



The City of Liberty

City Council
1829 Sam Houston
Liberty, TX 77575

Meeting: 07/14/09 06:00 PM

Department: Administration
Category: General Ordinances

ORDINANCE 2009-11

DOC ID: 1355 A

AN ORDINANCE OF THE CITY OF LIBERTY, TEXAS REPEALING TO THE EXTENT IT IS INCONSISTENT WITH ORDINANCE 2008-6 REGARDING SIGNAGE WITHIN THE CITY LIMITS AND EXTRATERRITORIAL JURISDICTION; PROVIDING FOR A PENALTY; PROVIDING FOR AN EFFECTIVE DATE; AND DISPENSING WITH THE REQUIREMENT OF SECTION 3.10 OF THE HOME RULE CHARTER THAT THIS ORDINANCE BE READ ON TWO SEPARATE DAYS.

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

Section 1 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:

Abandoned sign means a sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product or activity for a period of ninety (90) days or more, or a sign the content of which pertains to a time, event or purpose which no longer applies, or for which no legal owner can be found.

Advertising vehicle means any vehicle or trailer that has as its primary purpose the advertisement of a business, activity, product or service and is parked or located for the primary purpose of displaying the sign and is not parked on a site for a continuous period exceeding seventy- two (72) hours.

Alley means a narrow right-of-way or easement not in excess of thirty (30) feet in width dedicated adjacent to the rear or side of a lot and providing limited access to the lots abutting said right-of-way or easement.

Alley sign means a sign used to identify the alley entrance to a building or business.

Awning means any rigid or nonrigid material that extends from the exterior wall of a building and is supported by or attached to a frame.

Awning sign means any sign painted or applied to the face, valance or side panel of an awning.

Backlit sign means a sign that uses bulbs within the sign for illumination.

Banner means any sign printed or displayed upon cloth or other flexible material with or without frames, and limited to temporary use.

Billboard shall have the same meaning as *Off-premises sign*.

Building official means the official of the city or his/her designee charged with the inspection of the structural integrity of signs, any electrical inspection and permitting.

Building permit means a permit issued by the building official for construction, renovation or alteration of property.

Building sign means any sign attached to any part of a building, as contrasted to a ground sign.

Building wall means an exterior load bearing or non-load bearing vertical structure that encompasses the area between the final grade elevation and eaves of the building, and used to enclose the space within the building. A porch, balcony or stoop is part of the building structure and may be considered as a building wall.

Changeable copy sign means a sign on which copy is changed automatically on a lamp bank or through mechanical means (e.g., electrical or electronic time and temperature units), or a sign on which copy is changed manually in the field (e.g., reader boards with changeable letters), but shall not include portable signs.

Changeable electronic variable message sign shall mean a sign which permits light to be turned on or off intermittently, or which is operated in a way whereby light is turned on or off intermittently, including any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use, including an LED (light emitting diode) or digital sign, and which varies in intensity or color. A changeable electronic variable message sign shall not include a sign located within the right-of-way that functions as a traffic control device and that is described and identified in the manual on uniform traffic control devices approved by the federal highway administrator as the national standard.

Clear sight triangle or *horizontal sight distance* means a triangle sight area at all intersections which shall include that portion of public right-of-way and any corner lot within the adjacent curb lines or pavement edges of intersecting streets, roads or alleys and a diagonal line intersecting such curb lines or pavement edges at points 35 feet back from their actual or projected point of intersection. Such triangle or distance must remain unobstructed in order to ensure that drivers can see traffic and pedestrians around the corner of the intersection, entrance or driveway.

Code official means the official of the city or his/her designee charged with the enforcement of the provisions of this article.

Commercial message means any sign, wording, logo or other representation, except for the actual name of the business that, directly or indirectly, names, advertises or calls attention to a business, product, service or other commercial activity.

Day means those hours between 7:00 a.m. and 10:00 p.m.

Development means a group of houses or other buildings, residential or nonresidential, that are built as a single construction project.

Dilapidated sign means a sign that:

1. Is not properly secured or otherwise structurally unsound;
2. Has defective parts; or
3. Is in need of painting or maintenance.

Downtown district means that area designated in Section 10(E) of this ordinance.

Downtown district advisory board shall mean the planning and zoning commission.

Electronic message center means a sign or portion of a sign, that displays an electronic image or video, which may or may not include text, including any sign or portion of a sign that uses changing lights or similar form of electronic display such as LED to form a sign message or messages with text or images wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes. This definition includes without limitation television screens, plasma screens, digital screens, flat screens, LED displays, video boards, and holographic displays.

Electronic message board sign means any sign flashing one or more messages, symbols or videos in succession.

Extraterritorial jurisdiction or *ETJ* means that area extending beyond the boundaries of the city as defined by V.T.C.A., Local Government Code ch. 42 and as described in V.T.C.A., Local Government Code § 216.902.

Flag means any fabric or bunting containing distinctive colors, patterns, or symbols, used as a symbol of government, political subdivision, corporation, lodge, fraternity or sorority, political party, nonprofit organization, charity, club, association or other entity.

Flashing sign means any sign in which intensity of illumination is not consistent, thereby exhibiting sudden or marked changes in lighting effect.

Freestanding sign means a sign supported upon the ground by poles or braces and not attached to any building.

Garage sale sign means a temporary residential use sign advertising a garage sale.

Governmental sign means a sign required, authorized or installed by any governmental entity, which is exempt from the permitting process.

Ground sign means a freestanding sign not attached to a building or other structure than its own support, supported by one or more poles, columns, uprights or braces in or upon the undisturbed natural ground. Such freestanding signs shall include but not limited to pole signs, billboards, master signs and monument signs.

Hanging sign means any sign suspended from an awning, canopy or building facade.

Height (of a sign) means the vertical distance measured from the highest point of the sign, excluding decorative embellishments, to grade of the adjacent street or surface grade beneath the sign, whichever is less (compare “ clearance “).

Holiday decorations means displays erected on a seasonal basis in observance of religious, national or state holidays, which are not intended to be permanent and contain no advertising material.

Holiday season means a reasonable and designated time period for the display of holiday decorations. The established time periods are November 15 through January 15, and for all other nationally recognized holidays for a period not to exceed seven days.

Home occupation means any occupation that is carried out within the home, primary or secondary structure or within any structure on the lot which is an accessory to the home.

Identification sign means a sign bearing the address of the premises or name of the occupant, but containing no logo or commercial message.

Illuminated sign means a sign that is illuminated by electrical or other artificial devices.

Incidental sign means a sign, generally informational, that has a purpose secondary to the use of the site on which it is located, such as "no parking," "entrance," "loading only," "telephone," and similar information and directives. No sign with a commercial message legible from a position on the site on which the sign is located shall be considered incidental.

Information, piece of, means a word, whole number, telephone number, price, logo, picture, exclamation point or similar separately identifiable unit on a sign.

Institutional sign means a sign bearing a message related to an institutional use, where such sign is located on the same premises as such use.

Logo means the graphic or pictorial presentation of a message, including, but not limited to, the use of shapes, designs, decorations, emblems, trademarks, symbols or illustrations, or the superimposition of letters or numbers or any other use of graphics or images other than the sequential use of letters and numbers.

Lot means a parcel of land the boundaries of which have been established by some legal

instrument such as a recorded deed or plat, and which is recognized as a separate legal entity for purposes of transferring title. This term shall include any number of contiguous lots, or portions thereof, upon which a single principal building and its accessory buildings are located or intended to be located.

Monument sign means a ground sign designed and constructed to enclose any and all supporting poles, braces, columns, and/ or uprights on all sides of the sign, and to substantially appear as a solid mass or base, such as a cylinder, block, rectangle or square, from undisturbed natural ground level to the highest portion of the sign.

Multi-tenant business development means a development under the same ownership consisting of two (2) or more business establishments separated by a tenant separation wall, using common driveways and onsite parking facilities, including but not limited to, shopping centers, office complexes, office buildings and business parks.

Multi-tenant sign means a freestanding sign used to advertise businesses that occupy a shopping center or complex of two or more tenants.

Nit means candela per meter square used as a measurement of brightness.

Night means those hours between 10:00 p.m. and 7:00 a.m.

Nonconforming sign means any sign that if erected within the city limits met the requirements of the city at the time it was erected, but does not conform to the requirements of this article; and that if erected within the extraterritorial jurisdiction of the city met the requirements of any governing authority with jurisdiction to regulate said sign at the time it was erected, but which does not conform to the requirements of this article.

Off-premises sign means a sign which is located on property and transmits a message pertaining to a product, use, occupancy or function which is not located on the same property as the sign. The terms "off-premises sign" and "billboard" shall have the same meaning herein.

On-premises sign means a sign the context of which relates to a use, occupancy, function or product manufactured on the same property on which the sign is located.

Person means an individual, any association, company, corporation, firm, organization or partnership, singular or plural, of any kind.

Pole sign means a ground sign mounted on one or more visible freestanding poles, columns, uprights, or braces permanently attached to the ground which is not attached to the building.

Political sign means a sign attracting attention to political candidates or issues as defined by the state election code. A political sign is for temporary use only.

Portable sign means any sign not permanently attached to the ground or other permanent structure or a sign designed to be transported, including, but not limited to:

1. Signs designed to be transported by wheels;
2. Signs made as A-frames or T-frames;
3. Balloons used as signs;
4. Umbrellas used for commercial messages; and
5. Signs attached to or painted on vehicles or trailers parked and visible from the public right-of-way.
6. Signs shall be allowed for no more than thirty (30) days. The total usage for a portable sign shall not exceed four (4) per calendar year.

Primarily commercial area means an area of property along one side of a public street between two (2) adjacent intersecting public streets in which of the total frontage is used for commercial purposes.

Primarily residential area means an area of property along one side of a public street between two (2) adjacent intersecting public streets in which of the total frontage is used for residential purposes.

Projecting sign means a sign, other than a flat wall sign, which is attached to and projects from a building wall or other structure not specifically designed to support the sign.

Real estate sign means a sign advertising real property for sale or for lease. A real estate sign is for temporary use only.

Residential purposes means property devoted to use as a single-family, for one and two single-family dwelling. Residential purposes include but not limited to property used for houses, duplexes, condominiums, townhouses or townhomes, and garden or patio homes. Property used for apartments, hotels, motels and boardinghouses shall be considered nonresidential. Property devoted to both residential and nonresidential use shall be considered as used for residential purposes.

Residential sign means any sign located in a residential area that contains no commercial message, including, but not limited to, a personal identification sign, as in describing a personal affiliation of the type including, but not limited to, a team or church membership.

Roof sign means a sign that is erected over or on the roof of a building.

Sidewalk sign means an A-frame or T-frame sign, placed immediately exterior to the building wall and designed to be removed after business hours.

Sign means 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.

Sign permit application means a plan establishing parameters for the size, location and design of signs on a property being constructed or managed or managed as a single development.

Site means a lot, tract or parcel of land considered as one land unit for purpose of this article. For a single-family residence, the site shall be the subdivided lot on which it is located. For multifamily projects, the site shall be all land occupied by the buildings in the project and adjoining such property and under common ownership with it. For a vacant land, the site shall be all of the adjoining vacant land under single ownership. For single-occupancy, nonresidential properties, the site shall be the subdivided lot that is occupied. For multiple-occupancy properties, the site shall be all land included under the original "site plan" or "subdivision plan" approval under the Code, or all land included under the original sign permit application approval under this article or its predecessor, whichever land area is larger. The intent of this definition is to treat as one site an entire project as planned and developed together.

Stake sign means a temporary sign not permanently affixed or mounted into the natural ground. Such sign shall be considered but not limited to a sign face affixed to supporting structure typically a wooden stake, metal rod, and such that can be placed in and/or removed from the ground by a single individual with reasonable force without any aid from any tools or devices.

Temporary sign means any sign that is used for a limited period of time, thirty (30) days and is not permanently mounted.

Traffic sign means a sign indicating federal, state or municipal regulations for automobile, truck, bicycle or pedestrian movement.

Wall, exterior, means a vertical, structural component of a building which encloses habitable or usable space; a parapet extending not more than 12 inches above a flat roof shall be considered part of the exterior wall for purposes of determining signage. Wall sign means any sign painted on or attached to and extending not more than six inches from an exterior wall in a parallel manner.

Wall sign means any sign painted on or attached to and extending not more than six inches from an exterior wall in a parallel manner.

Window sign means a sign affixed to the interior or exterior of a window or placed immediately behind a windowpane.

Section 2 Prohibited signs and devices

All signs hereunder are prohibited within the city limits and within its extraterritorial jurisdiction. Such signs include, but are not limited to:

- A. All signs hereunder are prohibited within the city limits and within its extraterritorial jurisdiction. Such signs include, but are not limited to:
1. Abandoned signs, or dilapidated signs;
 2. Any sign that copies or imitates an official sign or purports to have official status;
 3. Any sign that obstructs or substantially interferes with any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress, or egress to any building;
 4. Signs imitating standard public traffic, regulatory or emergency signs or signals;
 5. Signs using the words, "stop," "danger" or any other word, symbol or character in a manner, which may mislead, confuse or distract the driver of a motor vehicle;
 6. Off-premises signs and billboards constructed after the date of enactment of the ordinance from which this article is derived, including, but not limited to, a new off-premises changeable electronic variable message sign or the conversion of an existing non changeable electronic variable message sign to a changeable electronic variable message sign, within the city limits or within the extraterritorial jurisdiction of the city as described in Section 9 of this article.
 7. Any sign placed in or projecting in or over the public right-of-way or on a utility pole in the public right-of-way as described in Subsection (C) of this section.
 8. Advertising vehicle
 9. Home occupation sign
 10. Signs which use supports such as trees, rocks, bridges, fences, windmill towers or dilapidated buildings.
 11. Electronic animated signs shall not be permitted.
- B. Any such prohibited signs shall be removed at the discretion of the code official and/or his/her designee. If not removed by owners or occupants of the property within ten (10) days of notice, the code official and/or his designee shall cause the signs to be otherwise removed and the cost of removal shall become a lien against the property until satisfied.
- C. Only the following signs shall be allowed on a city street, easement or right-of-way within the city limits or on a public street, easement or public right-of-way within the city's extraterritorial jurisdiction:
1. Public signs erected by or on behalf of a governmental body to identify public property, convey public information and direct or regulate pedestrian or vehicular traffic;
 2. Bus stop signs erected by a public transit company;
 3. Informational signs of a public utility regarding its poles, lines, pipes or other facilities;
 4. Signs appurtenant to a use of public property permitted under a franchise or lease agreement with the city;
 5. Signs posted in association with municipal, county, state or federal authorities for crime prevention or public safety and health;
 6. Legal notices erected by or on behalf of a governmental body; and
 7. Emergency warning signs erected by a government agency, a public utility company,

or a contractor doing authorized or permitted work within the public right-of-way. Any other sign placed in or projecting in or over the public right-of-way or on a utility pole in the public right-of-way in violation of this article shall be deemed a public nuisance and may be seized by the code official or his/her designee, and the person owning or placing the sign may be charged both with a violation of this article and with the cost of removing and disposing of the sign. If the person or entity placing the sign cannot otherwise be determined for purposes of enforcement, it will be presumed that the name of the person or entity appearing on the sign, or the owner or occupant of the premises depicted on the sign directed the placement and is subject to enforcement as described hereunder.

Section 3 Signs exempt from regulation

The following signs shall be exempt from regulation under this article:

- A. Any official or public notice or warning required by a valid and applicable federal, state or local law, regulation or ordinance, by a public utility company or by order of a court of competent jurisdiction.
- B. Traffic signs on private property, such as stop, yield or similar signs, which meet department of transportation standards and contain no commercial message.
- C. Holiday decorations with no commercial message displayed as long as said decorations are displayed within a holiday season.
- D. "No trespassing," "No hunting," "No fishing" or "No loitering" signs, which shall not exceed one square foot in area.
- E. Any governmental signs.
- F. Incidental signs placed for informational purposes without commercial message and limited to one square foot in area.
- G. The changing of advertising copy or message on a painted sign, including theater marquee signs and similar signs specifically designed for the use of replaceable copy, change of face panel, or where the sign frame was designed for replaceable plates, shall not require a permit. For off-premise advertising the sign structure shall be removed if the sign structure becomes so dilapidated as to violate Section 7 (B) of this ordinance.

Section 4 Temporary signs not requiring permit

The following signs are considered temporary in nature and do not require a permit. They are, however, subject to the restrictions in construction or design indicated.

- A. *Banners.* On-premises banner signs may be used only during business or activity opening or special promotions, and shall be subject to the following:
 - 1. Whether singly or in combination, no more than three banners or portable signs shall be permitted on a single lot of land; however, the area of such displays shall not be counted against the maximum combined sign area allowed for permitted, permanent signs.
 - 2. Banners may be placed no longer than thirty (30) days.

- B. Portable signs.* Portable signs and similar temporary signs may be used only during business or activity opening or special promotions, and shall be subject to the following:
1. Whether singly or in combination, no more than three banners or portable signs shall be permitted on a single lot of land; however, the area of such displays shall not be counted against the maximum combined sign area allowed for permitted, permanent signs.
 2. Other than sidewalk signs regulated within the Downtown District, portable signs may be placed no longer than thirty (30) days.
- C. Garage sale signs.* Signs for garage sales shall be allowed only on private property with the permission of the property owner.
- D. Political signs.* Political signs are considered temporary signs and shall be allowed under the following provisions:
1. Such signs shall not be located in the public right-of-way or on other public property or on any utility pole or tree, except that signs may be located on city or other governmental property within specified proximity of polling places during elections at which the specific city or other governmental property is designated as a polling place.
 2. Such signs shall comply with all requirements as provided by the Texas Election Code.
 3. Signs must be removed within three (3) days following the election.
- E. Real estate signs.* Real estate signs, including those indicating sale, rental or lease, are allowed under the following provisions:
1. On-premises real estate signs are allowed in residential and commercial developments for a maximum of three hundred sixty-five (365) days.
 2. A real estate sign for a single-family dwelling shall not exceed one (1) per lot; in size, the sign shall not exceed forty-two (42) inches in height and a maximum of five (5) square feet in area.
 3. A real estate sign for commercial property shall not exceed ten (10) feet in height and a maximum of thirty-two (32) square feet. A maximum of one (1) real estate sign shall be permitted on tracts of three (3) acres or less; a maximum of two (2) real estate signs shall be permitted larger than three (3) acres but less than fifty (50) acres; and a maximum of three (3) real estate signs shall be permitted on a tract of fifty (50) acres or larger.
- F. Residential signs.* Residential signs are considered temporary signs and shall be allowed under the following provisions:
1. Such signs shall not exceed four (4) square feet in area and forty-two (42) inches in height.
 2. There shall be no more than three (3) residential signs on any site containing a single dwelling unit.
 3. Such signs shall be posted at least ten (10) feet from any public right-of-way and shall not be posted in a public right-of-way, easement, or on any private common area.
 4. Stake signs shall have a maximum of six (6) square feet in effective area and a maximum height of four (4) feet.

Section 5 Violations; penalty

When any sign is erected, constructed, built, reconstructed, altered or maintained in violation of

these regulations, the property owner, his/her agent, lessee, management and/or tenant shall give written notice to remove or alter the structure so as to comply with the standards set forth in these regulations as follows:

- A. The property owner, his/her agent, lessee, management and/or tenant shall be served with a written notice that states the violation and requires compliance with this article not more than ten (10) days from the date the notice is served. The notice may be served in person or by depositing the same as certified in the United States Postal Service addressed to the property owner at the owner's address as shown on the most current tax roll of the city, or the tenant as shown on the utility billing records of the city. If the municipality mails the notice to the property owner and the United States Postal Service returns the notice as "refused" or "unclaimed", the validity of the notice is not affected, and the notice is considered as delivered.
- B. Furthermore, after all provisions of Section 5 (A) have been followed the property owner, his/her agent, lessee, management and/or tenant shall be subject to a fine not exceed five hundred dollars (\$500.00) for each provision violated and each day that there is a failure to comply with the terms of any provision of this article is declared to a separate offense. For violations of the provisions of this article that govern fire safety, zoning, or public health and sanitation, including dumping of refuse, the fine may not exceed two thousand dollars (\$2000.00) per day, per violation.

Section 6 Sign permits

- A. *Required.* If a sign requiring a permit under this article is to be placed, constructed, erected or modified on a site, a contractor licensed by the state to erect signs, or where otherwise permitted by law, the owner of the lot, or with the owner's written permission, the owner's designee, shall secure a sign permit prior to the construction, placement, erection or modification of such a sign in accordance with the requirements of this article. If the applicant is someone other than the legal owner of the property, said applicant shall be required to submit the property owner's written verification acknowledging permission for placement of the sign on the property.

Commercial general liability insurance with a minimum aggregate of \$600,000.00 and a per occurrence minimum of \$300,000.00, and such insurance shall be written by an insurance carrier licensed to do business in this state and shall provide that coverage afforded under the policy will not be canceled, suspended, voided or reduced until at least thirty (30) days prior written notice has been endeavored to be given to the city via certified mail, return receipt requested.

- B. *Application requirements.*

- 1. An application for a sign permit may be filed only by a contractor licensed by the state to erect signs, or where otherwise permitted by law, the owner of the lot, or with the owner's

- written permission, the owner's designee, and if not the owner, the applicant must include the owner's written verification acknowledging permission for placement of the sign on the property.
2. An application for a sign permit shall be filed with the building official on a form prescribed by the building official, along with the approved fees incident to the application and permit.
 3. Each application for sign permit shall contain the information required on the application form, and such other information regarding the proposed sign as the building official may deem necessary in order to determine whether the proposed sign complies with the applicable requirements of this article and other applicable ordinances of the city. The application shall contain the following:
 - a. One set of plan plans;
 - b. A description of the proposed sign;
 - c. All existing buildings on the property;
 - d. The location by street and number of the proposed sign structure;
 - e. The distance from the curb to the sign;
 - f. Size and height of the sign;
 - g. Whether the sign is electrical;
 - h. The name, address and telephone number of the property owner;
 - i. The name, address, telephone number and license number of the registered sign contractor or erector;
 4. The building official shall determine whether the application is complete. If the application is determined to be incomplete, the building official shall notify the applicant of any deficiencies and shall take no further steps to process the application until the deficiencies are remedied.
 5. Notwithstanding Section 5 (b), the application fee or a sign permit shall be doubled when the installation or alteration of a sign is commenced or completed before the necessary permit is obtained.
- C. *Approval procedure.* Signs shall be erected, installed or created only in accordance with a duly issued and valid sign permit from the building official. Such permit shall be issued only in accordance with the following requirements and procedures:
1. An application for the construction, creation or installation of a new sign or for modification of an existing sign shall be accompanied by a detailed drawing showing the dimensions, design, structure and location of each particular sign, and such other information as is required to comply with this article. A separate application and permit is required for each sign.
 2. The building official shall cause an inspection of the site for which each permit for a new sign or modification of an existing sign is issued within six (6) months following issuance of a permit, or at such earlier date that the owner may request. The sign permit shall be valid for 180 days from date of issuance.
 3. Within forty-eight (48) hours, beginning at 9:00 a.m. on the next working day, of receiving an application for a sign permit, the building official shall review the application for completeness. Within ten (10) business days of finding an application to be incomplete, the building official shall provide written notice to the applicant detailing

- the specific deficiencies in the application, with appropriate references to this article.
4. Within twenty (20) business days of receipt of a complete application for a sign permit, the building official shall either:
 - a. Issue the sign permit, if the sign conforms in every respect to the requirements of this article and the sign permit application; or
 - b. Deny the sign permit, if the sign fails to conform to either the requirements of this article or the sign permit application. If the sign permit is denied, the building official shall then give written notice to the applicant detailing the specific deficiencies, with appropriate references to this article.
 5. Any person may appeal a decision of the building official concerning enforcement of the provisions of this article by filing such appeal with the city manager within ten (10) business days after the decision by the building official. The appeal will then be scheduled to be heard by the planning and zoning commission at a regular or specially called meeting, with public hearing scheduled thereon, and following such public hearing, the planning and zoning commission at such meeting will then take action on the appeal by either deferring, rejecting or approving the appeal as submitted thence referring the decision to the city council for final approval or disapproval. If the decision of the building official is to be appealed respecting a sign in existence, no action shall be taken on the sign while the decision is being appealed to the planning and zoning commission, unless the sign, by virtue of its physical condition, presents an immediate and significant threat to public safety.
 6. *As part of a variance request where the literal application of this chapter would create an undue hardship for the sign user and following criteria are met:*
 - a. A literal application of this chapter would not allow the property to be used.
 - b. The granting of the requested variance would not be materially detrimental to the property owners in the vicinity.
 - c. Any hardship is not in any way the result of the applicant's own action or the result of a self-created or personal hardship or for financial reason alone. Simply dividing a building into multiple occupancies shall not be sufficient grounds for granting a variance. Hardship caused the sign user under a literal interpretation of this chapter is due to conditions unique to that property and does not apply generally to the city.
 - d. Applicants for a variance may only be accepted when the site complies with this chapter. A variance request shall not be accepted after a sign is installed in violation of this chapter.
 - e. The granting of the variance would not be contrary to the general objectives of this chapter.
- D. Lapse of permit.* A sign permit shall lapse if the use of a building or premises by a specified business or other establishment is discontinued by the owner or occupant for a period of ninety (90) days or more. Any sign for which a permit lapses shall be considered an abandoned sign and shall be removed as provided by this article.
- E. Removal of signs.* Abandoned signs and signs which do not conform to the requirements of this article shall be removed. Any sign permit application for a premises which is not in conflict with the requirements of this article or which has not otherwise lapsed shall remain in effect for the premises.

- F. *Substitution of message.* On a commercial sign that is otherwise allowed under this article, any commercial or noncommercial message may be substituted, in whole or in part, without permitting or approval being required therefore, if no alteration is made of the size or structure of the sign.
- G. *Downtown District.* A sign requiring a permit under this article which is to be placed, constructed, erected or modified on a site within the Downtown District shall require advance approval of the Downtown District Advisory Board, as described in Section 10.

Section 7 Construction and design

- A. *Construction standards.* Notwithstanding such additional restrictions as may be applicable to signs placed within the Downtown District, as described in Section 10, all signs shall be designed, constructed and maintained in accordance with the following standards:
 - 1. All signs shall comply with provisions of the building code as then adopted by the city.
 - 2. Electric signs that have internal wiring or lighting equipment, and external lighting equipment that directs light on signs, shall not be erected or installed until an electrical permit has been obtained from the building official. All such signs and equipment shall bear the seal of approval of an electrical testing laboratory that is nationally recognized as having the facilities for testing. All such signs and equipment shall comply with the National Electrical Code as then adopted by the city. All wiring to electric signs or to freestanding equipment that lights a sign shall be installed underground.
 - 3. Except for temporary signs and sidewalk signs conforming in all respects with the requirements of this article, all signs shall be constructed of permanent materials and shall be attached to the ground, a building or another structure by direct attachment to a wall, frame or structure. All pole signs (freestanding signs) shall be enclosed by material designed to prevent rust. Sign should appear as a solid mass or base, such as a cylinder, block, rectangle or square. Pole should be covered from undisturbed natural ground level to the highest portion of the sign.
 - 4. All sign foundations shall be designed for 110-mile per hour winds, or most current adopted code, the plan for which must bear a professional engineer's calculations and seal.
 - 5. Electronic message centers shall conform to the following regulations:
 - a. The message or image on an electronic message center must remain static (stationary) for a minimum of eight (8) seconds.
 - b. Notwithstanding Section 7(C), the message area of an electronic message board sign may be illuminated by incandescent lamps, LED (light emitting diodes), magnetic discs, or other sources of light. Whatever the light source, undue brightness is prohibited. For enforcing this provision, prime facie proof of undue brightness is the illumination of a portion of the sign in excess of the intensity levels specified below:

Day: 5,000 nits

Night: 1,000 nits

- To ensure compliance with this provision, the sign must have an automatic phased proportional dimmer, which must be used to reduce nighttime brightness levels (compared to daytime brightness levels). Further, prior to the issuance of a permit for an electronic message center sign, the applicant shall provide written certification from the sign manufacturer that the light intensity has been factory preset not to exceed the levels specified above, and the intensity level is protected from end-user manipulation.
- c. Any electronic message centers installed prior to the date of the adoption of this ordinance must submit written certification from the sign manufacturer or other persons deemed appropriate by the city that the sign does not cause undue brightness and meets the intensity levels specified above. The owner of an electronic message center shall have sixty (60) days from the adoption of this ordinance to submit certification to the city.
 - d. A sign owner may modify existing, legal, conforming structures to an electronic message center only after filing application for a permit and receiving approval by the city.
 - e. Electronic message centers shall comply with applicable federal and state laws and regulations.
 - f. Failure to adhere to any of these provisions may result in the revocation of the electronic message center portion of the permit.
 - g. Only one (1) electronic message center is allowed per premise.
 - h. No electronic message center attached to a freestanding sign shall exceed fifty percent (50 %) of the total allowable sign face area for any on-premise freestanding sign.
 - i. No electronic message center attached as a wall sign shall exceed fifty percent (50 %) of the area of the maximum allowable size for a wall sign at that location.
 - j. The addition of any electronic message center to any nonconforming freestanding sign is prohibited.
 - k. Electronic animated signs shall not be permitted.
 - l. By definition, a changeable copy signs which displays time, temperature or price shall be allowed as on-premise signs.
6. The area of a freestanding sign shall be based on total road frontage of the property where the sign is to be permitted. The area shall be as follows:

Frontage (feet)	Maximum Area (square feet)
0-50	25
51-100	50
101-150	75
151-200	100
201-250	125
251-300	150
301-350	175

351-400	200
401-450	225
451-500	250
501-550	275
551-600	300

7. No freestanding sign shall exceed thirty-five (35) feet in height.
8. Wall signs shall be regulated by the following:

Maximum Area	Maximum Height
15% of wall area	3 feet above building roof

9. Multi-tenant signs shall be allowed and shall follow the requirements of Section 7(A)(6) furthermore, each sign incorporated in the total signage allowed shall be equally proportioned among the business establishments.
10. The height of a monument style sign shall not exceed twelve (12) feet in height.
11. The coverage area of a window shall not exceed thirty percent (30%).

B. Maintenance standards. Notwithstanding such additional restrictions as may be applicable to signs placed within the Downtown District, as described in Section 10, all signs shall be maintained in good structural condition, in compliance with all building and electrical codes, in conformance with this article, and subject to the following provisions:

1. A sign shall have no more than twenty percent (20 %) of its surface area covered with disfigured, cracked, ripped or peeling paint, poster paper or other material for a period of more than thirty (30) days.
2. A sign shall not stand with bent or broken sign facing, with broken supports, with loose appendages or struts, or more than fifteen (15) degrees from vertical for a period of more than ten (10) days.
3. A sign shall not have weeds, trees, vines or other vegetation growing upon it, or obscuring the view of the sign from the public right-of-way from which it is to be viewed, for a period of more than ten (10) days.
4. An internally illuminated sign shall be allowed to stand with only partial illumination for a period of no more than thirty (30) days.
5. Flags shall not be faded, tattered or torn.
6. Sign illumination shall be placed and shielded so as not to directly cast light rays into nearby residences, sleeping accommodations or into the eyes of motor vehicle drivers.
7. All signs and sign structures shall be kept in good repair and unless of galvanized or non-corroding metal treated with appropriate wood preservative, shall be thoroughly painted as often as necessary, consistent with good maintenance. All signs, sign structures and surrounding area shall be maintained in a safe, clean, sanitary and no offensive condition, and shall be kept free and clear of all obnoxious substances and rubbish. All braces, belts, clips, supporting frames, fastenings and systems shall be free from deterioration, termite

infestation, rot or loosening. All signs shall be able to withstand safely at all times the wind pressure specified in this chapter and any other applicable ordinances of the City of Liberty. If any sign is not so maintained, the code official or his/her designee shall give written notice to the owner or lessee thereof to so maintain the sign or to remove the sign.

8. Signs may not create a traffic hazard, and shall be constructed and maintained as follows:
 - a. Clear sight triangle. No sign shall be erected in the clear sight triangle. Signs shall be erected so as not to obstruct or impair motor vehicle driver vision at business ingress or egress points or at street intersections.
 - b. Other hazards. No sign shall be erected, and there shall be no lighting of signs or premises thereof, in such a manner or in such location as to obstruct the view of, or to be confused with, any authorized traffic signal, notice or control device. Signs using the words "stop," "danger" or any other word, symbol or character in a manner which may mislead, confuse or distract the driver of a motor vehicle are strictly prohibited.
 - c. Notwithstanding other provisions of this article, any such sign or light source constituting a traffic hazard shall be removed at the direction of the building official and/or his/her designee. If not removed by the owner or occupant of the property within ten (10) days of notice, unless otherwise deemed an immediate hazard, the building official and/or his/her designee shall cause the sign to be otherwise removed, and the cost of removal shall become a lien against the property from which it was removed until payment for removal is satisfied.

C. Lighting.

1. *Illumination.* Notwithstanding such additional restrictions as may be applicable to signs placed within the Downtown District, as described in Section 10, the following regulations shall apply to signs where lighting is included:
 - a. Sign illumination shall be placed and shielded so as not to directly cast light rays into nearby residences, sleeping accommodations or the eyes of motor vehicle drivers.
 - b. Electrical requirements pertaining to signs shall be as prescribed under the National Electrical Code as adopted.
 - c. Neon lighting shall only be permitted in signs for retail and restaurant establishments.
 - d. No sign regulated by this chapter shall utilize an exposed incandescent lamp with an external reflector and without a sunscreen or comparable diffusion in excess of fifty (50) watts; or unless wattage does not exceed ten (10) watts.
 - e. A higher wattage incandescent lamp may be used with no diffuser for lane open or closed designation.
 - f. No sign shall use any revolving beacon light, flashing light or strobes.
2. *Uniformity.* Lighting on signs shall be consistent throughout a project, and no sign or portion thereof shall be illuminated differently from any other sign, except as allowed otherwise in this article.

Section 8 Nonconforming signs; protection and limitation standards

A sign lawfully erected prior to adoption of the ordinance from which this article is derived but which does not conform in one or more respects with the requirements of this article may remain

in use, subject to the requirements of this section and other applicable requirements of city ordinances, under the following limitations:

- A. *Abandonment.* Any sign or sign structure related to a use or business that ceases to exist or operate for a continuous period of ninety (90) days shall be considered nonconforming and shall not be reused for sign purposes unless and until it is in full conformity with the provisions of this article, subject to issuance of a new sign permit.

If an abandoned sign or sign structure no longer advertises a bona fide business or that has become dysfunctional due to closing of a business for a period of ninety (90) consecutive days the sign shall be declared in violation of this article and such sign shall be restored to use or removed by the owner, lessee or person responsible for the sign or the owner's agent within thirty (30) days after notice of violation. If the owner, lessee or person responsible for the sign or the owner's agent fails to restore the sign or sign structure to use or remove the abandoned sign or sign structure within the specified thirty (30) days, the code official or his/her designee shall remove the abandoned sign or sign structure at the property owners expense under the provisions as set forth in Subsection (D) (1) (2) (3) below.

- B. *Change of copy.* No change of copy shall be permitted, except on a changeable copy sign, without bringing the sign into full conformance with this article and with the applicable sign permit application.
- C. *Other sign permits on premises.* For single occupant properties, the issuance of a sign permit for a new or replacement sign shall be subject to the condition that all nonconforming signs on that property shall be removed or brought into conformance as part of the work of installing the new or replacement sign. For multi-occupant properties, the issuance of a sign permit for a new or replacement sign for any occupant shall be subject to the condition that all nonconforming signs for that occupant shall be removed or brought into conformance as part of the work of installing the new or replacement sign.
- D. *Unsafe signs* If any sign or sign structure, in the opinion of the code official or his/her designee, becomes insecure or in danger of falling or otherwise unsafe, the code official or his/her designee shall give written notice on the condition of the sign to the person owning, leasing, or responsible for the sign. The person so notified shall correct the unsafe condition of the sign in a manner to be approved by the code official or his/her designee in conformity with this chapter and any other applicable code of the City of Liberty. When a sign or sign structure poses an immediate danger or threat to public safety, the code official or his/her designee shall make a reasonable effort to contact the owner or lessee to remove or repair within twenty-four (24) hours. The code official or his/her designee shall take the necessary steps to abate the nuisance at the property owner, tenant, and/or agent's expense either by using the following provisions:
1. Whenever the property owner, agent, lessee or tenant fails to abate the unsafe or dangerous, the code official or his/her designee shall abate the nuisance at the city's expense;
 2. The charge shall the actual cost of abatement, plus applicable sales taxes, and an administrative fee of \$75.00 shall be assessed for each charge; and
 3. The owner of the property, agent, lessee, or tenant shall be billed for all expenses

incurred and will submit payment within thirty (30) days after billing. If actual charges and administrative fees are not paid within specified time, the city shall file a lien against the property. Said lien shall be filed in the Deed Records of Liberty County, Texas. The charges shown on the lien shall bear interest at the rate of ten percent (10%) per annum from the due date until paid. The lien shall be inferior only to tax liens and liens for street improvements.

- E. All off-premise signs as defined herein shall not be allowed for reconstruction and/or remodel.

Section 9 Enforcement within city's extraterritorial jurisdiction

Pursuant to V.T.C.A., Local Government Code § 216.902, the provisions of this article shall be enforced in and extend to the city's extraterritorial jurisdiction.

Section 10 Signs within the Downtown District

- A. *Prohibited signs and devices.* In addition to those signs prohibited by Section 2, the following signs are prohibited within the Downtown District:
1. Backlit signs;
 2. Electronic message board signs;
 3. Flashing signs;
 4. Portable signs designed to be transported by wheels; and
 5. Roof signs.
- B. *Signs not requiring permit.*
1. *Sidewalk signs.* In addition to the restrictions in placement, construction or design contained in Section 4 sidewalk signs in the Downtown District shall not require a permit or advance approval but shall conform to the following requirements:
 - a. The maximum height of the sign shall be four (4) feet;
 - b. The maximum width of the sign shall be three (3) feet;
 - c. In addition to conforming to the requirements of Section 2(A), a minimum clear sidewalk width of four (4) feet shall be maintained;
 - d. The sign must be properly anchored or weighted against wind;
 - e. The sign may not contain changeable letter on tracks; and
 - f. The sign must be removed after business hours.
 2. *Banners.* A banner may not exceed twenty-four (24) square feet in area.
- C. *Construction, design and placement.* All signs placed within the Downtown District shall be designed, constructed and maintained in accordance with the standards described in Section 7, and in addition thereto, shall adhere to the following standards:
1. An alley sign shall not exceed six (6) square feet in area.
 2. An awning sign shall not exceed sixteen (16) square feet in area.
 3. A hanging sign shall not exceed eight (8) square feet per face, and shall provide a minimum of eight (8) feet clearance between the sidewalk surface and the bottom of the sign. The sign must hang perpendicular to the facade of the building.
 4. A projecting sign shall not exceed twenty-five (25) square feet per face, and the top of the

sign shall be located below the roofline of the building to which it is attached; the base of the sign shall be no less than eight (8) feet above the ground; and the sign shall not project more than six (6) feet from the exterior wall of the building.

5. A wall sign shall be limited in size as follows:
 - a. For a sign placed on the same side as the building's primary entrance, and based upon the linear measurement of the wall containing said primary entrance, sign shall be no more than fifteen percent (15 %) of the total wall area the sign is to be placed on.
 - b. Any sign placed on a building's secondary side or the side facing any side street not containing the primary entrance of the building shall be no larger than the size of a sign on the wall containing the primary entrance of the building.
 6. The coverage area of a window sign shall not exceed thirty percent (30 %) of the area of the window in which it is placed.
 7. Each premise may have no more than two (2) signs and one (1) sidewalk sign for each street entrance, with the exception of the following:
 - a. A building located on the corner of two (2) named streets may also have one (1) sign and one (1) sidewalk sign oriented to its secondary or side street frontage; and
 - b. A building containing a public rear entrance may also have one (1) sign and one (1) sidewalk sign oriented to the rear of the building.
 8. No sign in the Downtown District shall cover or otherwise obstruct any distinctive architectural feature of the building on which it is placed or painted.
 9. No more than thirty percent (30 %) of any exterior wall of a building may be covered by signage.
 10. Projecting signs and awnings shall be anchored to withstand 110-mile per hour winds, and shall be built pursuant to plan bearing a professional engineer's calculations and seal.
- D. Approval procedure.* If a sign requiring a permit under this article is to be placed, constructed, erected or modified on a site within the Downtown District, in addition to the requirements for permit described in Section 6, prior approval of the Downtown District Advisory Board must be obtained with proof thereof submitted to the building official.
1. As applicant, the building owner, or, with the owner's written permission, the owner's designee shall meet with the building official to determine the requirements for a sign to be placed, constructed, erected or modified on a site within the Downtown District.
 2. The applicant shall then complete any written application for a sign as required by the Downtown District Advisory Board, and submit the application, with all attachments required, to the building official for review as required by the Downtown District Advisory Board.
 3. The applicant shall attend such meetings as may be scheduled by the Downtown District Advisory Board for the purpose of presenting the application for sign for approval.
 4. Upon approval by the Downtown District Advisory Board, the applicant shall secure such permits as may be required for construction, placement or modification from the building official.
 5. Within sixty (60) days of grant of permit from the building official, construction shall commence as described in the approved application. Work must be completed within 180 days.
- E. Downtown district area.* The area of downtown beginning at the intersection of Dr. Martin

Luther King, Jr. Blvd and Milam heading North on Milam to the intersection of Milam and Grand thence continue heading East on Grand to the intersection of Grand and San Jacinto thence continue heading South on San Jacinto to the intersection of San Jacinto and Dr. Martin Luther King, Jr. Blvd thence heading West on Dr. Martin Luther King, Jr. Blvd. to the intersection of Dr. Martin Luther King, Jr. Blvd. and Milam.

Section 11 Dispensing with Two Readings

That the requirement contained in Section 3.10 of the Home Rule Charter of the City of Liberty, Texas that all ordinances be read on two separate days is hereby dispensed with.

Section 12 Effective Date

This ordinance shall be in full force and effect from and after the date of its passage and publication.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Liberty, this 14th day of July, 2009.

Carl Pickett, Mayor

ATTEST:

Dianne Tidwell, City Secretary