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Book 1255 Page 211-224 \$39.00
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RANDY SIMMONS
RECORDER, UTAH COUNTY, UTAH
UTAH FIRST TITLE
416 W 800 N DREM UT 84057
Rec By: HEATHER COON , DEPUTY

RETURN RECORDED DOCUMENT TO:

Law Office of Steven W. Farnsworth, PLLC
Pinehurst Business Park
480 West 800 North, Ste. 204
Orem, UT 84057

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RECIPROCAL EASEMENT AGREEMENT WITH COVENANTS, CONDITIONS AND RESTRICTIONS

THIS RECIPROCAL EASEMENT AGREEMENT WITH COVENANTS, CONDITIONS AND RESTRICTIONS (the "Agreement") is executed this 17th day of November, 2011, by Vernal Valley Retail, LLC, a Utah limited liability company ("Owner #1"), Vernal Valley Lodging Associates, LLC, a Utah limited liability company ("Owner #2) and Vernal Valley Lodging #2, LLC ("Owner #3") (Owner #1, Owner #2 and Owner #3 are collectively, "Owners"). The Owners comprise all of the owners of Lot 1, Lot 2 and Lot 3 which are collectively the "Properties" and together compromise a "Shopping Center" as more fully described on Exhibit "A" attached hereto.

A. Owner #1 is the owner of a certain parcel of real property situated in the City of Vernal, Uintah County, State of Utah comprising Lot 1 of Vernal Valley Lodging Subdivision, according to the official plat thereof on file and of record in the Uintah County Recorder's Office ("Lot 1").

B. Owner #2 is the owner of a certain parcel of real property situated in the City of Vernal, Uintah County, State of Utah comprising Lot 2 of Vernal Valley Lodging Subdivision, according to the official plat thereof on file and of record in the Uintah County Recorder's Office ("Lot 2").

C. Owner #3 is the owner of a certain parcel of real property situated in the City of Vernal, Uintah County, State of Utah comprising Lot 3 of Vernal Valley Lodging Subdivision, according to the official plat thereof on file and of record in the Uintah County Recorder's Office ("Lot 3").

D. Even though the Properties comprising the Shopping Center are separate parcels, the Owners desire that the Properties be utilized by customers collectively as a Shopping Center.

E. The Owners desire to establish non-exclusive easements over, across and upon all driveways, drive aisles, parking areas and access ways located from time to time on the Properties (collectively, the "Common Areas") for the mutual and reciprocal benefit of the Properties and the present and future owners, occupants and invitees thereof.

F. The Owners desire to establish certain covenants, conditions and restrictions with respect to the use of the Properties now and in the future.

NOW, THEREFORE, in consideration of the above premises and of the covenants herein contained, the Owners covenant and agree that the Properties and all present and future owners, occupants and invitees of the Properties shall be and hereby are subject to the terms, easements, covenants, conditions and restrictions as follows:

1. **DEFINITIONS.** For purposes hereof:

1.1 The term "Owner" or "Owners" shall mean and any and all successors or assigns of any Owner as the owner or owners of fee simple title to all or any portion of the Properties, whether

by sale, assignment, inheritance, operation of law, trustee's sale, foreclosure, or otherwise, but not including the holder of any lien or encumbrance on such Properties or any portion thereof.

1.2 The term "Permittees" shall mean the tenant(s) or occupant(s) of the Properties, and the respective employees, agents, contractors, customers, invitees and licensees of (a) the Owners of such Properties, and/or (b) such tenant(s) or occupant(s).

2. EASEMENTS.

2.1 Grant of Reciprocal Easements. Subject to any express conditions, limitations or reservations contained herein, Owners hereby grant, establish, covenant and agree that the Properties, and all Owners and Permittees of the Properties, shall be benefited and burdened by the following nonexclusive, perpetual and reciprocal easements which are hereby imposed upon the Properties and all present and future Owners and Permittees of the Properties:

(a) An easement for reasonable access, parking in parking areas, ingress and egress to from, upon, over and across all of the Common Areas now and from time to time existing on the Properties for the purpose of vehicular and pedestrian ingress and egress between all portions of the Common Areas, and to and from all abutting streets or rights of way furnishing access to the Properties. This access easement shall not prohibit the right of the Owners to reconfigure or construct roadways and vehicular passageways, driveways, and driving lanes, or to construct and maintain, within the area affected by this easement, traffic and parking control islands and other such facilities, on their respective portion of the Properties, so long as any such action does not unreasonably prevent the passage by motor vehicles and service and delivery vehicles between each of the Properties, and to the public roads, as appropriate. No person shall be permitted to construct or maintain any building, barrier or sign of any sort, which would limit or otherwise interfere with the traversing of vehicular and/or pedestrian traffic within the Shopping Center upon the Common Areas.

(b) An easement under and across those parts of the Shopping Center, which are not under or within any buildings located on the Shopping Center, for the installation, operation, maintenance, repair, replacement and renewal of any and all utility lines and related facilities within the Shopping Center, wherever said utility lines may from time to time be located, and also for sheet drainage of water across the Shopping Center. The Owners covenant and agree that the rights granted pursuant to these easements shall at all times be exercised in such a manner as not to unreasonably interfere with the normal operation of the Properties and the businesses conducted therein. All such utility lines and related facilities shall be installed and maintained below the ground level or surface of the Properties (except for such parts thereof that cannot and are not intended to be placed below the surface, such as transformers and control panels).

2.2 Indemnification. Each Owner having rights with respect to an easements granted in this Agreement shall indemnify and hold the Owner whose Property is subject to the easements and each of such Owner's Permittees harmless from and against all claims, liabilities, damages, penalties, costs, demands and expenses (including reasonable attorneys' fees and legal costs) relating to accidents, injuries, loss, or damage of or to any person or property arising from the negligent, intentional or willful acts or omissions of such Owner, its contractors, employees, agents, or others acting on behalf of such Owner.

2.3 Reasonable Use of Easements.

(a) The easements granted herein shall be used and enjoyed by each Owner and its Permittees in such a manner so as not to unreasonably interfere with, obstruct or delay the conduct and operations of the business of any other Owner or its Permittees at any time conducted on its Property including, without limitation, public access to and from said business, and the receipt or delivery of merchandise in connection therewith.

(b) No permanent building, structures, trees or other improvements inconsistent with the use and enjoyment of such easements (excluding improvements typically found in common areas of shopping centers) shall be placed over or permitted to encroach upon any utility installations governed by Section 2.1(b) above.

(c) Once commenced, any construction, maintenance, repair or replacement undertaken in reliance upon an easement granted herein shall be diligently prosecuted to completion, so as to minimize any interference with the business of any other Owner and its Permittees. Except in cases of emergency, the right of any Owner to enter upon a Property of another Owner for the exercise of any right pursuant to the easements set forth, or to prosecute work on such Owner's own Property if the same interferes with utility easements or easements of ingress, egress or access to or in favor of another Owner's Property, shall be undertaken only in such a manner so as to minimize any interference with the business of the other Owner and its Permittees, and only following reasonable notice under the circumstances to the other Owner and its Permittees. The Owner performing any such construction, maintenance, repair or replacement shall have the obligation at its own expense (except as set forth in Section 3.3) to promptly restore the other Owner's Property to the same condition as was present prior to such construction, maintenance, repair or replacement.

(d) Each Owner shall have the right to alter, modify, reconfigure, and/or relocate the Common Areas on its Property, subject to the following conditions: (i) the reciprocal easements between the Properties pursuant to Section 2.1(a) shall not be closed or materially impaired, and (ii) the access ways, driveways and passageways, parking areas, and ingress and egress thereto, and to and from the Properties and adjacent streets and roads, shall not be so altered, modified, relocated, blocked and/or removed without the express written consent of all Owners.

3. MAINTENANCE AND REPAIR.

3.1 Buildings and Appurtenances Thereto. Each Owner covenants to keep and maintain, at its sole cost and expense, the building(s) located on its respective Property in good order, condition and repair. In the event of any damage to or destruction of a building on any Property, the Owner of such Property shall, at its sole cost and expense, with due diligence either (a) repair, restore and rebuild such building to its condition prior to such damage or destruction (or with such changes as shall not conflict with this Agreement), or (b) demolish and remove all portions of such damaged or destroyed building then remaining, including the debris resulting therefrom, and otherwise clean and restore the area affected by such casualty to a level, graded condition. Each Owner shall also be responsible to pay all ad valorem and other taxes owing with respect to such Owner's Property including all Common Areas located on such Owner's Property.

3.2 Common Areas and Easements.

(a) Owner # 2 is hereby designated and shall at all times be responsible for the regular maintenance, repair and replacement of the Common Areas and all of the easements located

on the Properties including, without limitation, all of the physical improvements associated with such easements. In the event that Owner #2 elects to designate another Owner to be responsible for such obligations it may designate either of the other owners upon 30 days written notice. Such obligations shall include, without limitation, maintaining and repairing all sidewalks and the surface of the roadway areas, removing all papers, debris and other refuse from and periodically sweeping all road areas to the extent necessary to maintain the same in a clean, safe and orderly condition, maintaining appropriate lighting fixtures for the roadways, maintaining marking, directional signs, lines and striping as needed, maintaining landscaping, maintaining signage in good condition and repair, and performing any and all such other duties as are necessary to maintain such Common Areas and easements in a clean, safe and orderly condition. Owner # 2 or its successor shall be entitled to a 4% management fee applied to the gross expenditures for the maintenance and repair of the Common Areas and Easements as compensation for managing the Common Areas and Easements (the "Management Fee"). Notwithstanding the foregoing, any damage to any easement, which is caused by intentional or negligent acts of one of the Owners or its Permittees, shall be promptly repaired at the sole cost of such Owner.

(b) Notwithstanding the foregoing obligations of the Owner # 2 or its successor, each Property shall be assessed a pro-rata allocation of the maintenance, repair and replacement costs of the Common Area and easements, including the Management Fee ("Maintenance Fee"). Such Maintenance Fee shall be reasonably determined by Owner # 2 or its successor based upon actual maintenance costs incurred and reasonable estimates for reserves for major repairs. The pro-rata allocation shall be based upon the square footage of each lot as follows:

Lot Number	Square Feet	Percentage
Lot 1	38,712	19.91%
Lot 2	74,038	38.09%
Lot 3	81,651	42.00%
TOTALS	194,401	100%

3.3. Failure to Pay Maintenance Fee. If any Owner fails to timely pay any Maintenance Fee, the unpaid amount shall bear interest at the rate of twelve percent (12%) per annum from the due date until the date such amount is paid in full. Additionally, in the event that the defaulting Owner's failure to pay a bill continues beyond sixty (60) days after it is due, then any other Owner shall be entitled to record a Notice of Lien against the defaulting Owner's Property in the total amount due and owing. Said Notice of Lien may be foreclosed by suit, power of sale or in any other manner permitted by applicable law including, without limitation, power of sale foreclosure. Notwithstanding the foregoing, if the defaulting Owner gives written notice, prior to the expiration of such sixty (60) day period, that it is contesting the amount or payment of the bill in question, and provided that the defaulting Owner also either posts a bond in favor of the other Owner(s) or pays into escrow the amount being contested pending resolution, then the non-defaulting Owner(s) shall not be entitled to record a Notice of Lien against the defaulting Owner's Property. The defaulting Owner and/or its agents shall be permitted, upon seventy-two (72) hours advance written notice to review the records and supporting documentation for any bill submitted to the defaulting Owner pursuant to this Section 3.3. Such review shall take place at the principal place of business of Owner # 2 or its successor.

4. COVENANTS, CONDITIONS AND RESTRICTIONS.

4.1 Term. The easements, covenants, conditions and restrictions contained in this Agreement shall be effective commencing on the date of recordation of this Agreement in the office of the Uintah County Recorder in Utah and shall remain in full force and effect thereafter in

perpetuity, unless this Agreement is modified, amended, canceled or terminated by the written consent of all then record Owners of all of the Properties in accordance with Section 6.2 hereof.

4.2 Use Restrictions. Each Property shall be used for lawful purposes in conformance with all restrictions imposed by all applicable governmental laws, ordinances, codes, and regulations, and no use or operation shall be made, conducted or permitted on or with respect to all or any portion of a Property which is a use prohibited by Exhibit "B", attached hereto and made a part hereof by this reference.

4.3 Signs. No Party shall place or allow or cause to be placed any signs of any type in or about the Shopping Center or upon the exterior of any Buildings except as approved in writing by Owner #2. Except as shown on the Site Plan, no monument or pylon signs shall be located in the Shopping Center except as approved in writing by Owner # 2. Owner # 2's criteria for approval shall be based upon the sign criteria attached hereto as Exhibit "C".

4.4 No Rights in Public; No Implied Easements. Nothing contained herein shall be construed as creating any rights in the general public or as dedicating for public use any portion of the Properties. No easements, except those expressly set forth in Section 2, shall be implied by this Agreement.

5. REMEDIES AND ENFORCEMENT.

5.1 All Legal and Equitable Remedies Available. In the event of a default or threatened default by any Owner or its Permittees of any of the terms, easements, covenants, conditions or restrictions hereof, the other Owner(s) shall be entitled forthwith to full and adequate relief by injunction and/or all such other available legal and equitable remedies from the consequences of such breach, including payment of any amounts due and/or specific performance.

5.2 Remedies Cumulative. The remedies specified herein shall be cumulative and in addition to all other remedies permitted at law or in equity.

5.3 No Termination for Default. Notwithstanding the foregoing to the contrary, no default hereunder shall entitle any Owner to cancel, rescind, or otherwise terminate this Agreement. No breach hereunder shall defeat or render invalid the lien of any mortgage or deed of trust upon any Property made in good faith for value, but the easements, covenants, conditions and restrictions hereof shall be binding upon and effective against any Owner of such Property covered hereby whose title thereto is acquired by foreclosure, trustee's sale, or otherwise.

6. MISCELLANEOUS.

6.1 Attorneys' Fees. In the event a Party institutes any legal action or proceeding for the enforcement of any right or obligation herein contained, the prevailing Party after a final adjudication shall be entitled to recover its costs and reasonable attorneys' fees incurred in the preparation and prosecution of such action or proceeding.

6.2 Amendment. The Parties agree that the provisions of this Agreement may be modified or amended, in whole or in part, or terminated, only by the written consent of all record Owners of the Properties, evidenced by a document that has been fully executed and acknowledged by all such record Owners and recorded in the official records of the Utah County Recorder in Utah.

6.3 No Waiver. No waiver of any default of any obligation by any Party shall be implied from any omission by the other Party to take any action with respect to such default.

6.4 No Agency. Nothing in this Agreement shall be deemed or construed by any person to create the relationship of principal and agent or of limited or general partners or of joint venturers or of any other association between any persons.

6.5 Covenants to Run with Land. It is intended that each of the easements, covenants, conditions, restrictions, rights and obligations set forth herein shall run with the Properties and create equitable servitudes in favor of the Property(ies) benefited thereby, shall bind every person having any fee, leasehold or other interest therein and shall inure to the benefit of the Parties and their respective successors, assigns, heirs, and personal representatives.

6.6 Grantee's Acceptance. The grantee of any of the Properties, or any portion thereof, by acceptance of a deed conveying title thereto or the execution of a contract for the purchase thereof, whether from Owner or from any subsequent Owner of such Properties, or any portion thereof, shall accept such deed or contract upon and subject to each and all of the easements, covenants, conditions, restrictions, duties and obligations contained herein. By such acceptance, any such grantee shall for itself and its successors, assigns, heirs, and personal representatives, covenant, consent, and agree to and with the other affected persons, to keep, observe, comply with, and perform the obligations and agreements set forth herein with respect to the portion of the Properties so acquired by such grantee.

6.7 Severability. Each provision of this Agreement and the application thereof to the Properties are hereby declared to be independent of and severable from the remainder of this Agreement. If any provision contained herein shall be held to be invalid or to be unenforceable or not to run with the land, such holding shall not affect the validity or enforceability of the remainder of this Agreement. In the event the validity or enforceability of any provision of this Agreement is held to be dependent upon the existence of a specific legal description, the parties agree to promptly cause such legal description to be prepared. Ownership of all of the Properties by the same person or entity shall not terminate this Agreement nor in any manner affect or impair the validity or enforceability of this Agreement.

6.8 Time of Essence. Time is of the essence of this Agreement.

6.9 Entire Agreement. This Agreement contains the complete understanding and agreement of the Parties with respect to all matters referred to herein, and all prior representations, negotiations, and understandings are superseded hereby.

6.10 Notices. Notices or other communication hereunder shall be in writing and shall be sent certified or registered mail, return receipt requested, or by other national overnight courier company, or personal delivery at the Party's last known address. Notice shall be deemed given upon receipt or refusal to accept delivery. Each Party may change from time to time their respective address for notice hereunder by like notice to the other Parties.

6.11 Governing Law. The laws of the State of Utah shall govern the interpretation, validity, performance, and enforcement of this Agreement.

6.12 Bankruptcy. In the event of any bankruptcy affecting any Owner or occupant of any Property, this Agreement shall, to the maximum extent permitted by law, be considered an

agreement that runs with the affecting Property(ies) land and that is not rejectable, in whole or in part, by the bankrupt person or entity.

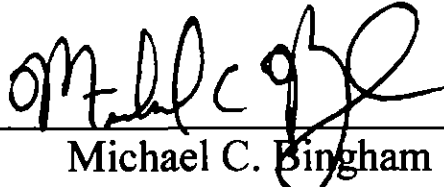
6.13 Benefits to Permittees. Notwithstanding anything contained herein to the contrary, any provision creating a right or benefit for an Owner shall be deemed to also create a similar right or benefit for such Owner's tenants and subtenants.

[SIGNATURES ON FOLLOWING PAGE]


IN WITNESS WHEREOF, the Owners have executed this Agreement as of the date first written above.

“OWNER #1”

VERNAL VALLEY RETAIL, LLC

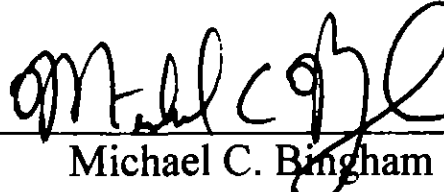
By: 
Michael C. Bingham
Its: Manager

ZIONS HOSPITALITY MANAGEMENT SERVICES, L.C.


By: 
Name: KENNETH S. JOHNSON
Title: Manager

“OWNER #2”

VERNAL VALLEY LODGING ASSOCIATES, LLC

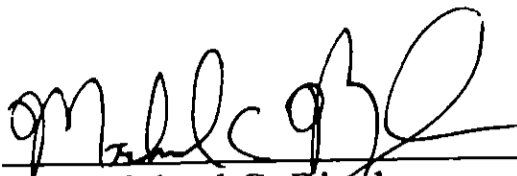
By: 
Michael C. Bingham
Its: Manager

ZIONS HOSPITALITY MANAGEMENT SERVICES, L.C.

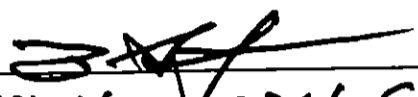
By: 
Name: KENNETH S JOHNSON
Title: MANAGER

"OWNER #3"

VERNAL VALLEY LODGING #2, LLC

By: 
Michael C. Bingham
Its: Manager

ZIONS HOSPITALITY MANAGEMENT SERVICES, L.C.

By: 
Name: KENNETH S. JOHNSON
Title: MANAGER

STATE OF UTAH)
 : ss
COUNTY OF UTAH)

On the 17 day of November, 2011, personally appeared before me Michael C. Bingham a Manager of **VERNAL VALLEY RETAIL, LLC**, a Utah limited liability company and a Manager of **VERNAL VALLEY LODGING ASSOCIATES, LLC**, and a Manager of **VERNAL VALLEY LODGING #2, LLC** and the signer of the foregoing instrument, who duly acknowledged to me that he executed the same on behalf of said company, and that such company executed the same on behalf of said limited liability companies for their stated purpose.

Karin Driggs
Notary Public of Utah
Residing at: Lehi Utah
Commission Expires: 03/24/2015



STATE OF UTAH)
 : ss
COUNTY OF UTAH)

On the 17th day of November, 2011, personally appeared before me Kenneth S. Johnson ~~Michael C. Bingham~~ a Manager of **VERNAL VALLEY RETAIL, LLC**, a Utah limited liability company and a Manager of **VERNAL VALLEY LODGING ASSOCIATES, LLC**, and a Manager of **VERNAL VALLEY LODGING #2, LLC** and the signer of the foregoing instrument, who duly acknowledged to me that he executed the same on behalf of said company, and that such company executed the same on behalf of said limited liability company for its stated purpose.

Karin Driggs
Notary Public of Utah
Residing at: Lehi Utah
Commission Expires: 03/24/15



Exhibit "A"
Legal Description

Lots 1, 2 and 3 of Vernal Valley Lodging Subdivision, according to the official plat thereof on file and of record in the Uintah County Recorder's Office.

OS-012-0111
OS-012-0112
OS-012-0113

Exhibit B
Prohibited Uses

1.1. Use Restrictions

Each of the following uses are prohibited on the Shopping Center:

- 1.1 a (i) pornographic bookstore, (ii) pornographic cinema, (iii) pornographic video store, (iv) pornographic massage parlor, (v) pornographic modeling studio or (vi) pornographic tanning salon or any other business which would tend to injure the family-oriented reputation of the Shopping Center;
- 1.2 topless/bottomless nightclub or restaurant or similar venue for adult entertainment;
- 1.3 auction, going out of business, fire or bankruptcy sales or similar merchandise liquidators (except pursuant to a court order);
- 1.4 army-navy surplus store, second-hand store, or salvage or "odd-lot" store;
- 1.5 Roller skating rink;
- 1.6 Video arcade, pool or gaming hall;
- 1.7 Nightclub, bar or dance hall;
- 1.8 Flea market, swap meet or similar enterprise;
- 1.9 Manufacturing or processing plant;
- 1.10 Pawn shop;
- 1.11 Bowling alley;
- 1.12 Cinema or theater;
- 1.13 Sports, health or fitness club in excess of 2,500 square feet;
- 1.14 Bingo parlor, Off-track betting parlor;
- 1.15 Funeral home or mortuary;
- 1.16 Any use that is inconsistent with a family-oriented, first class shopping center, including, without limitation, any obnoxious smell or odor, any odor caused by other tenants in the Shopping Center that permeates the Demised Premises and any use of any medium that might constitute a nuisance such as loud speakers, sound amplifiers, phonographs, radios, televisions or any other sound producing device which will carry sound outside of the premises;.

Enumeration of the foregoing prohibited uses is not intended to define or qualify the restrictions contained in the Agreement; the Parties acknowledging that many of the uses set forth above would nonetheless be prohibited by the Agreement regardless of whether enumerated herein.

Exhibit "C"
Sign Criteria

RETAIL

These criteria have been established for the purpose of controlling the size, type, design and location of all signage, so as to enhance the centers image and create a mutual benefit to all Owners. Conformance will be strictly enforced, and any installed non-conforming or unapproved signs must be brought into conformance at the expense of Owner.

1. Construction Requirements

- a. All signs shall be on 8" deep raceways.
- b. All bolts, fasteners and clips shall be painted to match building background color.
- c. It shall be the sign contractor's responsibility to secure the raceway to fascia in a method so as not to create a hazard to the public.
- d. All penetration of the fascia shall be made waterproof by using gaskets and sealant.
- e. The Owners shall be responsible for any damage caused by the sign contractor, including roof and wall leaks, and parapet wall damage.
- f. No labels will be permitted on the exposed surface of signs except those required by local ordinance and, if required, shall be in an inconspicuous location.
- g. No exposed conduit, tubing will be permitted.
- h. All electrical signs shall bear the U.L. label.
- i. Electrical service to all signs shall be from Tenant's service.

2. Design Requirements for Fascia Signs, Entrance and Service Door Signs

- a. All fascia signs shall be mounted on raceways and be restricted to the sign area.
- b. Fascia signs shall not project more than six inches (6") beyond the face of sign raceway and shall conform in size and location to the criteria established in this section.
- c. Wording of signs shall not include the product sold (i.e. shoes, dresses, etc.), except where identification of Tenant is impossible without the same.
- d. Signs may be of the following types:
 - i. Only individual pan channel type illuminated letters with plexiglass or lexan trim capped faces will be allowed. These letters may be constructed of either sheet metal or aluminum, and mounted on raceway(s) painted to match building.
- e. White or gold lettering only, shall be permitted on glass doors within the limits set forth herein: 144 square inches per entrance in lettering not to exceed two inches (2") in height, indicated hours of business, emergency telephone numbers, ACT sticker, etc.

- f. The following signs are prohibited:
- i. Signs employing moving or flashing lights.
 - ii. Signs employing exposed conduit, conductors, ballast boxes, transformers or other equipment.
 - iii. Signs employing luminous vacuum-formed plastic letter.
 - iv. Signs of box or cabinet type employing luminous plastic panels.
 - v. Signs employing unedged or uncapped letter with no returns and exposed fastening.
 - vi. No sign or any type other than those described above will be allowed to become attached to or temporarily placed within the display windows of any store except where they are constructed of self-supporting material.
 - vii. Pylon Signs. (Except the Pylon Sign for the Center shall be permitted)
 - viii. Moving Signs.
 - ix. Signs with exposed fluorescent tubing.
 - x. Paper, cardboard or painted signs.
 - xi. Audible Signs.
 - xii. Portable signs, including, but not limited to auto, truck or trailer mounted signs and breadboard type signs.