

ORDINANCE NO. 1194

AN ORDINANCE OF THE CITY OF CLEVELAND, TEXAS, AMENDING THE CITY'S CODE OF ORDINANCES BY AMENDING ARTICLE IX, "SIGNS," OF CHAPTER 26, "BUILDINGS AND BUILDING REGULATIONS;" PROVIDING FOR A PENALTY AS PROVIDED BY SECTION 1-10 OF THE CODE OF ORDINANCES; AND MAKING OTHER PROVISIONS RELATED TO THE SUBJECT.

WHEREAS, signs, especially densely placed signs, obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation; and

WHEREAS, the City Council finds that the type, volume and diversity of development in the City has increased; and

WHEREAS, the City Council further finds that the following regulations on signs provide for these changes in development while also protecting the public health and safety and property values;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, TEXAS:

Section 1. Article IX, "Signs", Chapter 26, "Buildings and Building Regulations", is amended in its entirety to read as follows.

"ARTICLE IX. – SIGNS

Sec. 26-450. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Aerial Sign means a Sign towed by a drone or aircraft.

Advertising copy means a message intended to call attention to any good, service or merchandise.

Building Sign means a Sign constructed, installed or painted on the outside of a building.

Banner Sign means a Sign made of vinyl, cloth, plastic or similar material that is attached to a pole, wire or frame on one or more sides.

Dilapidated Sign means a sign:

(i) Where any portion of the finished material, surface or message portion of the sign is visibly faded, flaked, broken off, missing, cracked, splintered, defective, or is otherwise visibly deteriorated or in a state of disrepair so as not to substantially appear as it was intended or designed to appear when originally constructed; or

(ii) Whose elements or the structural support or frame members are visibly bent, broken, dented or torn, twisted, leaning or at angles other than those at which it was originally erected, such as may result from being blown or by the failure of a structural support.

Electronic Sign means a Sign that changes, or is capable of changing, its message or advertising copy by programmable electronic or mechanical processes.

Ground Sign means a sign on a permanent foundation or otherwise permanently installed at a specific location where the Sign Face Area begins no more than two feet above the ground.

Off-premises sign means a sign that pertains to a business, person, organization, activity, event, place, service, or product not principally located or primarily manufactured or sold on the premises on which the sign is located.

Political Sign means a sign that contains primarily a political message and that is located on private real property with the consent of the property owner. A Political Sign does not include: (i) a Sign, including a billboard, that contains primarily a political message on a temporary basis and that is generally available for rent or purchase to carry commercial advertising or other messages that are not primarily political; or (ii) a Sign that:

- (1) has an effective area greater than 36 feet;
- (2) is more than eight feet high;
- (3) is illuminated; or
- (4) has any moving elements.

Sign means an outdoor structure or structure placed inside a window of a non-residential building facing a public right-of-way, sign, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing that is designed, intended, or used to advertise or inform. The term "Sign" shall not include any Political Sign.

Sign Face Area means: (i) for Building Signs, the area enclosed by straight lines drawn to the extremities of the letters, numbers, recognizable symbols and trademarks; (ii) for all other signs, the area calculated using the widest dimension of the sign multiplied by the longest dimension of the sign, not including the length of the pole or other structural component used to attach the sign to the ground or building; (iii) for Signs containing two or more noncontiguous sign face areas that are not more than 4 feet apart, only one side of the sign shall be used to calculate the sign face area; (iv) for any non-conforming sign located on the premises, the Sign Face Area of the non-conforming sign is included for purposes of determining the maximum allowable sign face area

Temporary Sign means any Sign that is designed, installed or placed in a manner that is not designed to be permanent or that otherwise lacks the structural stability to: (i) remain in place for more than one year, or (ii) withstand typical area wind loads.

Window Sign means any Sign placed inside a window of a non-residential building facing a public right-of-way.

Sec. 26-451. - Off-premises signs prohibited; Exceptions.

It shall be unlawful for any person to erect or locate an off-premises sign within the city or its extraterritorial jurisdiction; Provided, however, the prohibition of off-premises signs provided by this article shall not apply to:

- (1) Off-premises signs which lawfully exist on the effective date of the ordinance from which this article is derived;
- (2) Signs erected by, or on property owned by, the federal, state, or a unit of local government; and
- (3) Off-premises signs located within a 50-foot-wide strip of land adjacent to either side of the right-of-way of Highway 59; and
- (4) Temporary signs that comply with Section 26-452 of this Article.

Sec. 26-452. – Requirements for authorized signs.

It shall be unlawful for any person to install, attach, locate, paint or display on property in which the person has custody or control of the property a sign that does not comply with the requirements of this Section. No Sign shall be placed within 15 feet of a street intersection.

(a) Ground Signs (includes monument or pylon signs)

- (1) One ground sign with Sign Face Area up to 50 square feet is allowed for premises with street frontage of 50 linear feet or less. For premises with greater than 50 feet of road frontage the sign face area may be one square foot per one linear foot of road frontage up to 160 square feet. Any premises with multiple street frontages may allocate its total allowable ground sign face area among its permitted ground signs on any street frontage, provided each street frontage is allowed only one ground sign not exceeding a maximum sign face area of 160 square feet.
- (2) 30 feet is the maximum height for all ground signs.
- (3) Ground Signs shall not be placed in any easement and shall be setback from sidewalk, or, from the curb or edge of pavement on streets without a sidewalk, at least 10 feet.

(b) Pole Signs

- (1) One Pole Sign with Sign Face Area up to 50 square feet is allowed for premises with street frontage of 50 linear feet or less. For premises with greater than 50 feet of road frontage, the sign face area may be one square foot per one linear foot of road frontage up to 160 square feet. Any premises with multiple street frontages may allocate its total allowable pole sign face area among its permitted pole signs on any street frontage, provided each street frontage is allowed only one pole sign not exceeding a maximum sign face area of 160 square feet.
- (2) 50 feet is the maximum height for all pole signs.
- (3) Pole Signs shall not be placed in any easement and shall be setback from sidewalk, or, from the curb or edge of pavement on streets without a sidewalk, at least 10 feet.
- (4) The bottom edge of the Sign Face Area of a Pole Sign shall be at least 5 feet above the ground.

(c) Building Signs

- (1) Sign face Area may be up to 15% of the façade it is attached to, up to a maximum of 150 square feet.
- (2) Each occupant of a commercial complex may display building signs on any exterior wall of the complex that is part of the occupant's unit. The sign face area may equal 15% of the façade of the individual unit, up to a maximum of 150 square feet.

- (3) 35 feet is the maximum building sign height for two story structures. In addition, no signs shall be permitted above the roofline, cornice line, parapet, or the highest point of a facade of any structure, whichever is higher.
- (d) *Window Signs*
- (1) Window Signs may not be placed in windows on more than one side of a building.
 - (2) Window Signs may not exceed 8 square feet in Sign Face Area.
 - (3) Window Signs may be changed out at as desired, provided, the window location and aggregate Sign Face Area remain constant.
- (e) *Temporary Signs*
- (1) Temporary Signs shall not be placed in any easement and shall be setback from sidewalk, or, from the curb or edge of pavement on streets without a sidewalk, at least 10 feet.
 - (2) The Sign Face Area of Temporary Signs shall not exceed 3 square feet on a single side.
 - (3) Temporary Signs shall not be more than 4 feet in height.
 - (4) Only two Temporary Signs are allowed per tract; provided, however, commercial shopping centers with more than one tenant are allowed one Temporary Sign per unit in the complex.
 - (5) Temporary Signs may be off-premise signs, provided the owner or person in control of the property has given the sign owner written permission to place the sign on the property, documentation of this permission is submitted with a sign permit application, and such permission has not been revoked in writing.
 - (6) Temporary Signs may not contain moving or electronic elements.
 - (7) Temporary Signs may not be Window Signs.
 - (8) The permit for a temporary sign must be attached to the back, or underside in the case of sandwich board sign, of the temporary sign at all times when the sign is being displayed.
 - (9) Temporary Signs may be changed out at as desired, provided, the location and aggregate Sign Face Area remain constant, and the permit is attached to the back or underside of the sign being displayed at all times.
- (f) *Electronic Signs*
- (1) One ground sign or one pole sign allowed on a tract may be an electronic sign, provided the sign complies with the requirements of this section and all other requirements that apply to a pole sign or ground sign.
 - (2) Each message must be displayed for at least eight seconds. A change of message must be accomplished within two seconds and must occur simultaneously on the entire sign face.
 - (3) An electronic sign must contain a default mechanism that freezes the sign in one position if a malfunction occurs.
 - (4) An electronic sign must automatically adjust the intensity of its display according to natural ambient light conditions.
 - (5) The maximum Sign Face Area shall not exceed the amount allowed for pole signs. No more than one Electronic Sign is allowed per tract.
- (g) *Banner Signs*
- (1) No Banner Sign shall be placed on a tract more frequently than twice per year for a period of 30 days or less.

- (2) No Banner Sign shall exceed 48 square feet in size.
- (3) No Banner Sign shall be placed in a manner that impedes or endangers vehicle or pedestrian traffic.
- (4) No Banner Sign shall be placed at a height that allows the lowest edge of the sign to hang less than 5 feet above the ground.

(h) Aerial Signs

- (1) Signs towed by drones or aircraft shall not fly lower than 250 feet.
- (2) No more than 2 Aerial Signs per year may be utilized with the City or its ETJ for advertising or information related to each business, person, event or activity.
- (3) Pilots and drone operators towing Aerial Signs must comply with all applicable state and federal laws.

Sec. 26-453. - Signs on public right-of-way.

It shall be unlawful for any person to place or cause to be placed or erected a sign upon, in, over and/or across any street or right-of-way, or any improvement located within any public street, sidewalk or right-of-way of the city or on any property owned by the city. A sign unlawfully placed in the right-of-way or on other city property may be summarily removed by the city.

Sec. 26-454. - Signs on property of another; Obsolete Signs Prohibited.

It shall be unlawful for a person to place or locate a sign on the property of another person without the consent of the owner or person in control of the property. It shall be unlawful for the owner or person in control of the property to fail to remove a sign from the premises that advertises a business, activity or project that has ceased operation on the premises on which the sign is located in excess of one (1) year, unless the property is leased by the owner of the sign, in which case the sign shall be removed after two (2) years.

Sec. 26-455. - Nonconforming off-premises signs.

An off-premises sign lawfully existing on the effective date of the ordinance from which this article is derived shall be removed if the sign, or a substantial part of it, is blown down or otherwise destroyed or dismantled for any purpose other than for maintenance operations or for changing the advertising copy on the sign. A sign or substantial part of it is considered to have been destroyed only if the cost of repairing the sign is more than 60 percent of the cost of erecting a new sign of the same type at the same location.

Sec. 26-456. – Dilapidated Signs Prohibited.

It shall be unlawful for the owner or person in control of the property to allow a Dilapidated Sign to remain on the property for more than 30 days after a notice of Dilapidated Sign is sent by the Building Official to the address listed for the owner of record according to the county appraisal district; It is an affirmative defense to an alleged violation under this Section that:

- (1) The owner or person in control of the property did not consent to the installation or construction of the Sign;
- (2) The owner or person in control of the property at the time notice of a Dilapidated Sign was sent by the Building Official is no longer in possession of the property;

(3) The notice of a Dilapidated Sign was sent by the Building Official more than 90 days prior to the date of the violation alleged under this Section.”

Section 2. Severability. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Cleveland, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

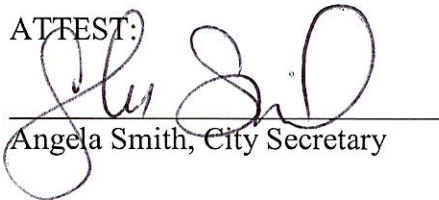
Section 3. Repeal. All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 4. Penalty. Any person who shall violate any provision of this Ordinance shall be guilty of a misdemeanor and subject to a fine as provided in Section 1-10 of the City’s Code of Ordinances.

Section 5. Publication and Effective Date. This ordinance shall be effective upon adoption and publication of this ordinance or a caption that summarizes the purpose of this ordinance and the penalty for violating this ordinance at least twice in the official newspaper in accordance with Section 52.013 of the Texas Local Government Code.

PASSED, APPROVED AND ADOPTED THIS 18 day of June, 2019.


Otis Cohn, Mayor

ATTEST:

Angela Smith, City Secretary