X~~, and shall be responsible for maintaining the signs concerned in good operating conditions and appearance. Failure to comply with chapter 22, article V shall constitute cause for revocation of the sign permit and removal of the sign, if the owner and/or leaseholder fail to correct same within ten days after written notice of violation.

* * *

(8) c. No colored lights shall be used at any location or in any manner so as to be confused with, or construed as, or interfere with traffic control devices. Similarly, no electronic changeable message sign shall be permitted if it may be confused with, construed as, or interfere with traffic control devices.

* * *

(9) Electronic changeable message signs shall meet the following criteria:

a. Luminance: Luminance shall be measured in nits. A nit is a metric unit of luminance and is defined as candela per square meter (cd/m²); a nit is a unit based on the candela, the modern metric unit of luminous intensity, and the square meter, the modern metric unit of area. Luminance shall not exceed the maximum brightness as set forth below:

1. Luminance at night: Beginning at sunset and continuing until sunrise, the brightness of an electronic changeable message shall not exceed 350 nits.
2. Luminance during daylight hours, beginning at sunrise and continuing until sunset (other than dusk and dawn): During daylight hours (other than dusk and dawn), the brightness of an electronic changeable message shall not exceed 5,000 nits.

b. Illuminance: The illuminance of any electronic changeable message sign display shall not be greater than 0.3 footcandles above ambient light levels at any given time of day or night, as measured using a footcandle meter at a preset distance described in this subsection. To determine compliance with the 0.3 footcandle maximum illuminance, the footcandle measurements for a display shall be taken with the sign switched off and then taken again with the sign displaying all white (maximum sign brightness), and the brightness shall be measured at the pre-set distance perpendicular from the face of a sign. For electronic changeable message signs, the pre-set distance to measure the footcandle impacts vary with the expected viewing distances and the face size of each sign noted below.

The illuminance of any electronic changeable message sign which is less than two hundred eighty-eight (288) square feet in area shall be based upon a one hundred (100) square-foot display at a distance of one hundred (100) feet perpendicular to the display using a footcandle meter. To determine compliance with the 0.3 footcandles maximum illuminance, the footcandle measurements for a display shall be taken with the sign switched off and then taken again with the sign displaying all white (maximum sign brightness), and the brightness shall be measured one hundred (100) feet perpendicular from the face of a sign. If the sign face is other than one hundred (100) square feet, the measured reading shall be prorated to what an otherwise identical sign of one hundred (100) square feet would produce. The prorated, measured footcandle value is then used to compare to the limit of 0.3 footcandles (fc).

Example: For evaluation of a two hundred (200) square-foot sign, if the measured illuminance at a distance of one hundred (100) feet is 0.5 fc above ambient (i.e., with the sign on and showing an all white display, the reading at one hundred (100) feet is 0.5 fc greater than with the sign switched off), then the prorated footcandle value is 0.25 fc and the footcandle value is below the maximum of 0.3 fc.

To determine compliance with the 0.3 footcandle maximum illuminance for any electronic changeable message sign which is equal to or greater than two hundred eighty-eight (288) square feet in area, the footcandle measurements for a display shall be taken with the sign switched off and then taken again with the sign displaying all white (maximum sign brightness), and the brightness shall be measured using a footcandle meter at the preset distance described as follows: one hundred fifty (150) feet perpendicular from the face of a sign that is equal to two hundred eighty-eight (288) square feet in area; two hundred (200) feet perpendicular from the face of a sign that is greater than two hundred eighty-eight (288) square feet in area but less than or equal to three hundred seventy-eight (378) square feet in area; and two hundred fifty (250) feet perpendicular from the face of a sign that is greater than three hundred seventy-eight (378) square feet in area.

Note: The metric equivalent of footcandles is lux, and a luxmeter (as contrasted with a footcandle meter) is used when illuminance is measured in meters.

c. All electronic changeable message signs shall be equipped with appropriate sensors, timers, or other equipment sufficient to maintain compliance with the brightness standards set forth herein, and the

same must be set and operated in a manner to ensure that the brightness standards are not exceeded.

d. Transition Time: The maximum transition time between messages or images on an electronic changeable message sign shall be no more than one-half (1/2) second. During transition, there shall not be any change of color, flash, fade, rotation, twinkle, twirl, alternate luminance, scroll, show of action or motion, or illusion of action or motion.

e. Sign Monitoring and Malfunction: Electronic changeable message signs shall be operated with systems and monitoring in place to either turn the display off or show full black as soon as possible in the event of a malfunction.

(10) Dwell Time: The minimum amount of time that a message or display on a changeable message sign, an electronic changeable message sign or multi-vision sign remains fixed is one minute, except as otherwise permitted pursuant to Section 138-1334(g)(11).

(11) Message Sequencing: Message sequencing on an electronic changeable message sign or multi-vision sign is prohibited.

(12) In connection with the County's issuance of a notice of violation or other process pursuant to which the County seeks to enforce the provisions of Section 138-1334 related to an alleged violation of the luminance, illuminance, message sequencing, or minimum message dwell time standards established in Section 138-1334, forty-eight (48) hours shall be deemed a reasonable time period for the owner or operator to cure a first-time alleged violation. Any time period in which the electronic changeable message display is turned off while the owner or operator attempts to address or cure the alleged violation shall toll the running of the forty-eight (48) hour period. Pursuant to Section 2-625(b), the fine for a violation of any provision of Section 138-1334 pertaining to an off-premises electronic changeable message sign shall be not less than \$1,000.00 per day for the first violation, \$2,500.00 per day for the second violation, and \$5,000.00 per day for the third and subsequent violations.

(9)(123)Intent. It is the intent of the Board of County Commissioners that protection of First Amendment rights shall be afforded such that any sign, display, or device allowed under this section may contain, in lieu of any other copy, any otherwise lawful

noncommercial message that complies with the size, lighting and spacing requirements of this section.

SECTION 3: That subsections (3), (12), (13) and (14) in Section 138-1334(d), *Prohibited signs*, are amended to read as follows:

* * *

(3) Off-premises signs, except for public/semipublic directional signs, per subsection (c)(13) of this section; where specifically provided for elsewhere in this section, and in industrial classifications; and per subsection (g) of this section.

* * *

(12) Signs that emit sound, vapor, smoke, odor, particles or gaseous matter, or project three-dimensional images, holographic images or pyrotechnics.

(13) Signs that have unshielded illuminating devices, other than electronic changeable message sign displays permitted in accordance with Section 138-1334.

(14) Signs that move, revolve, twirl, rotate, or flash, including aAnimated signs, multiprism signs and beacon lights, except when required by the Federal Aviation Administration Agency or other governmental agency.

SECTION 4: Section 138-1334(g), *Off-premises signs*, is amended to read as follows:

(g) *Off-premises signs.* Off-premises signs, except as otherwise provided in this section, shall only be located on properties which abut federal-aid primary highways or interstate highways (FAP) and which are zoned C-2, C-3, CP, M-1, M-2 or IPD, and designated as industrial by the future land use map, and shall comply with the following:

(1) *Number.* A maximum of one such sign per zone lot is permitted.

(2) *Lot Area.* The sign must be located on a zone lot, the minimum area of which shall be that lot area required in the zoning district in which the sign is to be located.

(3) *Sign Area.* The maximum area for an off-premises sign shall be 672 square feet per sign face. Two such sign faces may be mounted back to back on the same sign structure.

(4) *Height.* The maximum height of such signs shall be ~~25-40~~ fifty (50) feet from ground level, ~~or~~ In the case where the freestanding sign is on a parcel contiguous to an overpass or elevated road (excluding service roads) from which the sign is designed to be viewed, the maximum height of the sign shall be the greater of either 40

fifty (50) feet from the ground level or twenty-five (25) feet measured from the highest point of the overpass or elevated road at the crown of the roadway surface to the top of the sign; such highest point to be determined by the average elevation between the perpendicular extension of the contiguous zone lot lines on which the sign is to be located, as such lot lines intersect the overpass or elevated road.

(5) *Separation requirements.*

a. Off-premises signs shall not be located within a 1,500-foot radius of another such sign on interstate designated roadways (I-275), and shall not be located within a 1,000-foot radius of another such sign on all other federal-aid primary designated roadways. Provided, however, such radial spacing requirements shall be reduced to a 500-foot radius in connection with the conversion of a legally existing off-premises sign to an electronic changeable message sign in accordance with Section 138-1334(g)7.

b. On all FAP roadways, off-premises signs that are allowed to have electronic changeable message displays shall not be located within a 2,500 linear feet of another off-premises electronic changeable message sign that is facing the same direction on the same roadway. Such distance shall be measured along the centerline of the abutting roadway. Additionally, the separation requirement for an off-premises sign that has an electronic changeable message display from an off-premises sign that does not have electronic changeable message display shall meet the requirements of subsection (5) a., above.

c. Additionally, nNo off-premises sign shall be placed within four hundred (400) feet of residentially zoned property, and any such sign within four hundred (400) feet of property subsequently classified residential shall be classified nonconforming and be subject to the nonconforming provisions of this section. In addition, the distance between a digital off-premises sign face and residentially zoned property shall be at least five hundred (500) linear feet, which shall be measured perpendicularly from a point on the digital off-premises sign face in a forward direction.

d. Off-premises signs, erected after April 26, 2011, that are allowed to have an electronic changeable messages display, shall not be located within a 500-foot radius of an intersection or interchange, measured from the nearest roadway edge, that has signalized traffic-control devices at said intersection or interchange.

(6) *Setbacks.* Off-premises signs shall be set back as follows:

a. Fifteen feet from any public right-of-way.

b. The side and rear setbacks of the applicable zoning district shall apply.

(7) Off-Premises Signs with Electronic Changeable Message Displays Prohibited with Limited Exceptions. Other than legally existing off-premises signs which already have an electronic changeable message display, an off-premise sign may not have an electronic message display except as follows:

a. Conversion of Existing Off-Premises Signs to Electronic Changeable Message Display Signs. Legally existing off-premises signs, without electronic changeable message displays, located on an FAP roadway, may be converted to off-premises signs with electronic changeable message displays in accordance with the requirements of Section 138-1334 (g), except for the restriction that such legally existing off-premises signs be on properties with an industrial future land use designation.

b. Erection of New Off-Premises Signs with Electronic Changeable Message Display Signs. New off-premises signs may be erected on an FAP roadway with electronic changeable message displays in accordance with the requirements of Section 138-1334 (g).

c. Conversion to Electronic Changeable Message Display with a Shortened Display Time, as defined in Section 138-1334(g)(11). An electronic changeable message display sign, located on an FAP roadway, may be converted to operate with a Shortened Display Time in accordance with the requirements of Section 138-1334 (g), except for the restriction that such legally existing off-premises signs be on properties with an industrial future land use designation.

(8) Other Requirements. Off-premises signs shall conform to the applicable requirements set forth in Section 138-1334 (b), General sign requirements.

(7)(9) Intergovernmental coordination. In those locations at, or in proximity to jurisdictional boundaries where inconsistent sign regulations would serve to undermine the purpose and intent of the countywide minimum sign standards, the Board of County Commissioners may enter into an interlocal agreement with the applicable local government to provide for the regulation of signs within such transitional areas.

(10) Acceleration of Removal of Non-FAP Off-Premises Signs Located in Unincorporated Pinellas County. As an initiative to the acceleration of the removal of off-premises signs along Non-FAP roadways, (i) legally existing off-premises signs that are located on an FAP roadway and do not have electronic changeable message displays may be converted to off-premises signs with electronic changeable message displays, and (ii) new off-premises signs with electronic changeable message displays may be erected on an FAP roadway, but only under the following conditions and only upon approval of an application for such conversion or new construction.

a. The applicant shall submit an application for administrative approval in the forms provided by Pinellas County to ensure compliance with applicable law, including the provisions of Section 138-1334(g). In addition, as part of any application to utilize an electronic changeable message display under this subsection, an applicant shall specifically agree to the following:

1. Applicant waives all rights to challenge the validity, constitutionality, and enforceability of Section 138-1334(g)(10);

2. The removal by applicant of any Non-FAP off-premises signs under this subsection (g)(10) in a given year shall not be counted toward the minimum required annual removal rate for such year under any existing settlement agreement to which applicant and Pinellas County are parties;

3. Applicant agrees to furnish, with the application and within thirty (30) days following the end of each calendar year, a written status to Pinellas County that identifies:

i. Any information required to be included in any annual status report required to be provided by applicant to the County pursuant to the terms of any existing settlement agreement between applicant and Pinellas County, if any; and

ii. Applicant's billboards that are then located within Pinellas County and the square footage of sign face area on each identified billboard.

4. The applicant agrees to the provisions on luminance and illuminance standards in Section 138-1334(g)(10)g.

b. Except as provided in subsection (10)(d) below, for each legally existing off-premises sign an applicant seeks to convert into an off-premises sign with one (1) or more changeable electronic message displays, the applicant shall physically remove a minimum of two (2) Non-FAP off-premises sign structures for each single electronic changeable message sign face. In addition, the combined square footage of sign face area removed shall total at least four (4) times the square footage of the electronic changeable message sign face for which the application is made. If the computation for the combined square footage of sign face area that is required to be removed exceeds the combined sign face area on the minimum two (2) Non-FAP off-premises sign structures that are required to be physically removed, then the applicant shall physically remove in their entirety such additional Non-FAP off-premise sign structures that have display face area sufficient to meet or exceed the additional square footage required, i.e., that is sufficient to meet or exceed

four (4) times the square footage of the electronic changeable message sign face for which the application is made. The Non-FAP off-premises sign structures designated in the application for removal shall not have been specifically identified for removal before the date of January 1, 2013 in a settlement agreement between the applicant (or its predecessor in interest) and Pinellas County; provided, however, if no off-premises signs that are scheduled for removal after January 1, 2013 exist, an applicant may physically remove Non-FAP off-premises signs identified for removal prior to January 1, 2013 in a settlement agreement between applicant (or its predecessor in interest) and Pinellas County. It is further provided that off-premises signs located on property annexed into a municipality shall not be considered removed for purposes of this subsection (10)b. The removal of any Non-FAP off-premises signs under this subsection shall not be counted toward the required annual removal rate for such year under any existing settlement agreement to which Pinellas County is a party.

c. Except as provided in subsection (10)(d) below, for each new off-premises sign with one (1) or more changeable message displays an applicant seeks to erect, the applicant shall physically remove a minimum of two (2) Non-FAP off-premises sign structures for each single electronic changeable message sign face. In addition, the combined square footage of sign face area removed shall total at least four (4) times the square footage of the electronic changeable message sign face for which the application is made. If the computation for the combined square footage of sign face area that is required to be removed exceeds the combined sign face area on the minimum two (2) Non-FAP off-premises sign structures that are required to be physically removed, then the applicant shall physically remove in their entirety such additional Non-FAP off-premise sign structures that have display face area sufficient to meet or exceed the additional square footage required, i.e., that is sufficient to meet or exceed four (4) times the square footage of the electronic changeable message sign face for which the application is made. The Non-FAP off-premises sign structures designated in the application for removal shall not have been specifically identified for removal before the date of January 1, 2013 in a settlement agreement between the applicant (or its predecessor in interest) and Pinellas County; provided, however, if no off-premises signs that are scheduled for removal after January 1, 2013 exist, an applicant may physically remove Non-FAP off-premises signs identified for removal prior to January 1, 2013 in a settlement agreement between applicant (or its predecessor in interest) and Pinellas County. It is further provided that off-premises signs located on property annexed into a municipality shall not be considered removed for purposes of this subsection (10)c. The removal of any Non-FAP off-premises signs under this subsection shall not be counted toward the required annual removal

rate for such year under any existing settlement agreement to which Pinellas County is a party.

d. Exceptions to Non-FAP Off-Premises Signs Removal Requirements;

1. An applicant shall not be required to physically remove any off-premises sign structures in conjunction with the relocation of an electronic changeable message display from a legally existing off-premises sign with an electronic changeable message display to an off-premises sign located on an FAP roadway in a location that meets all other requirements of Section 138-1334(g)(7), except that legally existing off premises signs receiving the relocated electronic changeable message display are not subject to the restriction that such legally existing off premises signs be on properties with an industrial future land use designation. Upon removal of the electronic changeable message display from the existing sign, the applicant may replace the electronic changeable message display on the existing sign with a traditional billboard face.

2. In the event that an applicant has identified a location on an FAP roadway that meets all requirements of Section 138-1334(g)(7) for the conversion of a legally existing off-premises sign to an electronic changeable message sign other than the radial separation requirements established in Section 138-1334 (g)(5)a., an applicant may, as an alternative to the removal of one of the two (2) required non-FAP removals, elect to physically remove one (1) FAP structure in order to comply with the separation requirements. The applicant shall receive the same credit for the removal of such FAP structure as if a Non-FAP structure was removed by applicant.

e. The minimum dwell time for any off-premises sign with changeable electronic message displays that are converted or erected pursuant to subsections (10)b., (10)c., and (10)d. above, shall be sixty (60) seconds, except as permitted pursuant to subsection (11) below.

f. The right to operate an electronic changeable message off-premises sign shall be subject to the requirements of state law and any federal regulations that apply to FAP roadways. The applicant shall agree to abide by state law and applicable federal regulations in its application submitted pursuant to subsection (10)a. above. Except as otherwise provided in this paragraph, the right to operate an electronic changeable message sign as provided herein shall be a limited right that shall expire twenty (20) years after the receipt of a permit to operate such electronic changeable message sign. After the expiration of this twenty (20) year period, an electronic changeable message sign face that was converted or erected pursuant to the provisions of this subsection shall be converted to a Traditional Off Premises Sign unless otherwise provided herein.

~~Notwithstanding anything in this paragraph to the contrary, (i) any electronic changeable message sign for which the electronic changeable message display was relocated from an electronic changeable message sign which was in place on an FAP roadway on April 26, 2011, is not subject to the twenty (20) year period and may remain as an electronic changeable message sign, and (ii) any electronic changeable message sign for which the electronic changeable message display was relocated from an electronic changeable message sign which was in place on a Non-FAP roadway on April 26, 2011, is not subject to the twenty (20) year period, but shall be converted to a Traditional Off-Premises Sign not later than December 31, 2042.~~

~~g. The applicant shall agree to abide by the luminance and/or illuminance standards, established at any time by Pinellas County, governing the brightness of an electronic changeable message off-premises sign, when such standard is predicated reasonably upon safety or aesthetics, and shall agree to waive or otherwise forbear the enforcement of any claim to a vested right as a result of any standard that has been or that may be established in the future as to the brightness of a sign, including an electronic changeable message sign, provided that any such standard maintains the visibility to the traveling public of the electronic sign message during day and nighttime hours. The agreement to abide by the foregoing shall be incorporated into the application for such conversion or erection.~~

~~h. In connection with the County's issuance of a notice of violation or other process pursuant to which the County seeks to enforce the provisions of this Section related to an alleged violation of the luminance, illuminance, message sequencing, or minimum message dwell time standards established in this Section, forty-eight (48) hours shall be deemed a reasonable time period for the owner or operator to cure a first-time alleged violation. Any time period in which the electronic changeable message display is turned off while the owner or operator attempts to address or cure the alleged violation shall toll the running of the forty-eight (48) hour period.~~

(11) Acceleration of Removal of Non-FAP Off-Premises Signs Located in Unincorporated Pinellas County; Shortened Display Time. As an added initiative to the acceleration of the removal of off-premises signs along Non-FAP roadways, (i) a legally existing off-premises sign with an electronic changeable message display located on a FAP roadway, which is in place on April 26, 2011, (ii) a legally existing off-premises sign which has been converted to an electronic changeable message display in accordance with subsection (g)(10), or (iii) a new off-premises sign which has been constructed with an electronic changeable message display in accordance with subsection (g)(10), may be converted to an electronic changeable message display with a minimum

fifteen (15) second dwell time (Shortened Display Time) under the following conditions and upon the submission and approval of an application for a Shortened Display Time.

a. The applicant shall submit an application for administrative approval in the forms provided by Pinellas County to ensure compliance with applicable law, including the provisions of Section 138-1334(g). In addition, as part of any application to utilize an electronic changeable message display under this subsection, an applicant shall specifically agree to the following:

1. Applicant waives all rights to challenge the validity, constitutionality, and enforceability of Section 138-1334(g)(11);

2. The removal by applicant of any Non-FAP off-premises signs under this subsection (g)(11) in a given year shall not be counted toward the minimum required annual removal rate for such year under any existing settlement agreement to which applicant and Pinellas County are parties;

3. Applicant agrees to furnish, with the application and within thirty (30) days following the end of each calendar year, a written status to Pinellas County that identifies:

i. Any information required to be included in any annual status report required to be provided by applicant to the County pursuant to the terms of any existing settlement agreement between applicant and Pinellas County, if any;

ii. Applicant's billboards that are then located within Pinellas County and the square footage of sign face area on each identified billboard; and

4. The applicant agrees to the provisions on luminance and illuminance standards in Section 138-1334(g)(11)d.

b. For each digital off-premises sign face for which an applicant seeks the Shortened Display Time, the applicant shall physically remove a minimum of two (2) Non-FAP off-premises sign structures. In addition, the combined square footage of sign face area removed shall total at least four (4) times the square footage of the electronic changeable message sign face for which the application is made. If the computation for the combined square footage of sign face area that is required to be removed exceeds the combined sign face area on the minimum two (2) Non-FAP off-premises sign structures that are required to be physically removed, then the applicant shall physically remove in their entirety such additional Non-FAP off-premise sign structures that have display face area sufficient to meet or exceed the additional square footage required, i.e., that is sufficient to meet or exceed four (4) times the square footage of the electronic changeable message sign face for which the application is made. The Non-FAP off-premises sign structures designated in the

application for removal shall not have been specifically identified for removal before the date of January 1, 2013 in a settlement agreement between the applicant (or its predecessor in interest) and Pinellas County; provided, however, if no off-premises signs that are scheduled for removal after January 1, 2013 exist, an applicant may physically remove Non-FAP off-premises signs identified for removal prior to January 1, 2013 in a settlement agreement between applicant (or its predecessor in interest) and Pinellas County. The FAP off-premises signs, as well as any additional off-premises signs that may in the future be lawfully erected along the FAP roadways, shall be eligible for obtaining the Shortened Display Time. Off-premises signs located on property annexed into a municipality shall not be considered removed for purposes of this subsection (11)b. The removal of any Non-FAP off-premises signs under this subsection shall not be counted toward the required removal rate under any existing settlement agreement to which Pinellas County is a party.

By way of example, an applicant who desires to install an off-premises electronic changeable message sign face with Shortened Display Time, would be required to remove a minimum of four (4) eligible Non-FAP off-premises sign structures – a minimum of two (2) eligible Non-FAP off-premises sign structures for the installation of a new off-premises electronic changeable message sign face and a minimum of two (2) eligible Non-FAP off-premises sign structures for the right to utilize Shortened Display Time on the sign face.

c. The right to operate an electronic changeable message off-premises sign for the Shortened Display Time or for any period of time shall be subject to the requirements of state law and any federal regulations that apply to FAP roadways. The applicant shall agree to abide by state law and applicable federal regulations in its application submitted pursuant to subsection (11)a. above. ~~The right to operate an electronic changeable message sign for the Shortened Display Time as provided herein shall be a limited right that shall expire twenty (20) years after the receipt of a permit to operate such electronic changeable message sign face. Except as otherwise provided in this paragraph, after the expiration of this twenty (20) year period, an electronic changeable message sign face that had been converted or erected pursuant to the provisions of this subsection shall be converted to a Traditional Off-Premises Sign. Notwithstanding anything in this paragraph to the contrary, any electronic changeable message sign which is in place on April 26, 2011, including any sign for which the electronic changeable message display was relocated from an electronic changeable message sign which was in place on April 26, 2011, may remain as an electronic changeable message sign after the expiration of the twenty (20) year period, except that (i) the sign shall be operated in accordance with a minimum sixty (60) second dwell time, and (ii) any electronic changeable message sign for which the electronic changeable~~

message display was relocated from an electronic changeable message sign which was in place on a Non-FAP roadway on April 26, 2011 shall be converted to a Traditional Off-Premises Sign not later than December 31, 2042.

d. The applicant shall agree to abide by the luminance and/or illuminance standards, established at any time by Pinellas County, governing the brightness of a digital off-premises sign, when such standard is predicated reasonably upon safety or aesthetics, and shall agree to waive or otherwise forbear the enforcement of any claim to a vested right as a result of any standard that has been or that may be established in the future as to the brightness of a sign, including a digital sign, provided that any such standard maintains the visibility to the traveling public of the electronic sign message during day and nighttime hours. The agreement to abide by the foregoing shall be incorporated into the application for the attainment of the Shortened Display Time.

(12) Other than as set forth in Section 138-1334(g)(10) and (g)(11) herein, there shall be no new off-premises signs with electronic changeable message displays erected within unincorporated Pinellas County.

(13) Any development order, including a building permit or a sign permit, that permits construction of an electronic changeable message display under either Section 138-1334(g)(10) or Section 138-1334(g)(11) shall be deemed a development order of the type described in Section 70.20(12), Florida Statutes.

SECTION 5: REPEAL OF ORDINANCE NO. 11-01; TERMINATION OF MORATORIUM

Pinellas County Ordinance No. 11-01 is hereby repealed, and the moratorium declared therein is terminated and of no further force and effect as of the effective date of this ordinance.

SECTION 6: SEVERABILITY

If any section, paragraph, clause, sentence, or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this Ordinance, but the effect therefore shall be confined to the section, paragraph, clause, sentence, or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

SECTION 7: FILING OF ORDINANCE; EFFECTIVE DATE

Pursuant to Section 125.66, F.S., a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10)

days after enactment by the Board of County Commissioners. This Ordinance shall be effective upon notice of filing of the Ordinance with the Department of State.

SECTION 8: INCLUSION IN THE CODE

The provisions of this Ordinance shall be included and incorporated in the Pinellas County Land Development Code, as an amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Pinellas County Land Development Code.