



CITY OF BOZEMAN

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

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April 15, 2010

Dee-O-Gee
Josh Allen
801 W. Main St., Ste. 1A
Bozeman, MT 59715

Mr. Allen:

In an e-mail to Vicki Hasler, Code Enforcement Officer, dated April 12, 2010, you asked how your "window mural" was in violation of Bozeman Municipal Code. The development and use of land in Bozeman is subject to Title 18, Unified Development Ordinance, Bozeman Municipal Code (Title 18, BMC). All references to sections in this letter are located within this Title.

Title 18, BMC is available for review at <http://www.bozeman.net/bozeman/planning/UDO/UDO.aspx> through the City's web site. Project specific requirements may also be required with individual development proposals such as the construction of the building at 801 W. Main Street. A summary of specific items relevant to your inquiry is provided below:

A sign is defined in **Section 18.80.2790 Sign**: "Any device, fixture, placard or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public."

Application: Graphics depicting dogs is directly tied to the nature and identity of your business and therefore is a sign per Title 18 of the Bozeman Municipal Code. All signs are subject to the standards and procedural requirements of Title 18, BMC, especially Chapter 18.52, Signs.

Installation of a sign requires a sign permit. This requirement is from **Section 18.52.020 Sign Permit Requirements**: "If a sign requiring a permit under the provision of this chapter is to be placed, constructed, erected or modified on a zone lot, the owner of the lot shall secure a sign and building permit prior to the construction, placement, erection or modification of such a sign. Furthermore, the property owner shall maintain in force, at all times, a permit for such sign. No permit of any kind shall be issued for an existing sign or proposed sign unless such sign is consistent with the requirements of this chapter."

There are several different types of signs which a business may wish to use. A window sign is defined in **Section 18.80.3210 Window Sign**: "Any sign painted, attached, glued or otherwise affixed to a window for the purpose of being visible from the exterior of the building."

Application: The two large graphics applied to the windows at your business clearly meet the definition of a window sign and are therefore subject to the standards and requirements for general signs and window signs.

The sign regulations of Title 18, BMC have certain exemptions for signs which do not require a permit

before being displayed. This is a convenience to the business owner and allows flexibility for short term signs without the business owner being required to follow the general permitting process while ensuring that total sign area remains controlled. These exemptions are described in part in **Section 18.52.050.B.1 Signs Exempt From Permit Requirements**: “Window signs painted on the window or physically affixed to the interior of a window, provided that such signs do not occupy more than 25% of the area of the window in which it is displayed. If it exceeds 25% of the area of the window, it will be classified as a wall sign.”

Application: The graphics you have affixed to the windows meet the definition of window sign given above. The definition of a window sign does not rely on placement interior or exterior to the building. A window sign may be 25% or less of the window area and not require a permit or, upon approval of a sign permit may cover up to 100% of the window. You have in earlier correspondence asserted that you should not be subject to Section 18.52.050.B.1 since the graphics are installed on the exterior of the window. As stated earlier, which side of the window the sign is mounted on does not change it from being a window sign. Section 18.52.050.B gives greater latitude for signs and is an expansion, not a restriction, on allowed signs. If your assertion of exterior vs. interior location were applied then you are not allowed the 25% exemption and all of the graphic area applies towards the maximum sign area allowed thereby increasing the scope of the violation of sign standards.

There is a maximum amount of sign area allowed to a single development. This amount varies by zoning district and building frontage but in all cases has a defined upper limit. A multi-tenant building needs a means to coordinate the allocation of allowed sign area amongst the tenants. This is done through a comprehensive sign plan. A comprehensive sign plan is prepared by the property owner to meet their leasing needs and their tenant needs. There is no City required uniform formula for how a comprehensive sign plan distributes the allowed sign area among the tenants.

The requirement for a comprehensive sign plan is from **Section 18.52.070 Comprehensive Sign Plan**: “A comprehensive sign plan shall be submitted for all commercial, office, industrial and civic uses consisting of two or more tenant or occupant spaces on a lot or two or more lots subject to a common development permit or plan. A comprehensive sign plan shall not be approved unless it is consistent with this chapter, the underlying zoning regulations applicable to the property and any discretionary development permit or plan for the property. The plan should include the size and location of buildings and the size of location of existing and proposed signs. The purpose of the plan is to coordinate graphics and signs with building design.”

Application: The property owner has submitted a comprehensive sign plan for 801 West Main Street which has been approved. The approved comprehensive sign plan does not allow for the large window signs you have installed. A request for modification to the approved Comprehensive Sign Plan may be submitted by the property owner for review and subsequent approval by the Planning Department whenever the property owner considers it beneficial. If you wish to negotiate with the owner of the site for a greater percentage of the overall sign area you are free to do so.

In your specific circumstance, you have: 1) installed signs without an approved sign permit and 2) the signs are contrary to the approved comprehensive sign plan and are therefore in violation of Chapter 18.52 of the Bozeman Municipal Code. Ms. Hasler has previously given you a formal notice for this violation. **In order to correct this you must remove the existing signage in the windows within seven (7) days of the date of this letter, or by Thursday, April 22, 2010.**

Should you wish to increase the amount of sign area allocated to your space we invite you to work with the property owner to develop an application for modification to the approved Comprehensive Sign Plan for the site. The overall comprehensive sign plan must abide by the overall limits on total on-site signage. Changes to the comprehensive sign plan must also be approved by the City before changes may be acted upon. Alternatively, you may propose sign changes which comply with the standards. If you wish to coordinate with the property owner the City's regulations have a procedure to request a deviation or variance for additional sign area for the site. These are more complex procedures and have specific criteria for approval which must be satisfied.

This letter is a final administrative action. If you believe that an error has been made in interpreting the City's ordinances you may appeal this action as described in Section 18.66.040, BMC. A complete application for appeal, including fee, must be submitted within **30** calendar days of the date of this letter, or by **May 14, 2010**. Should you wish to appeal you may contact the Department of Planning and Community Development to obtain the necessary forms.

Respectfully,

A handwritten signature in cursive script that reads "Chris Saunders".

Chris Saunders, AICP
Interim Director

cc: Vicki Hasler, Code Enforcement Officer
Greg Sullivan, City Attorney
file