

## **ORDINANCE 2010-03-23-004**

(Revision of 2010-01-26-001)

### **AN ORDINANCE OF THE CITY OF KEMPNER, TEXAS, PROVIDING FOR THE REGULATION AND PERMITTING OF SIGNS WITHIN THE CITY LIMITS AND THE CITY'S ETJ; PROVIDING DEFINITIONS; MAKING EXCEPTIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN OPEN MEETINGS CLAUSE; AND PROVIDING FOR RELATED MATTERS.**

Whereas, the regulation of signs within the City of Kempner (the "City") and within its extraterritorial jurisdiction ("ETJ") is necessary for pedestrian and traffic safety, the public health and safety, the preservation of property values, and the avoidance of unnecessary clutter;

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

**Section 1. Findings of Fact.** The facts and recitations hereinabove set out are hereby found and declared to be true and correct and are incorporated herein as findings of fact.

**Section 2. First Amendment Rights.** This ordinance shall not be construed, applied, interpreted nor enforced in a manner to violate the first amendment rights of any person, and the Building Official shall seek the advice and recommendation of the city attorney prior to taking any action to enforce any provision of this ordinance with respect to any non-commercial sign or speech by any person.

**Section 3. Comprehensive Regulation of Signs.** The sections, provisions and regulations set forth in this ordinance shall apply to the control, use, installation, regulation and permitting of signs within the City and its extraterritorial jurisdiction ("ETJ"). It is the intent of this ordinance to provide comprehensive regulations applicable to signs placed, installed or maintained within the City and within the ETJ of the City.

**Section 4. Purpose.** In general the objectives of this ordinance are to promote the health, safety, welfare, convenience, communication, and the landscape quality of the public. It shall further be the purpose of this ordinance to achieve the purposes set forth hereinafter.

4.01. Safety. A purpose of this ordinance is to provide that:

4.01.01 No hazard to persons or property is created due to collapse, wind, fire, collision, decay or abandonment of any sign; and,

4.01.02 No obstruction is created to fire fighting and police surveillance; and,

4.01.03 No traffic hazard is created by confusing or distracting motorists, or by impairing the driver's ability to see pedestrians, obstacles, or other vehicles, or to read the traffic signs.

4.02. Communications. A purpose of this ordinance is to promote the efficient transfer of information in the sign message by providing that:

4.02.01 Businesses and services may identify themselves;

4.02.02 Customers and other persons may locate a business or service; and;

4.02.03 Persons exposed to signs are not overwhelmed by the number of messages presented, and are able to exercise freedom of choice to observe or ignore said messages, according to the observer's purpose.

4.03. Landscape Quality and Preservation. A purpose of this ordinance is to protect the public welfare and to enhance the appearance and economic value of the landscape, by providing signs that:

4.03.01 Do not interfere with scenic views;

4.03.02 Do not create a nuisance to persons using the public rights-of-way;

4.03.03 Do not constitute a nuisance to occupancy of adjacent and contiguous property by their brightness, size, height, or movement;

4.03.04 Are not detrimental to land or property value; and,

4.03.05 Contribute to the special character of particular areas or districts within the City, helping the observer to understand the City and orient oneself within it.

**Section 5. General Provisions.** All signs erected or maintained pursuant to the provisions of this ordinance shall be erected and maintained in compliance with all applicable federal, state, and local laws and regulations, the building code, electrical code and other applicable ordinances of the City. In the event of conflict between this ordinance and other laws, the most restrictive standard applies.

**Section 6. Definitions.** As used in this Ordinance, all words shall have the common meaning of such word and the following terms shall have the meaning indicated below unless the context clearly indicates otherwise:

6.01 **SIGN:** Means any board, placard, poster, banner, marker, billboard, display, light device, painting, drawing, message, plaque, or other structure, mechanism, appliance, or inscribed surface designed to attract the attention of persons passing by and intended to inform the public or to announce or advertise goods and services available from merchants or vendors. Included are surfaces of walls or other landscape features that have any text or logos attached or otherwise incorporated on or into any portion of their surface. Signs that inform the public include those that provide safety information concerning traffic regulations or highway, street, or utility construction, provide directory information such as locating and identifying streets and addresses on those streets; location of public buildings, public facilities, churches, schools, and other places of interest to the general public, or that announce and give directions to special events or activities. Signs that announce or advertise goods and services available and that may serve to attract potential customers to the merchants, vendors, or other business enterprises which offer those goods and services are Commercial Signs as specified following. Signs will be assigned to one of six groups, Official, Commercial, Private, Political, Temporary, Billboard.

6.01.01 **OFFICIAL SIGN:** Means any permanent or temporary sign erected and maintained by a governmental entity to include independent school districts, or emplaced by a contractor under provisions of a contract with such entity. Official signs include regulatory signs advising of traffic control regulations, highway and street identification, location of certain common user facilities such as the US Post Office and local government offices, and safety messages to identify hazards or construction in or near highway and street rights of way. Official signs include those erected by or for the city which announce special events of interest and benefit to the community.

The specifications for Official Signs are set forth in other applicable regulations and all Official Signs are excluded from the provisions of this Ordinance. To provide uniformity of Official Signs erected and maintained by or for the City, all such signs will generally conform to the specifications of signs used by County and State authorities, or official signs readily available through standard suppliers.

6.01.02 COMMERCIAL SIGN: Means any sign erected and maintained by or for a business entity that identifies or locates that entity, or that announces or advertises goods and services available, and that may serve to attract potential customers to the merchants, vendors, or other business enterprises which offer those goods and services. Commercial signs include billboards and other such signs erected and maintained for the purpose of renting advertising space. Commercial signs include all signs emplaced by a realtor or other agent of a realtor, or a real estate developer or agent of the developer for the purpose of announcing and directing prospective purchasers or renters to properties for sale or rent. Signs at a residence announcing the resident is a distributor of products or performs services for remuneration are commercial signs regardless of whether the resident conducts actual business at that location. Signs placed by temporary roadside vendors to announce or advertise products or services for sale at their locations are commercial signs. Signs on vehicles owned or operated by or for any business entity are exempt from this ordinance provided that vehicle is currently registered, insured, and inspected in compliance with Texas Department of Transportation requirements for operation on public highways. Such signs on vehicles that are not currently registered, insured, and inspected are prohibited and any such vehicle is subject to the provisions of the City Ordinance Regulating Abandoned and Derelict Vehicles.

6.01.03 PRIVATE SIGN: Means any sign erected and maintained at the residence of a private individual or on any other private property not used for any commercial enterprise that:

- 6.01.03.01 Locates and identifies that residence, its occupant, or other lawful permanently established activity to include hospitals, churches, and private schools; or that
- 6.01.03.02 is a decorative or novelty sign associated with gardening or other such outdoor yard activity or other hobby activity, or that:
- 6.01.03.03 Announces temporary availability of items, products, or services for sale at that residence or activity by or on behalf of that occupant or activity including:
  - a. garage and yard sales, or
  - b. one-time auctions and liquidation sales , or
  - c. larger personal items individually for sale such as lawn equipment, motor vehicles, or recreational vehicles to include boats, or
- 6.01.03.04 Announces that the residence or property is for sale or for rent by the property owner or
- 6.01.03.05 Announces or helps others to locate a private special event being held at that property.

NOTE #1: Reference 6.01.03.03, 6.01.03.04, and 6.01.03.05 are Temporary Signs. (See 6.01.05).

NOTE #2: Reference 6.01.03 c "For Sale" signs on vehicles owned by the occupant or activity and parked on the property where vehicles are being offered for sale are exempt from this ordinance provided that vehicle is currently registered, insured, and inspected in compliance with Texas Department of Transportation requirements for operation on public highways. Such "For Sale" signs must include the name of the seller, the seller's phone number, and the asking price for the vehicle, and the vehicle must be displayed in an area that is maintained in a manner that enhances the marketability of that vehicle. Vehicles that are not currently registered, insured, and inspected are subject to the provisions of the City Ordinance Regulating Abandoned and Derelict Vehicles.

NOTE #3: Address signs used for emergency address location and commonly referred to as "9-1-1" will be installed and displayed as specified by the appropriate governmental jurisdiction.

6.01.04 POLITICAL SIGN: Means any sign erected to gain support for a candidate, political party, or proposition to be voted for or against in an upcoming election.

6.01.05 TEMPORARY SIGN: Any Private or Commercial sign that presents a message of a temporary nature, such as announcing and locating events and business ventures that do not occur on a regular basis. All Portable Signs as described in 6.02.17 are Temporary signs. Any sign that is **not** constructed of permanent materials is a temporary sign. This includes banners and any other signs that are not permanently attached to a structure or are Free Standing Signs.

6.01.06 BILLBOARD: Means any free standing, off site sign that has a face or surface area greater than sixty (60) square feet, and which is erected with the intent to rent or lease advertising space on its surfaces .

## 6.02 OTHER DEFINITIONS AS USED WITHIN THIS ORDINANCE

6.02.01 ABANDONED SIGN: Any sign without a valid current permit, or one which is deserted, surrendered or forsaken, unused, given up or relinquished with no apparent intention of ever resuming a right of interest therein.

6.02.02 ATTACHED SIGN: Means any sign that is mounted on or affixed to a building or other structure, the primary purpose of which building or structure is other than supporting the sign, and which sign is supported wholly or in part by that building or structure.

6.02.03 BILLBOARD: Means any free standing, off site sign that has a face or surface area greater than sixty (60) square feet.

6.02.04 BUILDING OFFICIAL: Means any officer, or employee, or person, designated by the Mayor or City Council to perform the duties set forth in this ordinance to be performed by the Building Official.

6.02.05 ERECT: Means to build, construct, emplace, install, attach, hang, place, suspend, or affix.

6.02.06 FACE OR SURFACE: Means the surface upon, against, or through which the message is displayed or illustrated.

- 6.02.07 FREE STANDING SIGN: Means any sign that is mounted on, affixed to, or suspended from a dedicated framework or support system independent of and separate from any other structure.
- 6.02.08 GROSS SURFACE AREA: Means the entire area within a single continuous perimeter enclosing the extreme limits of each sign Face or Surface. A sign having two (2) surfaces shall be considered a single sign if both the surfaces are located back to back and contain identical displays. In the event two (2) or more signs share a single structure, i.e., directory signs, or signs on v-shaped structures, each sign or panel shall be considered separately for square footage purposes, provided that the combined area of such signs cannot exceed the total square footage allowed on a single sign.
- 6.02.09 HEIGHT: The distance from common ground level to the highest point.
- 6.02.10 ILLUMINATED SIGN: Any sign illuminated by electric lights.
- 6.02.11 INCOMBUSTIBLE MATERIAL: Any material which will not ignite at 1200 degrees F. or below; or which will not continue to burn or glow at that temperature.
- 6.02.12 LOGO: Design or insignia commonly used to identify a company or product. A logo presented without any additional message is a sign.
- 6.02.13 OFF SITE SIGN: Means a sign that is intended or used to advertise, inform, or attract the attention of persons not on that premise and which sign refers to goods, products or services provided at a location other than the property upon which the sign is erected.
- 6.02.14 ON SITE SIGN: Means the sign refers to goods, products, or services provided at the property upon which the sign is erected.
- 6.02.15 PERMIT: An official document issued by the City that allows for sign installation.
- 6.02.16 PERSON: An individual, partnership, firm, company, association or corporation of any kind.
- 6.02.17 PORTABLE SIGN: A sign easily moved from one location to another, including signs which are mounted on skids, trailers, wheels, legs or stakes.
- 6.02.18 SETBACK: The minimum distance from the property line to the nearest part of a building. No sign requiring a permit may encroach, project, or be constructed on or past this line.
- 6.02.19 RESIDENTIAL SUBDIVISION SIGN: A sign used to identify a specific residential subdivision. Signs maintained by the developer are commercial signs. Signs maintained by a homeowners association are private signs. Residential subdivision signs for which no identifiable person has maintenance responsibility are abandoned signs.

**Section 7. Regulations and Standards.** All signs erected or maintained within the City and its E.T.J. shall be erected and maintained in compliance with all applicable state laws and with this ordinance and the city's building code. In the event of conflict between this section and other laws, codes or ordinances, the most restrictive standard shall apply. Any sign that does not meet the size, height and setback restrictions will require a variance from the City Council.

- 7.01 Official Signs as defined in Section 6.01.01 are exempt from Regulation and Standards and are exempt from Permit Requirements of this ordinance.
- 7.02 Commercial Signs as defined in Section 6.01.02 must comply with the Regulations and Standards and the Permit Requirements of this ordinance as follow:
- 7.02.01 On-Site Signs. A free-standing or attached sign may be erected and maintained upon any property having an occupied building used for retail, commercial or industrial use, unless otherwise prohibited or restricted herein. The maximum size of any free-standing or attached sign that is not a billboard shall not exceed 60 square feet nor have a luminance greater than 200 footlamberts. Such on-site signs shall pertain only to the identification of a building, business, product(s), or service(s) manufactured, sold or offered on the premises where the signs are located.
- 7.02.01.01 Free-Standing Signs - The minimum set back for any free standing sign is five (5) feet from any property line. The maximum overall height for a free standing sign is thirty (30) feet. Any free-standing sign located in such a manner as to allow the passage of vehicular traffic beneath it shall have a minimum clearance of fourteen (14) feet. Any sign located in such a manner to allow the passage of pedestrian traffic beneath it shall have a minimum clearance of eight (8) feet.
- 7.02.01.02 Attached Signs - The maximum size of any attached sign shall be sixty (60) square feet. The height of any attached sign shall not exceed the height of the roofline of the structure to which the sign is attached. Architectural elements to which signage may be attached shall be limited to the building wall surfaces, canopy, fascia, or sign bands. No attached sign shall project over eighteen (18) inches from the face of any building to which affixed. Where an attached sign is placed in such a manner as to project a distance greater than two (2) inches into a private driveway or other private area likely to be used by vehicular traffic or where such sign is placed in such a manner as to allow the passage of vehicular traffic beneath it, the sign shall have a minimum clearance of fourteen (14) feet. Where an attached sign is placed in such a manner as to allow the passage of pedestrian traffic beneath it, the sign shall have a minimum clearance of eight (8) feet.
- 7.02.02 Off-site Signs: A free-standing or attached sign may be erected and maintained upon any property, unless otherwise prohibited or restricted herein. The maximum size of any free-standing or attached sign that is not a billboard shall not exceed 60 square feet nor have a luminance greater than 200 footlamberts. Such off-site signs shall pertain only to the identification of a building, business, product(s), or service(s) manufactured, sold or offered at a location other than the property upon which the sign is erected. The minimum distance between off-site signs shall be three hundred feet (300').
- 7.02.02.01 Free-Standing Signs: The requirements for a free-standing off site sign are the same as specified in 7.02.01.01 above.
- 7.02.02.02 Attached Signs: The requirements for an attached off site sign are the same as specified in 7.02.01.02 above.

- 7.03 Private Signs as defined in Section 6.01.03 must comply with the Regulations and Standards and the Permit Requirements of this ordinance as follow:
- 7.03.01 A free-standing or attached private sign may be erected and maintained at the residence of a private individual or on any other private property not used for any commercial enterprise. All private signs are on site signs and may only be used for the purposes specified in Section 6.01.03.
  - 7.03.02 The maximum size of any free-standing or attached private sign is thirty-two (32) square feet.
  - 7.03.03 The colors, lettering, and any logos should enhance the property on which it is erected, and the sign's overall appearance shall not diminish the appearance of that and surrounding properties.
  - 7.03.04 Private Traffic Control. On-site signs which direct the movement of traffic on private property or warn of obstacles, overhead clearances or control parking. The sign must be less than ten (10) feet in width, less than six (6) feet in height, and be placed where it will not interfere with the safe movement of vehicles or pedestrians.
- 7.04 Political Signs as defined in 6.01.04 must comply with the Regulations and Standards and the Permit Requirements of this ordinance as follow:
- 7.04.01 Political signs may be erected on any private property, regardless of its use, with the permission of the property owner or agent.
  - 7.04.02 Political signs may be erected no earlier than ninety (90) days before the relevant election and must be removed not more than ten (10) days following the election or runoff election to which the sign pertains or after the termination of a candidacy, whichever occurs first.
  - 7.04.03 The maximum size of any individual political sign is thirty-six (36) square feet and a height of eight (8) feet from ground level
  - 7.04.04 Political signs are prohibited on public property and within the right of way of any street or highway in the City or its E.T.J.

Texas Department of Transportation, Use of Right-of-Way by Others Manual, Section 4. Illegal Signs on the Right of Way, contains the following information:

“It is illegal to place political signs on the right of way. No notification before removal is required. However, the department should make an effort to contact local political campaign headquarters prior to the election season to request that they not place political signs on the rights of way. The same procedures should be utilized to remove them.

Under Government Code, Sec. 255.007 (Notice Requirement on Political Advertising Signs) political signs are required to have the following notice placed on the sign: "NOTICE: IT IS A VIOLATION OF STATE LAW (CHAPTERS 392 AND 393, TRANSPORTATION CODE), TO PLACE THIS SIGN IN THE RIGHT OF WAY OF A HIGHWAY."

- 7.04.05 In the event a less restrictive standard is set by state statute, such statutory standard shall be applied to the extent of any conflict with this provision.

- 7.05 Temporary Signs as defined in 6.01.05 must comply with the Regulations and Standards and the Permit Requirements of this ordinance as follow:
- 7.05.01 Temporary signs may be erected no earlier than forty-five (45) days before the relevant event or activity announced thereon and must be removed not more than ten (10) days following that event or activity.
  - 7.05.02 The maximum size for any temporary sign is thirty-two (32) square feet.
  - 7.05.03 Where temporary signs are electric signs, no electric extension cords shall be used. Electrical wiring on all temporary signs shall be by a circuit breaker protected circuit and the wiring shall be in metal conduit for exterior applications. Electric power to temporary signs will not run across or over any sidewalk, street, or public right-of-way. Illuminated signs shall not have a luminance greater than 200 footlamberts.
  - 7.05.04 Portable temporary signs must be rendered immovable by natural occurrence and shall be anchored to withstand a minimum of thirty (30) mph winds. Portable signs must be secured from theft or other relocation from its intended place of use.
- 7.06 Billboards as defined in 6.01.06 must comply with the Regulations and Standards and the Permit Requirements of this ordinance as follow:
- 7.06.01 Billboards shall not exceed forty feet (40') in height and shall not have a face, surface area, or gross surface area, greater than six hundred seventy-two (672) square feet; provided that a billboard with signs located back to back and facing opposite directions may have up to 672 square feet of surface area for each of the two sign faces.
  - 7.06.02 No billboard shall be constructed, erected or installed within a distance of three thousand linear feet (3,000') from any other billboard. The distance between any billboard and the location of any proposed billboard shall be measured from the center of the base of the existing billboard.
  - 7.06.03 No billboard shall be constructed, erected or installed except in conformance with plans and specifications prepared and sealed by a professional engineer or architect licensed by the State of Texas; require structural drawings designed and sealed by a civil engineer registered by the State of Texas

**Section 8 Permit Required - Application and Issuance.** It shall be unlawful for any person to erect, maintain, or relocate any sign within the City and its E.T.J. without first obtaining a sign permit from the Building Official unless such sign is exempted by this ordinance.

- 8.01 Application for a permit is available from the City Secretary at City Hall during normal business hours.
- 8.02 Application for permits shall contain or have attached thereto the following information:
  - 8.02.01 Name, address, and telephone number of the applicant.
  - 8.02.02 Location of the building, structure, or lot on which the sign is to be attached or erected.



- 8.02.03 Two (2) sets of plans shall be submitted showing the sign location in relation to nearby buildings or structures, signs, property lines, driveways, public streets, fences, and sidewalks.
- 8.02.04 Two (2) blueprints or ink drawings of the plans and specifications showing method of construction, attachment to the building or ground, size, type, height, construction materials, and such other materials, and such other information as the Building Official may require. The Building Official may require plans to be prepared by a registered professional engineer who is registered by the State of Texas or an architect licensed by the State of Texas. Attached signs not over six (6) square feet in area, constructed of metal or other noncombustible material, attached securely to a building or structure and not projecting more than eighteen (18) inches from the supporting structure shall not require civil engineer certification as to its soundness.
- 8.02.05 Copy of stress sheets and calculations showing the structure as designed for dead load and wind pressure in any direction in the amount required by this ordinance, and all other laws and codes of the City.
- 8.02.06 Name of person, firm, corporation, or association erecting structure.
- 8.02.07 Any electrical permit required and issued for said sign. The Building Official may only approve an application for an Illuminated Sign if the sign is to be installed on property occupied for a commercial, industrial. The application for a permit for erection of a sign in which electrical wiring and connections are to be used shall be submitted to the Building Official. The Building Official shall examine the plans and specifications respecting all wiring and connections to determine if the same complies with the electrical code of the City. In addition, all illuminated signs shall bear the Underwriters' Laboratory label or be built to comply with the Underwriters' requirements. The Building Official shall approve said permit if the plans and specifications comply with the requirements of this ordinance, and shall disapprove the application if noncompliance is found. Approval by the Building Official must be obtained prior to the issuance of any sign permit.
- 8.02.08 Zoning classification carried by the property, if applicable.
- 8.02.09 Estimated cost or value of the sign.
- 8.02.10 Such other information as the Building Official shall require to show full compliance with this ordinance and all other laws and codes of the City.
- 8.02.11 Before a permit shall be issued, the City must have a written statement in hand from the owner of the property where the sign is to be located giving permission for the erection and maintenance of a sign and holding the City harmless from any damages which might be caused by the sign.
- 8.02.12 Proof of Liability coverage for the owner of any property upon which any sign larger than sixteen (16) square feet is erected shall be provided through listing the sign on the insurance policy for that property.

8.03 Permit Fees. The fee for permits shall be based on the square footage of said sign in the following manner:

<u>Square Feet</u>	<u>Fee</u>
Up to 60 Square Feet	25.00
61 Sq. Ft. and larger	\$2.00/Sq. Ft.

If any work is started or proceeded without a permit first being obtained, the above specified permit fee shall be doubled and paid for the required permit.

For the erection of all signs with more than sixty (60) square feet of surface, a surety bond of five thousand dollars (\$5,000.00) shall be issued and payable to the City and shall provide for the indemnification of the City for any and all damages or liability which may accrue against it for a period of one (1) year after installation, erection, demolition, repair, removal or defects in or collapse of any sign.

8.04 Permit Issuance. It shall be the duty of the Building Official, upon the filing of an application for a sign permit, to examine such plans and specifications and other data and the premises upon which it is proposed to erect a sign. If it appears that the proposed structure is in compliance with all the requirements of this section, the building code, and all other laws and ordinances of the City, the Building Official shall then issue the sign permit. If the work authorized under a sign permit has not been completed within sixty (60) days after issuance, the said permit shall become null and void.

**Section 9. Signs Allowed and Exempted from Permitting Requirements.** The following signs are allowed and are exempt from the requirements for a permit; however, any Regulations and Standards specified in this ordinance as well as all requirements for signs similar in type, size, and manner of construction must be met. It is further specifically provided that the Building Official may, based upon the size, materials used in construction and other relevant factors, require the owner of any sign to show evidence of structural soundness and compliance with the safety requirements of this ordinance. Signs which do not generally comply with this ordinance may be declared non-compliant by the Building Official.

9.01 The following types of private signs shall be exempt from the permitting provisions of this ordinance.

9.01.01 Signs attached to or erected adjacent to churches, private hospitals, and private schools up to high school equivalent to identify that activity and its street address.

9.01.02 Signs attached to or erected adjacent to residences to identify the street address, identify the resident, or decorative and novelty signs associated with gardening or other hobby activity.

9.01.03 Commemorative plaques of recognized historical societies and organizations.

9.01.04 Signs located on mail boxes and curbside newspaper holders which identify the owner and address of the premises or the name of the newspaper sold or subscribed to; provided that such devices are not placed so as to interfere with the safe movement of pedestrians or vehicular traffic.

- 9.02 The following types of commercial signs shall be exempt from the permitting provisions of this ordinance.
- 9.02.01 Residential Real Estate Signs advertising the sale or lease of an individual residential structure and not exceeding eight (8) square feet.
  - 9.02.02 Business/Industry Real Estate Signs advertising the sale or lease of business/industrial property and not exceeding sixteen (16) square feet.
  - 9.02.03 Professional or Occupational Signs not exceeding two (2) square feet in area and denoting only the name and profession, or occupation, at a commercial building or home office.
  - 9.02.04 Signs on Outdoor Machines, Devices and Equipment. Signs located on outdoor machines, devices, or equipment which display the trademark, trade name, manufacturer, cost of operating or service instructions or similar information, but do not advertise the business where located. This exemption includes, but is not limited to signs on coin-operated vending machines, fuel dispensing pumps, telephone facilities, automatic teller machines, car wash machines or equipment and vacuum cleaners, amusement rides and similar machines, devices or equipment.
  - 9.02.05 Athletic Fields. Signs located on the field side of scoreboards and fences of athletic fields.
- 9.03 Political signs shall be exempt from the permitting provisions of this ordinance.
- 9.04 Garage or Yard Sale Signs Allowed. Any person may erect a sign on his own property, or property of another with the owner's permission, for the purpose of advertising a garage or yard sale. Name, date and address must be shown on the sign, however such signs shall be removed within twenty-four (24) hours of the sale. Attention is directed to the fact that placing any sign on public property or on street or highway rights of way is prohibited.
- 9.05 Temporary construction signs denoting the architect, engineer, contractor, subcontractor or financier and temporary signs denoting the future location of a particular business, retail center or institution may be erected on such site of the proposed business. However, only one (1) construction sign and one (1) future location sign will be permitted on such location. No such sign shall exceed thirty-two (32) square feet in area nor extend higher than fifteen (15) feet; provided, that such signs must be located on the premises where construction, or business location being advertised, is or will be occurring. Said signs shall be removed upon issuance of an occupancy permit.
- 9.06 Homebuilder and subdivision signs erected for the purpose of identifying the location of or direction to subdivisions or major homebuilders sites are allowed. Such signs shall be on-site and shall not exceed sixty (60) square feet in area nor extend higher than fifteen (15) feet in height. A homebuilder with ten (10) lots or more shall be qualified as a major homebuilder. The signs permitted for each subdivision or major homebuilder site shall be removed upon completion of the project. No such sign shall be located closer than one hundred (100) feet to a residential dwelling not within the subdivision.

- 9.07 All balloons, floating devices, streamers or search lights shall be sufficiently anchored and shall meet all applicable regulations. The time limits applicable to any such devices shall be as outlined for Temporary signs.

## **Section 10. Maintenance and Removal.**

- 10.01 Maintenance Required. All signs shall be maintained in good and safe structural condition, shall be painted on all exterior parts, unless coated or made of rust resistant material, and shall be maintained in good condition and appearance. Any owner failing to maintain, repair, or remove any such sign after due notice has been given shall upon conviction be guilty of a misdemeanor.
- 10.02 Inspection of Signs. The Building Official shall be notified by permittee when erection of the sign is complete, and the Official shall make an inspection to determine if the sign conforms to the permit. The Building Official shall inspect annually, or at such other times as he deems necessary, each sign regulated by this section for the purpose of ascertaining whether the same is secure or insecure, whether it still serves a useful purpose and whether it is in need of removal or repair.
- 10.03 Removal of Unsafe and Unlawful Signs. If the Building Official shall find that any sign regulated herein is unsafe or insecure, or is a menace to the public, or is abandoned or is maintained in a dilapidated condition, or has been constructed or erected or is being maintained in violation of this section, or is not permitted as required herein, he shall take action as follows:
- 10.03.01 Except as provided in the following paragraphs 10.03.02 and 10.03.03, the Building Official shall give the sign or property owner written notice to repair, remove or obtain a permit for such sign as applicable within ten (10) days after such notice. If the sign or property owner fails to remove, repair, or obtain a permit for such sign so as to comply with all applicable standards and regulations, the Building Official shall cause the sign to be either removed or repaired and such cost shall be charged to and paid by the property owner. If such demolition or repair expenses are not paid by the property owner within thirty (30) days of such billing, then such expenses shall constitute a valid lien against the property. Such notice shall also provide the sign or property owner an opportunity to bring the sign into compliance or to request a hearing before the City Council to determine whether the sign should be repaired or removed. Such appeal must be filed in writing with the City Secretary within ten (10) days of the notice. After consideration of all facts, the City Council shall rule upon the appeal.
- 10.03.02 The Building Official may cause any sign which is an immediate peril to persons or property to be removed summarily and without notice.
- 10.03.03 Any sign located in public right-of-way may be immediately removed by the Building Official without notice to the owner.

## **Section 11. Non-Conforming Signs**

- 11.01 It is the declared purpose of this section that, in time, all privately owned signs shall either conform to the provisions of this section or be removed. By the passage of this ordinance and its amendments, no presently illegal sign shall be deemed to have been legalized unless such sign complies with all current standards under the terms of this ordinance and all other ordinances of the City. Any sign

which does not conform to all provisions of this ordinance but which existed on the effective date of this section and was lawfully constructed or installed shall be considered as a non-conforming sign. All non-conforming signs shall be permitted in the same manner as any other legally existing sign or proposed sign; provided that no sign that was constructed or installed in violation of any state or local law, or that was originally constructed or installed without a permit that was then required at such time, shall be or qualify as a non-conforming sign.

11.02 Whenever any non-conforming sign no longer advertises a bona fide business or a business which has moved away or closed, a product sold, or service rendered, such sign shall be removed within sixty (60) days. If the non-conforming sign is a wall sign, the wall sign shall be removed or painted over with a color that resembles or matches the rest of the wall of the building.

If the owner of, or person responsible for the sign, or if the tenant closing a business, fails to remove the abandoned sign or paint over the wall sign, the owner of the premises shall be held responsible and the work shall be done within thirty (30) days following written notice to do so by the Building Official.

11.03 No non-conforming sign may be enlarged or altered in a way which would increase its non-conformity.

11.04 Should any non-conforming sign be damaged by any means to an extent of more than fifty (50) percent of its replacement cost at time of damage, it shall not be reconstructed except in conformity with the provisions of this ordinance.

**Section 12. Existing Signs.** Signs lawfully erected prior to the date of this ordinance that are being properly maintained shall, if in conformance with this ordinance, be lawful and permitted, and if not in compliance with this ordinance, shall be non-conforming uses.

**Section 13. Variances.** The City Council shall be empowered to vary the provisions of this section if it appears that the provisions would work in manifest injustice, considering such factors as the sign location and other pertinent factors. Such decision of the Council should not however conflict with the spirit of this ordinance, which is one of safety, provision of adequate light, open space and air, conservation of land and building values and to encourage the most appropriate use of land. All variances to these sign regulations will require approval by the City Council.

**Section 14. Penalties.** Any individual, association, corporation or legal entity violating any provision of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by the assessment of a fine not exceeding two thousand dollars (\$2,000.00) and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

**Section 15. Repeal of Conflicting Ordinances.** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

**Section 16. Severability** If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications hereof which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

**Section 17. Open Meetings.** That it is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapt. 551, Loc. Gov't. Code.

**Section 18. Effective Date.** This ordinance shall take effect immediately upon its adoption by the City Council and publication as required by the Local Government Code.

**PASSED** and **APPROVED** on this the 23<sup>rd</sup> day of March, 2010

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Frances Spinney, City Secretary

\_\_\_\_\_  
Gene Isenhour, Mayor

A **footlambert** is a unit of measurement of luminance in U.S. customary units. A footlambert equals  $\pi^{-1}$  candela per square foot. The luminance of a perfect lambertian diffuse reflecting surface in footlamberts is equal to the incident illuminance in foot-candles. For real diffuse reflectors, the ratio of luminance to illuminance in these units is roughly equal to the reflectance of the surface. This unit is obsolete, and is rarely used in practice by electrical and lighting engineers, in favor of the clearer candela per square foot. (symbol: cd) is the SI base unit of luminous intensity (*perceived* power emitted by a light source in a particular direction).

## Definition

Since the 16th General Conference on Weights and Measures in 1979, the candela has been defined as follows: The candela is the luminous intensity, in a given direction, of a source that emits monochromatic radiation of frequency  $540 \times 10^{12}$  hertz and that has a radiant intensity in that direction of 1/683 watt per steradian.

## Origin

The candela was based on an older unit, the *candlepower*, which was referenced to the luminous intensity of a "standard candle" of known composition.

## Explanation

The frequency chosen is in the visible spectrum near green, corresponding to a wavelength of about 555 nanometers. The human eye is most sensitive to this frequency. At other frequencies, more radiant intensity is required to achieve the same luminous intensity, according to the frequency response of the human eye. (See luminosity function). A common candle emits about 1 cd. A 100 W light bulb emits about 120 cd. Although the definition of candela is now based on the watt, which is a derived SI unit of power, the candela remains a base unit of the SI system [1]. Historically, the candela was defined in terms of the black-body radiation emitted by 1/60 of 1 cm<sup>2</sup> of platinum at its melting point. The arbitrary (1/683) term was chosen such that the new definition would exactly match the old definition.

## SI photometric light units

<u>SI photometry units</u> <small>edit</small>				
Quantity	Symbol	SI unit	Abbr.	Notes
<u>Luminous energy</u>	Q <sub>v</sub>	<u>lumen second</u>	<u>lm·s</u>	units are sometimes called <u>Talbots</u>
<u>Luminous flux</u>	F	<u>lumen</u> (= <u>cd·sr</u> )	<u>lm</u>	also called <i>luminous power</i>
<u>Luminous intensity</u>	I <sub>v</sub>	<b>candela</b> (= <u>lm/sr</u> )	<b>cd</b>	
<u>Luminance</u>	L <sub>v</sub>	<b>candela / square metre</b>	<b>cd/m<sup>2</sup></b>	also called <i>luminosity</i>
<u>Illuminance</u>	E <sub>v</sub>	<u>lux</u> (= <u>lm/m<sup>2</sup></u> )	<u>lx</u>	Used for light <u>incident</u> on a surface
<u>Luminous emittance</u>	M <sub>v</sub>	<u>lux</u> (= <u>lm/m<sup>2</sup></u> )	<u>lx</u>	Used for light emitted from a surface
<u>Luminous efficacy</u>		<u>lumens / watt</u>	<u>lm/W</u>	ratio of <u>luminous flux</u> to <u>radiant flux</u> , maximum possible is 683